



Agenda

Greenville City Council

September 9, 2021

6:00 PM

City Hall Council Chambers, 200 West 5th Street

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

- I. Call Meeting To Order**
- II. Invocation - Council Member Daniels**
- III. Pledge of Allegiance**
- IV. Roll Call**
- V. Approval of Agenda**
- VI. Public Comment Period**

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

VII. Special Recognitions

1. Greenville Police Department Gang Unit - Named 2020 Gang Unit of the Year by North

Carolina Gang Investigators Association

2. Babe Ruth 13-Year Old Baseball Team
3. Babe Ruth 14-Year Old Baseball Team
4. Babe Ruth 15-Year Old Baseball Team

VIII. Appointments

5. Appointments to Boards and Commissions

IX. Consent Agenda

6. Offer by Alumni Corporation Board of Delta Sigma Phi at East Carolina University to purchase City-owned property located at 431 W. Fifth Street
7. Authorization to Apply for a North Carolina Recreational Trails Program Grant for Wildwood Park
8. Authorization for the Information Technology Department to Renew Microsoft Enterprise Agreement/Microsoft 365
9. Authorization for the Information Technology Department to purchase Rubrik backup/recovery solution
10. Approval to purchase replacement vehicle and equipment for the Public Works Department
11. Contract awards for the construction of South Elm Street Culvert Replacement, Construction Materials Testing, and Task Order #2 for Construction Administration and Observation
12. Contract with The East Group for On-Call Civil Engineering Services
13. Contract for Parking Management and Equipment Installation Services Agreement
14. Reimbursement Resolution for Infrastructure Improvements to the City's Stormwater System
15. Opioid Litigation Resolution and Memorandum of Agreement
16. Various tax refunds greater than \$100

X. New Business

Public Hearings

17. Ordinance to annex Big Rock Powersports involving 2.03 acres located at the northeastern corner of the intersection of Martin Luther King, Jr. Highway and Diamond Drive
18. Ordinance to annex Davenport Farms at Emerald Park, Phase 6 involving 4.1112 acres located at the current terminus of Rhinestone Drive
19. Ordinance to annex The Dickinson involving 24.328 acres located between Dickinson Avenue and Greenville Boulevard and adjacent to Manning Forest Townhomes
20. Ordinance to annex Cypress Pointe involving 113.5902 acres located along the northern right-of-way of Highway 33 East and adjacent to Rolling Meadows Subdivision
21. Ordinance requested by Bill Clark Homes of Greenville to rezone a total of 113.5902 acres located along the northern right-of-way of Highway 33 East and adjacent to Rolling Meadows Subdivision from RR (Rural-Residential) Pitt County's Jurisdiction and AR (Agricultural-Residential) - Simpson's Jurisdiction to R6S (Residential-Single [Medium Density]) for 107.0381 acres (Tract 1) and from GB (General Business) – Simpson's Jurisdiction to GC (General Commercial) – Greenville's Jurisdiction for 6.5521 acres (Tract 2)
22. Ordinance requested by Evelyn Dail et al to rezone a total of 3.547 acres located near the northeastern corner of East 10th Street and Port Terminal Road from RA20 (Residential-Agricultural) and CN (Neighborhood Commercial) to CG (General Commercial)
23. Ordinance requested by the Planning and Development Services Department to amend Title 9 Chapter 4 Article U, Appendix A Table of Uses of the City Code to add (12)(a) "Licensed contractor, general, electrical, plumbing, mechanical, etc. excluding outside storage" as a permitted use in the following districts: CH (Heavy Commercial), IU (Unoffensive Industry), I (Industry), PIU (Planned Unoffensive Industry), and PI (Planned Industry) and add (13)(f) "Ambulance service" as a permitted use in the following districts: MI (Medical-Institutional), MS (Medical-Support), MO (Medical-Office), MCG (Medical-General Commercial), and MCH (Medical-Heavy Commercial) and reduce the requirement for fast food restaurants within an MO zoning district to be located in an attached multi-unit structure which contains not less than three individual units to two individual units
24. Approval of the Draft 2020 Consolidated Annual Performance and Evaluation Report (CAPER)
25. Public Hearing on Entering Into a Trust Agreement or Installment Financing Agreement Not to Exceed \$20,000,000 for Financing Public Improvements

Other Items of Business

26. Consultant's Presentation, Redistricting, Alternative Plans

27. American Rescue Plan Act of 2021 Proposed Appropriation Plan
28. Budget Ordinance Amendment #2 to the 2021-22 City of Greenville Budget (Ordinance #21-035), Special Revenue Grant Fund (Ordinance #11-003), and Capital Projects Funds (Ordinance #17-024)

XI. City Manager's Report

XII. Comments from Mayor and City Council

XIII. Adjournment



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Appointments to Boards and Commissions

Explanation: City Council appointments need to be made to the Housing Authority, Human Relations Council, Police Community Relations Committee, Recreation and Parks 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 commissions which has been on the City Council agenda for appointment by City Council for more than three (3) calendar months in which a regular City Council meeting has been held, then any Council Member may make a nomination to fill the vacancy without regard to any other provision relating to who has the authority to make the nomination. If there is more than one nomination, the appointment shall be conducted in accordance with the procedure for nomination and elections in Robert's Rules of Order." Under this provision, the following seats are open to nominations from the City Council: 3 seats on the Youth Council

Fiscal Note: No direct fiscal impact

Recommendation: Make appointments to the Housing Authority, Human Relations Council, Police Community Relations Committee, Recreation and Parks Commission, and the Youth Council.

ATTACHMENTS

 [September 2021 Appointments to Boards and Commissions.pdf](#)

Appointments to Boards and Commissions

September 2021

Housing Authority

Council Liaison: Council Member Monica Daniels

Name	District #	Current Term	Reappointment Status	Expiration Date
Sterling Edmonds	4	Third term	Ineligible	May 2021

(Council Member Litchfield)

Human Relations Council

Council Liaison: Mayor Pro-Tem Rose Glover

Name	District #	Current Term	Reappointment Status	Expiration Date
Trisha Vu	5	First term	Resigned	September 2023
James Cox	4	First term	Resigned	September 2021
Montez Bishop	5	First term	Resigned	September 2022
Deborah Sheppard	5	First term	Resigned	September 2023
Mark Rasdorf	4	First term	Resigned	September 2022

Police Community Relations Committee

Council Liaison: Council Member Monica Daniels

Name	District #	Current Term	Reappointment Status	Expiration Date
Carol Naipaul	4	Filling unexpired term	Resigned	October 2023

(Mayor Pro-Tem Glover)

Recreation and Parks Commission

Council Liaison: Council Member Monica Daniels

Name	District #	Current Term	Reappointment Status	Expiration Date
Kristian Williams <i>(Mayor Pro-Tem Glover)</i>	5	First term	Resigned	May 2023

Youth Council

Council Liaison: Mayor Pro-Tem Rose Glover

Name	District #	Current Term	Reappointment Status	Expiration Date
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3 spots open

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

Applicants for Housing Authority

None.

Applicants for Human Relations Council

Tyrone Walston
2706 Webb Street
Greenville, NC 27834

District #: 2

Application Date: 12/1/2019

Home Phone: (252) 412-7351

Business Phone: (252) 752-6154

Email: walston.tyone@gmail.com

Reginald Watson
211 Pin Oak Court
Greenville, NC 27834

District #: 5

Application Date: 7/27/2020

Home Phone: (252) 355-3380

Business Phone: (252) 328-6684

Email: waston@ecu.edu

Liz Liles
2113 Southview Dr
Greenville, NC 27858

District #: 4

Application Date: 7/18/2021

Home Phone: (252) 375-9712

Business Phone: (252) 295-7517

Email: liz@daughtersofworth.org

Applicants for Police Community Relations Committee

Gary Davis
3525 Myrtie Court
Greenville, NC 27834

Application Date: 8/9/2021

Home Phone: (252) 917-7979

Business Phone:

District #: 2

Email: garyldavisjr@gmail.com

Applicants for Recreation and Parks Commission

Najiyah Lewis
3160 Ruth Court
Greenville, NC 27834

District #: 2

Application Date: 12/16/2020

Home Phone: (252) 561-5590
Business Phone:
Email: Covington_najiyah@yahoo.com

Tamilla Wiggins
101 F. West Victoria
Greenville, NC 27834

District #: 5

Application Date: 9/16/2020

Home Phone: (252) 258-8580
Business Phone:
Email: tamillawiggins@yahoo.com

Betsy Byma
1903 Tottenham Ct
Winterville, NC 28590

District #: 5

Application Date: 1/11/2021

Home Phone: (607) 745-7661
Business Phone:
Email: betsy.k.byma@gmail.com

Applicants for Youth Council

None.



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Offer by Alumni Corporation Board of Delta Sigma Phi at East Carolina University to purchase City-owned property located at 431 W. Fifth Street

Explanation: The City owns an approximate 0.68 acre parcel of property identified as Pitt County tax parcel 28934 located at 431 W. Fifth Street. The property has a fair market value, as established by an independent appraisal dated December 1, 2018, of \$148,000.00.

The City Council at its December 14, 2020, meeting authorized the sale of the property by upset bid method at a minimum price of \$148,000.00. An ad soliciting bids was published in local newspaper, The Daily Reflector, on March 28, 2021. The City received an initial offer of \$148,000.00, and subsequent solicitations were advertised as outlined in the attached resolution, Resolution No. 060-20, requiring that each time a qualifying higher bid offer is received, a new notice of upset bid shall be published until a ten-day period has passed without any qualifying upset bid having been received.

An offer of \$242,651.40 was received on July 27, 2021 from Alumni Corporation Board of Delta Sigma Phi at East Carolina University. An ad was run on August 1, 2021, soliciting upset bids for a period of ten days concluding on August 11, 2021. No additional bids were received by the deadline. The City Council has the authority to accept or reject the offer of Alumni Corporation Board of Delta Sigma Phi at East Carolina University.

The property is currently zoned as Downtown Commercial Fringe (CDF). Uses outside of the permitted uses of the CDF zoning classification will require a Special Use Permit issued by the City's Board of Adjustment. The sale of 431 W. Fifth Street is not contingent upon any conditions related to its zoning.

A purchase contract is attached for the City Council's review.

Fiscal Note: If the City accepts the offer of Alumni Corporation Board of Delta Sigma Phi at East Carolina University, this will result in a revenue to the City in the amount of \$242,651.40.

Recommendation: City Council approve the sale of the property at 431 W. Fifth Street to Alumni Corporation Board of Delta Sigma Phi at East Carolina University in the amount set by the bid process of \$242,651.40.

ATTACHMENTS

-  [431 W Fifth Purchase Contract.pdf](#)
-  [Resolution 060-20.pdf](#)

**NORTH CAROLINA
PITT COUNTY**

**OFFER TO
PURCHASE AND CONTRACT**

THIS CONTRACT, made and entered into as of the ___ day of September, 2021, by and between Alumni Corporation Board of Delta Sigma Phi at East Carolina University, Party of the First Part and hereinafter referred to as the "Buyer", and the City of Greenville, a municipal corporation, organized and existing under the laws of the State of North Carolina, Party of the Second Part and hereinafter referred to as the "City".

WITNESSETH:

For and in consideration of the mutual covenants and agreements herein set forth, the Buyer hereby offers to purchase and the City, upon acceptance of said offer, agrees to sell to the Buyer all that certain real property being more particularly described on Exhibit "A" attached hereto and incorporated herein by reference, said real property being hereinafter referred to as the "Property".

THE TERMS AND CONDITIONS OF THIS OFFER TO PURCHASE AND CONTRACT ARE AS FOLLOWS:

1. **PURCHASE PRICE.** The purchase price of the Property is Two Hundred Forty Two Thousand, Six Hundred and Fifty One and 40/100ths Dollars (\$242,651.40). The foregoing purchase price, subject to adjustments and prorations in accordance with paragraphs 2, 4, and 5, shall be paid to the City at closing. The City and the Buyer understand that the foregoing purchase price subject to the aforementioned adjustments and prorations shall be the entire amount which the City will receive from the Buyer for the sale of the Property.

2. **DEPOSIT.** The Buyer shall deposit Twelve Thousand, One Hundred Thirty Two and 57/100ths Dollars (\$12,132.57), with the City Clerk of the City of Greenville as required by North Carolina General Statute 160A-269. The deposit shall be in the form of cash, cashier's check, or certified check. In the event that any of the conditions of this contract are not satisfied or waived by the City prior to closing, or in the event of a breach of this contract by the City, then the earnest money shall be returned to the Buyer. In the event the Buyer breaches this contract, then the deposit shall be forfeited to the City. Otherwise, the deposit shall be paid to the City at the closing and applied against the purchase price.

3. **CLOSING.** Closing is defined as the date and time of the recordation of the deed. Closing of the purchase shall take place on the date designated by the Buyer in a written notice to the City, and the said date shall be no later than ninety (90) days after execution of the Agreement. At the time of the closing, the purchase price shall be paid as herein provided, and possession of the Property shall be delivered to the Buyer. Time is of the essence with respect to such closing date.

4. **ADJUSTMENTS.** Rents, if any, for the Property shall be prorated through the date of closing and paid at closing.

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

6. **CONVEYANCE OF TITLE.** The City shall deliver to the Buyer at Closing a Limited Warranty Deed for the Property in fee simple, with warranties limited to the term of the City's ownership of the Property, conveying title to the Property, subject to restrictive covenants (including, but not limited to, those referenced in paragraph 10), easements and rights-of-way of public record (including, but not limited to, those shown on the final plat for the Property), noncompliance with local, county, state or federal governmental laws, ordinances, or regulations relative to zoning, subdivision, occupancy, use, construction or the development of the property, if any, and to all matters and things which a current accurate survey may reveal or disclose. After Closing, the City shall have no future liability, responsibility or expense related to the Property.

In addition, the City shall furnish to the title company at closing a standard form affidavit and indemnification agreement showing that all labor and/or materials, if any, furnished to the property within ninety (90) days prior to the date of closing have been paid and by which the City agrees to indemnify a title insurance company pursuant to a standard form ALTA title affidavit against all loss, cost, claim and expense arising therefrom, including reasonable attorney's fees. If requested by the Buyer, the City agrees to execute any documents required to effect a like kind tax free exchange as described in Internal Revenue Code Section 1031, for the benefit of the Buyer, with the condition that the City shall have no tax consequences arising from its execution of said documents and the Buyer shall indemnify and hold the City harmless from any liability associated with the City's participation in the exchange. The Buyer is responsible for the costs and expenses of any exchange documentation.

7. **STATUTORY REQUIREMENTS.** The Buyer understands and agrees that the City is required to comply with the requirements of North Carolina General Statute 160A-269 prior to conveying the Property. The Buyer shall deposit with the City Clerk of the City of Greenville the sum specified in Paragraph 2 of this contract in the form of cash, cashier's check, or certified check within ten (10) days after the City Council of the City of Greenville approves a resolution authorizing the sale of the property by the negotiated offer, advertisement and upset bid method. The deposit shall be forfeited to the City, returned to the Buyer, or applied against the purchase price in accordance with the provisions of Paragraph 2. Both parties understand and agree that, notwithstanding anything to the contrary contained herein, the City's obligations pursuant to this contract are expressly conditioned upon the City Council of the City of Greenville voting in the affirmative to accept the offer of the Buyer within sixty (60) days after no qualifying upset bid is submitted to the City Clerk in accordance with the requirements of North Carolina General Statute 160A-269. Upon such a vote occurring, the Buyer may seek specific performance of this contract.

8. **EXPIRATION OF OFFER.** The Buyer understands and agrees that the offer of the Buyer to purchase the Property in accordance with the terms and conditions of this contract is irrevocable. However, the offer of the Buyer shall expire if the City Council does not accept the offer of the Buyer within sixty (60) days after no qualifying upset bid.

9. **CONDITIONS.** Notwithstanding anything to the contrary contained herein, the Buyer's obligations pursuant to this contract are expressly conditioned upon the following conditions:

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

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

(iii). The Buyer shall have a thirty (30) day due diligence period from the execution of the Agreement.
- b. All deeds of trust, liens and other charges against the Property must be paid and satisfied by the City prior to or at closing such that cancellation may be promptly obtained following closing. The City shall remain obligated to obtain any such cancellations following closing.

Failure of any of the foregoing conditions of this paragraph shall be evidenced and determined by written notice to the City from the Buyer or the attorney for the Buyer, which notice shall be given at least ten (10) days prior to closing and shall be effective upon hand delivery or by placement in the United States Mail, postage prepaid, addressed to the City. Upon the Buyer's provision of such notice of failure, all sums paid by the Buyer hereunder shall be returned forthwith to the Buyer, and thereafter neither Buyer nor the City shall have any rights or liabilities hereunder. If notice of failure is not given at least ten (10) days prior to closing, then the Buyer shall be deemed to have waived the satisfaction of the foregoing conditions of this paragraph.

10. **REASONABLE ACCESS.** The City shall allow the Buyer's agents, employees, and designees full and complete access to the property for the purpose of physically inspecting and investigating the property. All such inspections and investigations shall be conducted in such manner as to avoid unreasonable interference with the City's present use, operation, and occupation of the Property.

11. **NOTICE.** All notices required by this contract shall be in writing and shall be given by either hand delivery to the parties hereto or by placement in the United States Mail, postage prepaid, addressed as follows:

To City:
Ann E. Wall
City Manager
City of Greenville
P.O. Box 7207
Greenville, NC 27835

To Buyer:
Alumni Corporation Board of Delta Sigma Phi at East Carolina University
510 East 10th Street
Greenville, NC 27858

12. **SEVERABILITY.** In the event that any term or condition of this contract or the application thereof to any circumstance or situation shall be invalid or unenforceable in whole or in part, the remainder hereof and the application of said term or condition to any other circumstance or situation shall not be affected thereby, and each term and condition of this contract shall be valid and enforceable to the full extent permitted by law.

13. **FIRE AND OTHER CASUALTY.** The risk of loss or damage by fire or other casualty prior to closing shall be upon the City.

14. **PARAGRAPH HEADINGS.** The paragraph headings used in this contract are for convenience of reference only and shall not be considered terms of this contract.

15. **GOVERNING LAW.** The Buyer and the City agree, that the laws of the State of North Carolina shall govern and control the validity, interpretation, performance and enforcement of this contract.

16. **OTHER DOCUMENTS.** The parties will make and execute all further instruments and documents required to carry out the purposes and intent of the contract/agreement.

17. **ENTIRE AGREEMENT.** This contract contains the entire agreement and understanding between the Buyer and the City. There are no oral understandings, terms or conditions, and neither the Buyer nor the City has relied upon any representation, express or implied, not contained herein. All prior negotiations, understandings, terms and conditions are merged in this contract.

18. **MODIFICATION.** This contract may not be changed or modified orally, but only by an agreement in writing signed by the party against whom enforcement or waiver, change, modification or discharge is sought.

19. **DUPLICATE ORIGINALS.** This contract is executed in duplicate originals; and both the Buyer and the City acknowledge receipt of one such original, agree that the duplicate originals hereof are identical, and further agree that either original shall be admissible in any proceeding, legal, or otherwise, without the production of the other such original.

20. **BROKERS.** The City warrants, represents and certifies to the Buyer that it has not engaged or utilized the services of a broker in connection with this transaction. The Buyer shall be solely responsible for any broker's or finder's fees or commissions for any broker or realtor which it has utilized with this transaction. Each party agrees to defend, indemnify and hold harmless the other from and against any claim for broker's or finder's fees or commissions made by any party claiming to have dealt with them.

21. **REPRESENTATIONS.** The Buyer and the City acknowledge and agree that, except as otherwise specifically set forth in this contract, the City has made no representations, warranties or statements to the Buyer as to any matter relating to or concerning the Property, the use thereof or the suitability of the Buyer's intended use thereof. The City hereby represents and warrants to the Buyer that, to the best of the City's knowledge the property is not now in violation of any regulation, law, rule or order relating to hazardous substances or wastes and has not been used, and is not being used, as a sanitary landfill.

22. **EXECUTION.** This offer shall become a binding contract when signed by both the City and the Buyer.

IN TESTIMONY WHEREOF, the Buyer has caused this instrument to be executed under seal, and the City has caused this instrument to be executed in its corporate name by the City.

BUYER:

By: _____(SEAL)

Name: Carl Apgar

Title: Alumni Corporation Board of Delta Sigma Phi at
East Carolina University

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

WITNESS my hand and official seal, this the ____ day of _____, 2021.

Notary Public

My Commission Expires: _____

CITY OF GREENVILLE:

By: _____ (SEAL)

Name: Ann Wall

Title: Greenville, NC City Manager

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

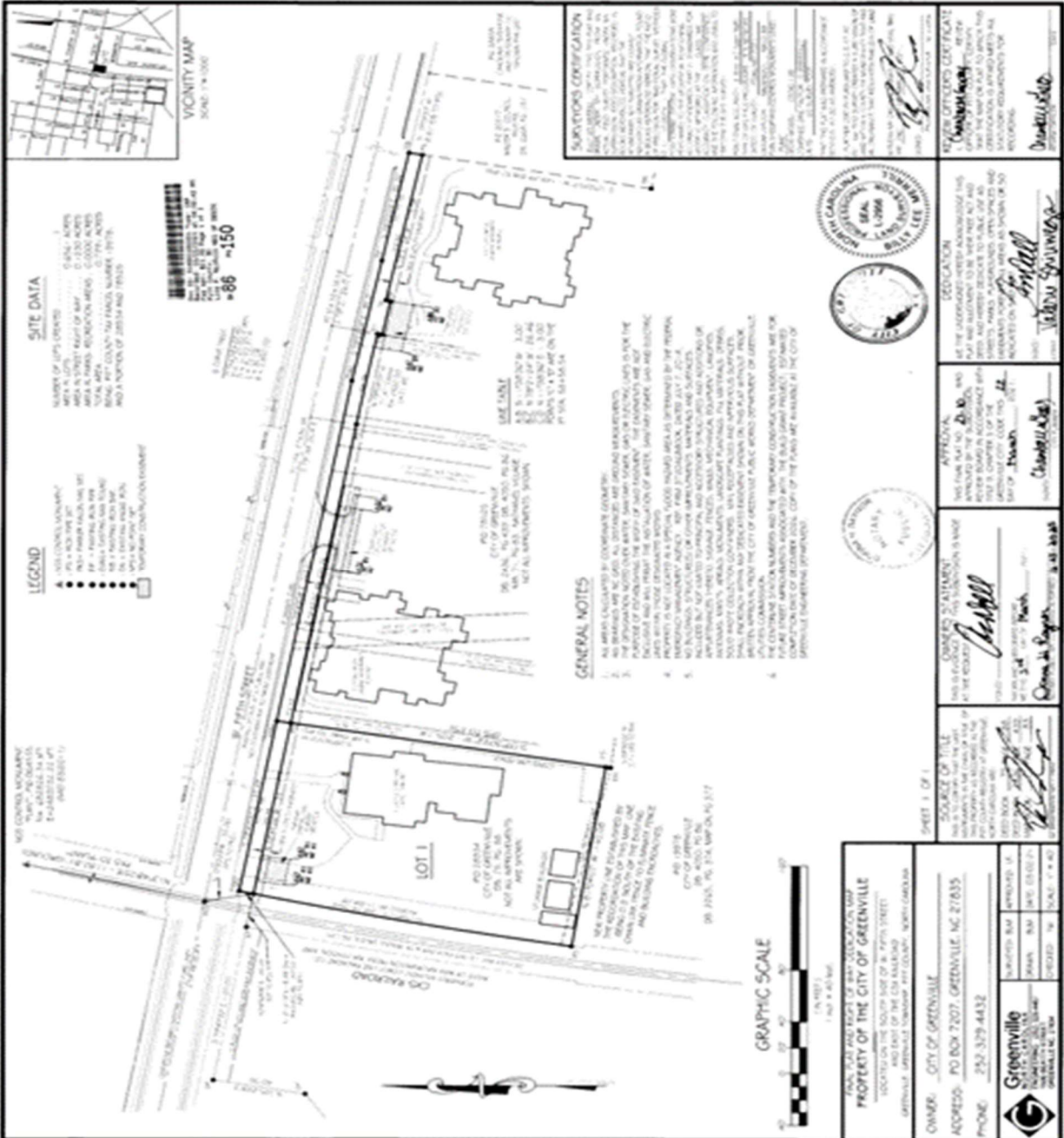
WITNESS my hand and official seal, this the ____ day of _____, 2021.

Notary Public

My Commission Expires: _____

EXHIBIT A
DESCRIPTION OF PROPERTY

Being a certain parcel of land situate in the City of Greenville, Greenville Township, Pitt County, North Carolina, being located along the southern right of way of W. Fifth Street, on the eastern right of way of the CXS Railroad, and being all of Lot 1 as shown on the following map entitled "Property of the City of Greenville", recorded in Map Book 86, Page 150, in the Office of the Register of Deeds of Pitt County to which reference is made for a more complete description.



RESOLUTION NO. 060-20

RESOLUTION AUTHORIZING THE SALE OF PROPERTY BY UPSET BID METHOD

WHEREAS, the City of Greenville owns an approximate 0.68 acre parcel of property identified as Pitt County tax parcel 28934 located at 431 West Fifth Street; and

WHEREAS, a map identifying the approximate 0.68 acre portion of property is herein identified in ATTACHMENT A; and

WHEREAS, the City of Greenville has identified the said property as having no short term or long term use to the City; and

WHEREAS, North Carolina General Statute §160A-269 authorizes the City of Greenville to solicit the sale of property by upset bid; and

WHEREAS, the City of Greenville hereby wishes to solicit the sale of Pitt County tax parcel 28934, as herein identified in ATTACHMENT A; and

WHEREAS, the City of Greenville has established the fair market value of the said property, as determined by an independent appraisal dated December 1, 2018, to be \$148,000.00,

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

- 1) The City Council authorizes the solicitation for the sale of the property described above, through the upset bid procedure of North Carolina General Statute §160A-269, at a minimum price of \$148,000.00.
- 2) The City shall cause a notice of the proposed solicitation for the sale to be published. The notice shall describe the property, the minimum price, terms under which the offer may be submitted, and shall state that the City will accept bids for a thirty-day period from the date of approval of this Resolution by City Council.
- 3) Persons wishing to submit an offer shall submit a sealed bid to the City Clerk by the date included in the published notice of sale. At the conclusion of the thirty-day period, the City Clerk shall open the bids, if any, and the highest such bid equal to or above the minimum sale price will become the qualifying higher bid offer. If there is more than one bid in the highest amount, the first such bid received will become the qualifying higher bid offer. If no bid is received, the City Manager or designee shall be authorized to resolicit for the sale of the property through published notice for a period of thirty days beginning at the end of the previous thirty day period.
- 4) The City Clerk shall cause notice of highest bid received to be published. Persons wishing to upset the offer that has been received shall submit a sealed bid to the City Clerk within ten days after the notice is published. At the conclusion of the ten-day period, the City Clerk shall review all bids received, if any, and the highest such bid will become the new offer if it is an upset bid

made in an amount in compliance with N.C. Gen. Stat. § 160A-269. If there is more than one bid in the highest amount, the first such bid received will become the new offer.

5) Each time a qualifying higher bid offer is received, a new notice of upset bid shall be published by the City Clerk and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the City Council.

6) A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer.

7) A qualifying higher bid must be accompanied by a deposit in the amount of five percent (5%) of the bid. The deposit may be made in cash, cashier's check, or certified check. The City will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The City will return the deposit of the final high bidder at closing.

8) The terms of the final sale are that:

- The City Council must approve the final high offer before the sale is closed, which it may do within 30 days after the final upset bid period has passed, and

- The buyer must pay with cash at the time of closing, and

- Conveyance of the property will be by a Limited Warranty Deed for the property in fee simple, with the warranties limited to the term of the City's ownership of the property, conveying title to the property subject to restrictive covenants, easements and rights-of-way of public record, noncompliance with local, county, state or federal governmental laws, ordinances, or regulations relative to zoning, subdivision, occupancy, use, construction or the development of the property, if any, and to all matters and things which a current accurate survey may reveal or disclose.

9) The City of Greenville reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject at any time all bids.

Adopted this 14th day of December, 2020.

P.J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Authorization to Apply for a North Carolina Recreational Trails Program Grant for Wildwood Park

Explanation: The City of Greenville has acquired 342 acres of riverfront property that comprises our newest park, Wildwood Park. The park is split in two halves, divided by US 264 Alternate. Phase 1 improvements, located in the eastern parcel, are almost complete, and staff anticipates the park opening in the fall of 2021.

The Recreation and Parks Department would like to submit an application for a Recreational Trails Program Grant to fund a trail connection under the highway to link the east parcel of Wildwood Park to the west parcel and allow for bicycles and pedestrians. This connection is vital to enhance pedestrian transportation at Wildwood Park and eventually connect the park with River Park North via natural surface trails and boardwalks.

As part of the Phase 2 Design of Wildwood Park, the connection under the US 264 Alternate bridge is being designed by Kimley-Horn and Associates. The design of the trail connection is approximately 60% complete. The project schedule puts staff on track to solicit bids for construction of this important park project in early 2022.

Staff would like to apply for a \$55,000 grant to fund this project. The final grant application is due by September 24, and awards will be announced later in the fall.

Fiscal Note: The Recreational Trails Program Grant requires a 25% local match, which would equal \$13,750. The City's purchase in February 2021 of the 185 acres which comprises the west side of Wildwood Park can be used as our local match. No additional City funds will be required.

Recommendation: Authorize staff to submit an application for a NC Recreational Trails Program Grant in the amount of \$55,000 to fund a trail connection project under US 264 Alternate at Wildwood Park.

ATTACHMENTS

 [Project Overview Map.pdf](#)

 **NC Recreational Trails Program Grant Project.pdf**

Project Overview Map

Wildwood Park Phased Improvements



Boardwalk to Connect RPN to Wildwood Park (Phase 2)

Trail Around Lake (1.5 miles, Completed)

RTP Project Trail Connection

Camping Platform (Phase 1)

River Park North Primitive Trail Extension (1.3 miles, Completed)

Floating Dock (Completed)

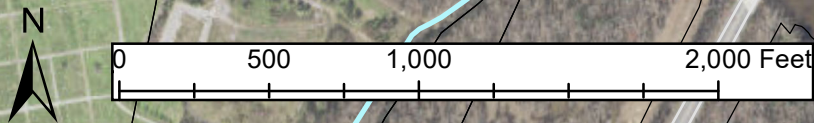
Trail Extension (Completed)

Parking Lot (90% Complete)

South Tar River Greenway

- Completed Trails
- Planned Trails

Bridge/Boardwalk to Connect Trail (Phase 2)



Tar River

Old Pactolus Rd

Blue Heron Dr

US 254 Alt



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Authorization for the Information Technology Department to Renew Microsoft Enterprise Agreement/Microsoft 365

Explanation: In November of 2006, the City entered into a Microsoft Enterprise Agreement (EA) with a 3-year term. This agreement allowed the City to upgrade Microsoft software products purchased through the years, rather than paying the market upgrade price. We paid a reduced yearly fee for the right to upgrade any Microsoft product we own anytime during the 3-year term. The agreement renewed in 2009, 2012, 2015 and 2018. This agreement is currently up for renewal for a new 3-year term.

We have been working with Microsoft to renew the agreement for another 3-year term as well as convert to the Microsoft 365 licensing model. We will continue to save under the agreement by not purchasing per-product, per-individual licenses at full price for our existing Microsoft products like Office, SharePoint, SQL and Windows server and desktop operating systems. Converting to Microsoft 365 further improves access to secure, cloud-based productivity tools for all City employees. As an example, 700+ City employees will have access to Teams for instant chat and video communications, an increase in individual mailbox size from an average 2 Gigabytes to 100 Gigabytes, as well as 1 Terabyte per user of cloud-based storage via OneDrive.

As Cyber Security continues to be a priority, an additional feature of Microsoft 365 is Multi-Factor Authentication (MFA). When accessing email, Teams, etc., MFA will provide a layer of protection against cyber criminals. Multi-factor authentication requires a user to provide two or more pieces of evidence to verify their identity to gain access to an app or digital resource. MFA protects against cyber criminals by ensuring that our users are who they say they are.

This agreement is on the State of NC Procurement Contract and, as such, staff recommends entering into a new 3-year contract with SHI (Software House International), the only authorized Microsoft EA reseller on the State of NC Procurement Contract. The first year cost is \$308,250.26. The total cost for 3 years will be \$924,750.78. The contract does contain a non-appropriation clause if budget dollars are not available.

As an added benefit, licensed City employees will be able to install and use Microsoft 365 products on up to five devices (Windows, Office, Teams, etc.). Further, access to online training and web tutorials is also available. Renewing

this agreement will allow us to stay current with all feature and security enhancements Microsoft provides, as well as provide greater access to productivity tools, secure storage, and greater mobility through secure cloud-based software.

Fiscal Note: FY 2021-22 (Year 1) - \$ 308,250.26
FY 2022-23 (Year 2) - \$ 308,250.26
FY 2023-24 (Year 2) - \$ 308,250.26

Recommendation: Authorize renewal of the attached Microsoft Agreement.

ATTACHMENTS

 [SHI Quote-20908955.pdf](#)



Pricing Proposal
 Quotation #: 20908955
 Reference #: EA# 90587432
 Created On: 8/23/2021
 Valid Until: 9/30/2021

City of Greenville

Account Representative

Robert Hudson
 200 W Fifth Street
 Greenville, NC 27858
 UNITED STATES
 Phone: (252) 329-4454
 Fax: (252) 329-4754
 Email: rhudson@greenvillenc.gov

Jackson Ling
 290 Davidson Avenue
 Somerset, NJ 08873
 Phone:
 Fax:
 Email: Jackson_Ling@shi.com

All Prices are in US Dollar (USD)

Product	Qty	Your Price	Total
1 Azure prepayment - US Gov Microsoft - Part#: J5U-00001 Contract Name: Microsoft Software - Enterprise Agreement Contract #: 208C Coverage Term: 11/1/2021 – 10/31/2022 Note: Annual Payment - Year 1 of 3	1	\$1,228.50	\$1,228.50
2 CISSteDCCore ALNG SA MVL 2Lic CoreLic Microsoft - Part#: 9GS-00135 Contract Name: Microsoft Software - Enterprise Agreement Contract #: 208C Coverage Term: 11/1/2021 – 10/31/2022 Note: Annual Payment - Year 1 of 3	156	\$163.80	\$25,552.80
3 CISSteStdCore ALNG SA MVL 2Lic CoreLic Microsoft - Part#: 9GA-00313 Contract Name: Microsoft Software - Enterprise Agreement Contract #: 208C Coverage Term: 11/1/2021 – 10/31/2022 Note: Annual Payment - Year 1 of 3	208	\$33.58	\$6,984.64
4 Defender for O365 Plan 1 GCC SubVL Per User Microsoft - Part#: 3GU-00001 Contract Name: Microsoft Software - Enterprise Agreement Contract #: 208C Coverage Term: 11/1/2021 – 10/31/2022 Note: Annual Payment - Year 1 of 3	718	\$18.67	\$13,405.06
5 AudioConfGCC ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: LK3-00001 Contract Name: Microsoft Software - Enterprise Agreement Contract #: 208C Coverage Term: 11/1/2021 – 10/31/2022 Note: Annual Payment - Year 1 of 3	20	\$42.24	\$844.80
6 PwrBIProGCC ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: DDJ-00001 Contract Name: Microsoft Software - Enterprise Agreement	15	\$92.38	\$1,385.70

Contract #: 208C
 Coverage Term: 11/1/2021 – 10/31/2022
Note: Annual Payment - Year 1 of 3

7	SQLSvrEntCore ALNG SA MVL 2Lic CoreLic Microsoft - Part#: 7JQ-00343 Contract Name: Microsoft Software - Enterprise Agreement Contract #: 208C Coverage Term: 11/1/2021 – 10/31/2022 Note: Annual Payment - Year 1 of 3	8	\$2,209.66	\$17,677.28
8	SQLSvrStdCore ALNG SA MVL 2Lic CoreLic Microsoft - Part#: 7NQ-00292 Contract Name: Microsoft Software - Enterprise Agreement Contract #: 208C Coverage Term: 11/1/2021 – 10/31/2022 Note: Annual Payment - Year 1 of 3	23	\$576.58	\$13,261.34
9	VisioPro ALNG SA MVL Microsoft - Part#: D87-01159 Contract Name: Microsoft Software - Enterprise Agreement Contract #: 208C Coverage Term: 11/1/2021 – 10/31/2022 Note: Annual Payment - Year 1 of 3	41	\$99.10	\$4,063.10
10	VSEntSubMSDN ALNG SA MVL Microsoft - Part#: MX3-00117 Contract Name: Microsoft Software - Enterprise Agreement Contract #: 208C Coverage Term: 11/1/2021 – 10/31/2022 Note: Annual Payment - Year 1 of 3	1	\$1,054.05	\$1,054.05
11	VSProSubMSDN ALNG SA MVL Microsoft - Part#: 77D-00111 Contract Name: Microsoft Software - Enterprise Agreement Contract #: 208C Coverage Term: 11/1/2021 – 10/31/2022 Note: Annual Payment - Year 1 of 3	10	\$302.21	\$3,022.10
12	WinRmtDsktpSrvcsCAL ALNG SA MVL UsrCAL Microsoft - Part#: 6VC-01254 Contract Name: Microsoft Software - Enterprise Agreement Contract #: 208C Coverage Term: 11/1/2021 – 10/31/2022 Note: Annual Payment - Year 1 of 3	331	\$21.29	\$7,046.99
13	WinSvrExtConn ALNG SA MVL Microsoft - Part#: R39-00396 Contract Name: Microsoft Software - Enterprise Agreement Contract #: 208C Coverage Term: 11/1/2021 – 10/31/2022 Note: Annual Payment - Year 1 of 3	1	\$325.14	\$325.14
14	M365 E3 FromSA GCC Unified ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: AAD-34700 Contract Name: Microsoft Software - Enterprise Agreement Contract #: 208C Coverage Term: 11/1/2021 – 10/31/2022 Note: Annual Payment - Year 1 of 3	718	\$295.82	\$212,398.76

*Tax \$0.00
 Total \$308,250.26

Additional Comments

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

The products offered under this proposal are resold in accordance with the terms and conditions of the Contract referenced under that applicable line item.



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Authorization for the Information Technology Department to purchase Rubrik backup/recovery solution

Explanation: The Information Technology Department (ITD) currently maintains an aging backup environment designed to minimize the risk of data loss due to system corruption, user error and catastrophic system or data center failure. The current environment provides backup services and for many years has faithfully provided quality protection from data loss; however, as Cyber threats increase in sophistication and frequency it is imperative that we scale the protection for these data systems.

As we continue to progress with the Information Security strategy (Identify, Protect, Detect, Respond and Recover) backup and recovery is key to fulfilling the overall security goals. As a subset of the overall goals the backup and recovery solution goals include the ability to meet the current minimum backup requirements including current onsite and cloud-based data assets, provide protection from ransomware/data corruption through immutable, encrypted backups, improve recovery time/reliability and meet or exceed our cyber liability policy requirements.

To this end, the ITD staff performed research across the industry seeking solutions to meet these goals. After evaluating several alternatives, communicating with our peers and partners throughout the state, the team selected the Rubrik backup solution to meet these goals.

The pricing for this replacement hardware is from the General Services Administration (GSA) contract. This contract provides competitively priced solutions for federal, state, and local municipalities. Data Network Solutions is the selected vendor.

Fiscal Note: Funding for this purchase will come from the IT Capital Projects Fund allocated in this fiscal year for the amount \$385,359.84 and includes 3 years of service, support and hardware maintenance.

Recommendation: Authorize the purchase of the Rubrik backup/recovery solution.

ATTACHMENTS

 [DNS-CityofGreenville-08232021-Rubrik-001.pdf](#)

Rob Hudson
 City of Greenville
 200 West Fifth Street
 Greenville, NC 27835
 252-329-4454
 rhudson@greenvillenc.gov



Jason Leon
 Data Network Solutions
 Account Executive
 jleon@datanetworksolutions.com
 (919) 649-8135
 orders@datanetworksolutions.com

Quote:	DNS-CityofGreenville-08232021-Rubrik-001
Project:	Rubrik

MFG	MFG PART#	DESCRIPTION	QTY	LIST PRICE	UNIT PRICE	EXTENDED PRICE
Rubrik	RBK-R6408S-HW-01	R6408S APPL 4NODE 96TB PERP Product stocked by manufacturer. Delivery times vary.	2	\$ 23,409.00	\$ 20,808.00	\$ 41,616.00
Rubrik	RBK-GO-EE-R6408	1MO OF RUBRIK GO ENT ED FOR LICs R6408 INCL RCDM POLARIS GPS CLOUDON Product stocked by manufacturer. Delivery times vary.	2	\$358,344.00	\$ 134,145.70	\$ 268,291.40
Rubrik	RBK-SVC-PREM-HW	PREMIUM SUP FOR HW P SVCS Product stocked by manufacturer. Delivery times vary.	2	\$ 9,126.70	\$ 8,112.62	\$ 16,225.24
Rubrik	RBK-F3M-CBL-01	FIBER OPTIC OM3 LC/LC CABLE 3M CABL Product stocked by manufacturer. Delivery times vary.	4	\$ 500.00	\$ 93.75	\$ 375.00
Rubrik	RBK-SFP-TSR-01	10G/1G DUAL RATE SFP+ TRANSCEIVCPNT Product stocked by manufacturer. Delivery times vary.	4	\$ 3,450.00	\$ 646.88	\$ 2,587.52
Rubrik	RBK-NAS-D-A	1MO OF NAS DIRECT ARC CLDS PREM SUP SUB PREPAY Product stocked by manufacturer. Delivery times vary.	2	\$ 11,988.00	\$ 4,495.50	\$ 8,991.00
Rubrik	RBK-POL-O365	1MO OF RCDM FOR OFFIC LICs Product stocked by manufacturer. Delivery times vary.	80	\$ 756.00	\$ 472.50	\$ 37,800.00
TOTAL						\$ 385,359.84

Prepared by: Jason Leon
 Dated: 8/23/2021 Prices valid for 30 days. Quote Expires: 09/22/2021
 DNS reserves the right to amend quotation if errors or omissions occur.
 All information contained in this quote is confidential and not to be shared with any third parties unless authorized by DNS
 Taxes, Shipping and Handling not included, and are billed as incurred.
 Credit Card orders are subject to a 3% convenience fee.
 Return requests must have manufacturer approval and are subject to their restocking fees.
 All returns must be within 30 days of receipt and have a Manufacturer RMA#.
 Terms are net 30 days from receipt of invoice. Accounts over 30 days subject to 18% late fees.
 **Purchase Orders can be emailed to orders@datanetworksolutions.com



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Approval to purchase replacement vehicle and equipment for the Public Works Department

Explanation: The Public Works Department is requesting approval to purchase the following two (2) items at a cost of \$406,291, as they have met the replacement criteria set by the City Vehicle Replacement Program. These items, which are between 1 and 3 years beyond their useful life, will be purchased thru the following contracts:

NC Sheriff's Association Contract:

- (1) Schwarze Hypervac Sweeper – Replacing # 8134
- (1) International HV607 Dump Truck – Replacing #6728

Fiscal Note: Funding for these purchases will come from the Vehicle Replacement Fund (VRF). The sweeper has been funded through stormwater funds while the dump truck was funded from the general fund. Both vehicles are for use by the Streets Division of Public Works.

Recommendation: City Council approve the purchase of the two (2) vehicles/equipment as listed using the Vehicle Replacement Fund.

ATTACHMENTS

- [VRF_FY22_PWDRepl.pdf](#)
- [City of Greenville Schwarze _21 Hypervac NCSA Contract Rev 2.pdf](#)
- [International Dump Truck.pdf](#)
- [Letter of Intent - Dump Truck.pdf](#)
- [Letter of Intent - Street Sweepers.pdf](#)

Recommended Vehicles

Asset #	Model Year	Manufacturer ID	Description	Model ID	Replacement Vehicle Type	Purchase Year	Year to Replace	Exp. Life	Years in Excess of Useful Life	Original Cost	Expected New Vehicle Cost	Life Cycle Status Code ID	Replacement Fund	Department
8134	2013	ISUZU	SWEEPER	NRR-NU1	2021 Schwarze Hypervac	3/22/2013	7/1/2020	7	1	\$183,545.40	\$289,098.00	A	Stormwater	PWD Street
6728	2008	INTERNATIONAL	DUMP TRUCK	4300	2022 International HV607	9/13/2007	7/1/2018	10	3	\$30,000.00	\$117,193.00	A	General Fund	PWD Street
Total											\$406,291.00			

City of Greenville
Attn: Angel Maldonado
1500 Beatty Street
Greenville, NC 27834

Phone: 252-258-9639

amaldonado@greenvillenc.gov

April 12, 2021
Rev. 2

WE ARE PLEASED TO SUBMIT THIS **NORTH CAROLINA SHERIFFS' ASSOCIATION CONTRACT #21-05-0506** PROPOSAL:

Schwarze Hypervac full vacuum street sweeper

Auxiliary engine

134 HP John Deere 4045 Tier 4 with **two year warranty**

Two year warranty

Fuel water separator

3-point safety engine shutdown device

50 gallon shared fuel tank

90 amp alternator

Hydraulic system

45 gallon vented reservoir with shut-off valve

Tank mounted level and temperature indicator

Spin-on 10 micron return filter

9000 BTU oil to air radiator type oil cooler

12-volt DC hydraulic backup system

Debris hopper

Stainless steel 8.4 cu. yd., 7.0 cu. yd. useable capacity

Lifetime warranty

Twin dump cylinders

Dumps at 51 degree angle

Rear door hydraulically opened, closed and locked

Left & right side 20" x 32" watertight inspection doors

External waterproof dump switches

5,615 square inch screens

Transfer and gutter brooms

Dual vertical 39" diameter steel digger type gutter brooms

Triple 24" diameter floating wide sweep transfer array

Hydraulic drive

Dual in-cab gutter broom power tilt

Dual in-cab gutter broom pressure adjustment

Variable speed

Fan system

Whisperwheel™ closed-faced radial impeller fan

Balanced to within 1.5 grams on each side

32.75" diameter

500 brinell hardness abrasion resistant steel

Bolt-in corded rubber lining

5-groove powerband drive

Safety equipment

Two body props to lock hopper in raised position

Rear amber LED strobe light with guard

Two rear amber alternating LED flashing lights

5 lb. fire extinguisher, warning triangle kit

Mounted on Freightliner M2 33,000 lb. GVWR conventional chassis 184" wheelbase

Dual steering and instrumentation

Cummins ISB 6.7, 200 HP engine, on-board diagnostics

Allison 2500 RDS transmission, fuel water separator

Dual air suspension seats with Cordura™ extra wear fabric



Suction nozzles

12" x 28" abrasion resistant steel

Full width bulky debris door with in-cab control

Heavy-duty rubber skirts

Heavy-duty caster wheels

Abrasion resistant curb guards

Dust control system

Centrifugal dust separator

380 gallon water capacity

Electric diaphragm water pump with inlet restriction indicator

60 PSI, 5.88 GPM

50 mesh cleanable filter with shut off valve

11 spray nozzles

25' hydrant fill hose

Controls

Auxiliary engine control with full color display

Diagnostic gauge for auxiliary engine

Overweight warning

Sweeper Sense™ programmable sweep settings

Swiveling console for left or right sweeping

Warranties

1 year on sweeper body

2 years on auxiliary engine

3 years on impeller fan

5 years on powerband

Lifetime on stainless steel hopper

A/C, remote heated mirrors, tilt steering, back up alarm

Back up camera

2 years unlimited miles on chassis and engine

3 years unlimited miles on transmission

Continued on next page ...

Page 2 ...



	<u>MSRP</u>	<u>NC Sheriffs' Association Contract #21-05-0506 Discounted Price</u>
Total for above, 6% NCSA discount ...	\$ 305,125.00	\$ 286,817.00
Options, accessories & attachments, 6% NCSA discount:		
Hopper sound suppression	892.00	838.00
Remote drop down screens	2,549.00	2,396.00
High pressure washdown with 50' hose reel	5,063.00	4,759.00
Front spray bar	785.00	737.00
Hopper dump assist shaker	1,547.00	1,454.00
Hopper deluge cleanout system	1,214.00	1,141.00
Spray bar in hopper with 4 nozzles	1,647.00	1,548.00
6-point remote grease manifold	1,093.00	1,027.00
Four camera system with split screen	2,272.00	2,135.00
5 year, 150,000 mile Cummins engine & after treatment extended warranty	1,750.00	1,645.00
5 year, unlimited miles Allison transmission extended warranty	640.00	601.00
Less additional discount	-	(15,000.00)
Less additional discount in consideration of an order for two units	-	(1,000.00)
Freight, pre-delivery inspection, fuel, local delivery & operator training ...	<u>included</u>	<u>included</u>
Total ...	\$ 324,577.00	\$ 289,098.00 Ea.
Total for a quantity of 2 units ...	\$ 649,154.00	\$ 578,196.00

Terms: Due upon receipt FOB destination

This is a titled vehicle; sales tax is paid when registered

Prepared by: Mark Ahlstrom, President
4/21 Jeff Yoxtheimer, Area Manager

704-588-4522
704-307-3358

mark@ciequipment.com
jeff@ciequipment.com

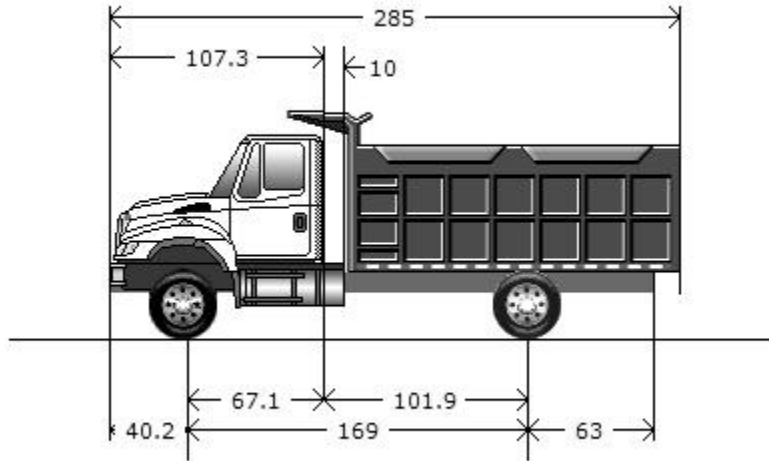
Prepared For:

CITY OF GREENVILLE-NC SHERIFF'S ASSOC.
 CONTRACT #19-03-0504RR
 ANGEL MALDONATO
 1500 BEATTY STREET
 GREENVILLE, NC 27834-
 (252)329 - 4463
 Reference ID: 14' FLAT DUMP

Presented By:

White's International Trucks
 Rick Beavan
 7045 ALBERT PICK ROAD
 PO BOX 18605
 GREENSBORO NC 27419 -
 (336)668-0491

Thank you for the opportunity to provide you with the following quotation on a new International truck. I am sure the following detailed specification will meet your operational requirements, and I look forward to serving your business needs.



Model Profile
2022 HV607 SBA (HV607)

- AXLE CONFIG:** 4X2
- MISSION:** Requested GVWR: 35000. Calc. GVWR: 36220
 Calc. Start / Grade Ability: 34.20% / 2.88% @ 55 MPH
 Calc. Geared Speed: 74.7 MPH
- DIMENSION:** Wheelbase: 169.00, CA: 101.90, Axle to Frame: 63.00
- ENGINE, DIESEL:** {Cummins L9 270} EPA 2021, 270HP @ 2200 RPM, 860 lb-ft Torque @ 1200 RPM, 2200 RPM Governed Speed, 270 Peak HP (Max)
- TRANSMISSION, AUTOMATIC:** {Allison 3500 RDS} 5th Generation Controls, Wide Ratio, 5-Speed with Overdrive, with PTO Provision, Less Retarder, Includes Oil Level Sensor, with 80,000-lb GVW and GCW Max, On/Off Highway
- CLUTCH:** Omit Item (Clutch & Control)
- AXLE, FRONT NON-DRIVING:** {Meritor MFS-14-143A} Wide Track, I-Beam Type, 14,000-lb Capacity
- AXLE, REAR, SINGLE:** {Dana Spicer S23-172} Single Reduction, 23,000-lb Capacity, R Wheel Ends Gear Ratio: 4.78
- CAB:** Conventional, Day Cab
- TIRE, FRONT:** (2) 11R22.5 Load Range H FUEL MAX RSA (GOODYEAR), 497 rev/mile, 75 MPH, All-Position
- TIRE, REAR:** (4) 11R22.5 Load Range G ENDURANCE LHD (GOODYEAR), 493 rev/mile, 75 MPH, Drive
- SUSPENSION, REAR, SINGLE:** 23,500-lb Capacity, Vari-Rate Springs, with 4500-lb Capacity Auxiliary Rubber Springs
- PAINT:** Cab schematic 100WL
 Location 1: 9219, Winter White (Std)
 Chassis schematic N/A

Description

Base Chassis, Model HV607 SBA with 169.00 Wheelbase, 101.90 CA, and 63.00 Axle to Frame.

AXLE CONFIGURATION

AXLE CONFIGURATION {Navistar} 4x2

Notes

: Pricing may change if axle configuration is changed.

ENGINE

ENGINE, DIESEL {Cummins L9 270} EPA 2021, 270HP @ 2200 RPM, 860 lb-ft Torque @ 1200 RPM, 2200 RPM Governed Speed, 270 Peak HP (Max)

RADIATOR Aluminum, Cross Flow, Front to Back System, 1228 SqIn, with 1167 SqIn Charge Air Cooler, Includes In-Tank Oil Cooler

Includes

: DEAERATION SYSTEM with Surge Tank

: HOSE CLAMPS, RADIATOR HOSES Gates Shrink Band Type; Thermoplastic Coolant Hose Clamps

: RADIATOR HOSES Premium, Rubber

FAN DRIVE {Horton Drivemaster} Two-Speed Type, Direct Drive, with Residual Torque Device for Disengaged Fan Speed

Includes

: FAN Nylon

AIR CLEANER Dual Element, with Integral Pre-Cleaner

ANTI-FREEZE Red, Extended Life Coolant; To -40 Degrees F/ -40 Degrees C, Freeze Protection

BLOCK HEATER, ENGINE 120V/1000W, for Cummins ISB/B6.7/ISL/L9 Engines

Includes

: BLOCK HEATER SOCKET Receptacle Type; Mounted below Drivers Door

EMISSION COMPLIANCE Low NOx Idle Engine, Complies with California Clean Air Regulations; Includes "Certified Clean Idle" Decal on Hood

ENGINE CONTROL, REMOTE MOUNTED No Provision for Remote Mounted Engine Control

FEDERAL EMISSIONS {Cummins L9} EPA, OBD and GHG Certified for Calendar Year 2021

THROTTLE, HAND CONTROL Engine Speed Control; Electronic, Stationary, Variable Speed; Mounted on Steering Wheel

TRANSMISSION

TRANSMISSION, AUTOMATIC {Allison 3500 RDS} 5th Generation Controls, Wide Ratio, 5-Speed with Overdrive, with PTO Provision, Less Retarder, Includes Oil Level Sensor, with 80,000-lb GVW and GCW Max, On/Off Highway

TRANSMISSION TCM LOCATION Located Inside Cab

ALLISON SPARE INPUT/OUTPUT for Rugged Duty Series (RDS) and Regional Haul Series (RHS), General Purpose Trucks, Construction, Package Number 223

NEUTRAL AT STOP Allison Transmission Shifts to Neutral When Service Brake is Depressed and Vehicle is at Stop; Remains in Neutral Until Service Brake is Released

PTO LOCATION Dual, Customer Intends to Install PTO at Left and/or Right Side of Transmission

SHIFT CONTROL PARAMETERS {Allison} 3000 or 4000 Series Transmissions, Performance Programming

TRANSMISSION COOLER HOSES Stainless Steel

Description

TRANSMISSION OIL Synthetic; 29 thru 42 Pints

TRANSMISSION SHIFT CONTROL Column Mounted Stalk Shifter, Not for Use with Allison 1000 & 2000 Series Transmission

CLUTCH

CLUTCH Omit Item (Clutch & Control)

REAR AXLES, SUSPENSIONS

AXLE, REAR, SINGLE {Dana Spicer S23-172} Single Reduction, 23,000-lb Capacity, R Wheel Ends . Gear Ratio: 4.78

SUSPENSION, REAR, SINGLE 23,500-lb Capacity, Vari-Rate Springs, with 4500-lb Capacity Auxiliary Rubber Springs

AXLE, REAR, LUBE {EmGard FE-75W-90} Synthetic Oil; 30 thru 39.99 Pints

FRONT AXLES

AXLE, FRONT NON-DRIVING {Meritor MFS-14-143A} Wide Track, I-Beam Type, 14,000-lb Capacity

FRONT SUSPENSIONS

SUSPENSION, FRONT, SPRING Parabolic Taper Leaf, Shackle Type, 14,000-lb Capacity, with Shock Absorbers

CABS, COWLS, BODIES

CAB Conventional, Day Cab

ACCESS, CAB Steel, Driver & Passenger Sides, Two Steps per Door, for use with Day Cab and Extended Cab

AIR CONDITIONER with Integral Heater and Defroster

CAB INTERIOR TRIM Classic, for Day Cab

Includes

: CONSOLE, OVERHEAD Molded Plastic with Dual Storage Pockets, Retainer Nets and CB Radio Pocket; Located Above Driver and Passenger

: DOME LIGHT, CAB Door Activated and Push On-Off at Light Lens, Timed Theater Dimming, Integral to Overhead Console, Center Mounted

: SUN VISOR (2) Padded Vinyl; 2 Moveable (Front-to-Side) Primary Visors, Driver Side with Toll Ticket Strap

CAB REAR SUSPENSION Air Bag Type

FRESH AIR FILTER Attached to Air Intake Cover on Cowl Tray in Front of Windshield Under Hood

GAUGE CLUSTER Base Level; English with English Speedometer and Tachometer, for Air Brake Chassis, Includes Engine Coolant Temperature, Primary and Secondary Air Pressure, Fuel and DEF Gauges, Oil Pressure Gauge, Includes 3 Inch Monochromatic Text Display

GAUGE, OIL TEMP, AUTO TRANS for Allison Transmission

GRAB HANDLE, CAB INTERIOR (2) Safety Yellow

INSTRUMENT PANEL Flat Panel

IP CLUSTER DISPLAY On Board Diagnostics Display of Fault Codes in Gauge Cluster

MIRRORS (2) C-Loop, Power Adjust, Heated, Black Heads and Arms, 7.5" x 14" Flat Glass, Includes 7.5" x 7" Convex Mirrors, for 102" Load Width

Notes

: Mirror Dimensions are Rounded to the Nearest 0.5"

Description

MIRROR, CONVEX, HOOD MOUNTED {Lang Mekra} (2) Right and Left Sides, Black 7.5" Sq.

SEAT, DRIVER {National 2000} Air Suspension, High Back with Integral Headrest, Vinyl, Isolator, 1 Chamber Lumbar, with 2 Position Front Cushion Adjust, -3 to +14 Degree Angle Back Adjust

SEAT, PASSENGER {National} Non Suspension, High Back, Fixed Back, Integral Headrest, Vinyl

WINDOW, MANUAL (2) and Manual Door Locks, Left and Right Doors

FRAMES

FRAME RAILS Heat Treated Alloy Steel (120,000 PSI Yield); 10.125" x 3.580" x 0.312" (257.2mm x 90.9mm x 8.0mm); 480.0" (12192) Maximum OAL

BUMPER, FRONT Swept Back, Steel, Heavy Duty

TOW HOOK, FRONT (2) Frame Mounted

WHEELBASE RANGE 138" (350cm) Through and Including 187" (475cm)

BRAKES

BRAKE SYSTEM, AIR Dual System for Straight Truck Applications

Includes

: BRAKE LINES Color and Size Coded Nylon

: DRAIN VALVE Twist-Type

: GAUGE, AIR PRESSURE (2) Air 1 and Air 2 Gauges; Located in Instrument Cluster

: PARKING BRAKE CONTROL Yellow Knob, Located on Instrument Panel

: PARKING BRAKE VALVE For Truck

: QUICK RELEASE VALVE On Rear Axle for Spring Brake Release: 1 for 4x2, 2 for 6x4

: SPRING BRAKE MODULATOR VALVE R-7 for 4x2, SR-7 with relay valve for 6x4/8x6

AIR BRAKE ABS {Bendix AntiLock Brake System} 4-Channel (4 Sensor/4 Modulator) Electronic Stability Program, with Automatic Traction Control

BRAKES, FRONT {Meritor 16.5X5 Q-PLUS CAST} Air S-Cam Type, Cast Spider, Fabricated Shoe, Double Anchor Pin, Size 16.5" X 5", 14,600-lb Capacity

BRAKE CHAMBERS, FRONT AXLE {Bendix} 24 Sqli

SLACK ADJUSTERS, FRONT {Haldex} Automatic

SLACK ADJUSTER PINS Stainless Steel Slack Adjuster Pins/Cotter Pins on Front and Rear

BRAKE COATING, FRONT Platinum Shield, for Meritor Air S-Cam Brakes

DUST SHIELDS, FRONT BRAKE for Air Cam Brakes

BRAKES, REAR {Meritor 16.5X7 Q-PLUS CAST} Air S-Cam Type, Cast Spider, Fabricated Shoe, Double Anchor Pin, Size 16.5" X 7", 23,000-lb Capacity per Axle

BRAKE CHAMBERS, REAR AXLE {Bendix EverSure} 30/30 Sqli Spring Brake

SLACK ADJUSTERS, REAR {Haldex} Automatic

BRAKE COATING, REAR Platinum Shield, for Meritor Air S-Cam Brakes

BRAKE CHAMBERS, POSITION Relocated To Rear Of Rear Axle For Maximum Ground Clearance

DUST SHIELDS, REAR BRAKE for Air Cam Brakes

AIR COMPRESSOR {Cummins} 18.7 CFM

AIR DRYER {Bendix AD-IP} with Heater

Description

AIR DRYER LOCATION Mounted Inside Left Rail, Back of Cab

AIR TANK LOCATION (2) Mounted Under Battery Box, Outside Right Rail, Back of Cab, Perpendicular to Rail

DRAIN VALVE {Bendix DV-2} (1) Automatic, with Heater, with (2) Berg Pull Chains, for Air Tank

TRAILER CONNECTIONS Four-Wheel, with Hand Control Valve and Tractor Protection Valve, for Straight Truck

Notes

: When electronic stability control is ordered with trailer connections on a 4x2 truck, please check the operator manual for trailer weight restrictions.

STEERING

STEERING GEAR {Sheppard M100} Power

STEERING COLUMN Tilting

STEERING WHEEL 4-Spoke; 18" Dia., Black

DRIVELINES

DRIVELINE SYSTEM {Dana Spicer} 1710, for 4x2/6x2

EXHAUST SYSTEMS

EXHAUST SYSTEM Horizontal Aftertreatment System, Frame Mounted Right Side Under Cab, for Single Vertical Tail Pipe, Frame Mounted Right Side Back of Cab

AFTERTREATMENT COVER Steel, Black

EXHAUST HEIGHT 10'

MUFFLER/TAIL PIPE GUARD (1) Aluminum

TAIL PIPE (1) Turnback Type

ELECTRICAL SYSTEMS

ELECTRICAL SYSTEM 12-Volt, Standard Equipment

Includes

: DATA LINK CONNECTOR For Vehicle Programming and Diagnostics In Cab

: HAZARD SWITCH Push On/Push Off, Located on Instrument Panel to Right of Steering Wheel

: HEADLIGHT DIMMER SWITCH Integral with Turn Signal Lever

: PARKING LIGHT Integral with Front Turn Signal and Rear Tail Light

: STARTER SWITCH Electric, Key Operated

: STOP, TURN, TAIL & B/U LIGHTS Dual, Rear, Combination with Reflector

: TURN SIGNAL SWITCH Self-Cancelling for Trucks, Manual Cancelling for Tractors, with Lane Change Feature

: WINDSHIELD WIPER SWITCH 2-Speed with Wash and Intermittent Feature (5 Pre-Set Delays), Integral with Turn Signal Lever

: WINDSHIELD WIPERS Single Motor, Electric, Cowl Mounted

: WIRING, CHASSIS Color Coded and Continuously Numbered

ALARM, PARKING BRAKE Electric Horn Sounds in Repetitive Manner When Vehicle Park Brake is "NOT" Set, with Ignition "OFF" and any Door Opened

ALTERNATOR {Leece-Neville AVI160P2013} Brush Type, 12 Volt, 160 Amp Capacity, Pad Mount, with Remote Sense

AUXILIARY HARNESS 3.0' for Auxiliary Front Head Lights and Turn Signals for Front Plow Applications

BATTERY BOX Steel, with Plastic Cover, 18" Wide, 2-4 Battery Capacity, Mounted Right Side Back of Cab

Description

BATTERY DISCONNECT SWITCH 300 Amp, Disconnects Charging Circuits, Locks with Padlock, Cab Mounted

BATTERY SYSTEM {Fleetrite} Maintenance-Free, (3) 12-Volt 1980CCA Total, Top Threaded Stud

BODY BUILDER WIRING Rear of Frame; Includes Sealed Connectors for Tail/Amber Turn/Marker/ Backup/Accessory Power/Ground and Sealed Connector for Stop/Turn

2-WAY RADIO Wiring Effects; Wiring with 20 Amp Fuse Protection, Includes Ignition Wire with 5 Amp Fuse, Wire Ends Heat Shrink and Routed to Center of Header Console in Cab

CIRCUIT BREAKERS Manual-Reset (Main Panel) SAE Type III with Trip Indicators, Replaces All Fuses

CLEARANCE/MARKER LIGHTS (5) {Truck Lite} Amber LED Lights, Flush Mounted on Cab or Sunshade

ELECTRIC TRAILER BRAKE/LIGHTS Accommodation Package to Rear of Frame; for Combined Trailer Stop, Tail, Turn, Marker Light Circuits; Includes Electric Trailer Brake Accommodation Package with Cab Connections for Mounting Customer Installed Electric Brake Unit, Less Trailer Socket

HEADLIGHT WARNING BUZZER Sounds When Head Light Switch is on and Ignition Switch is in "Off" Position

HEADLIGHTS ON W/WIPERS Headlights Will Automatically Turn on if Windshield Wipers are turned on

HORN, AIR Single Trumpet, Black, with Lanyard Pull Cord

HORN, ELECTRIC Disc Style

INDICATOR, LOW COOLANT LEVEL with Audible Alarm

JUMP START STUD Remote Mounted

POWER SOURCE, ADDITIONAL Auxiliary Power Outlet (APO) & USB Port, Located in the Instrument Panel

RADIO AM/FM/WB/Clock/USB Input/Auxiliary Input

RUNNING LIGHT (2) Daytime

SPEAKERS (2) 6.5" Dual Cone Mounted in Both Doors, (2) 5.25" Dual Cone Mounted in Both B-Pillars

STARTING MOTOR {Delco Remy 39MT} 12 Volt, Gear Reduced, with Thermal Over-Crank Protection

STOP, TURN, TAIL & B/U LIGHTS {Weldon} Multi-Function LED Lamp, Mounted Outside Rails, Includes LED License Plate Light

TEST EXTERIOR LIGHTS Pre-Trip Inspection will Cycle all Exterior Lamps Except Back-up Lights

TRAILER AUXILIARY FEED CIRCUIT for Electric Trailer Brake Accommodation/Air Trailer ABS; with 30 Amp Fuse and Relay, Controlled by Ignition Switch

TURN SIGNALS, FRONT Includes LED Side Turn Lights Mounted on Fender

WINDSHIELD WIPER SPD CONTROL Force Wipers to Slowest Intermittent Speed When Park Brake Set and Wipers Left on for a Predetermined Time

FRONT END

FRONT END Tilting, Fiberglass, with Three Piece Construction, for WorkStar/HV

GRILLE Stationary, Chrome

LOGOS EXTERIOR Model Badges

LOGOS EXTERIOR, ENGINE Badges

SPEEDOMETER, TOOLS, MISC

PAINT SCHEMATIC, PT-1 Single Color, Design 100

DescriptionIncludes

: PAINT SCHEMATIC ID LETTERS "WL"

PAINT TYPE Base Coat/Clear Coat, 1-2 Tone

PROMOTIONAL PACKAGE Government Silver Package

FUEL TANKS

FUEL TANK Top Draw, Non-Polished Aluminum, D-Style, 19" Tank Depth, 50 US Gal (189L), Mounted Left Side, Under Cab

DEF TANK 7 US Gal (26L) Capacity, Frame Mounted Outside Left Rail, Under Cab

FUEL/WATER SEPARATOR {Racor 400 Series} 12 VDC Electric Heater, Includes Pre-Heater, with Primer Pump, Includes Water-in-Fuel Sensor, Mounted on Engine

WHEELS, TIRES - FRONT

WHEELS, FRONT {Accuride 29169} DISC; 22.5x8.25 Rims, Powder Coat Steel, 5-Hand Hole, 10-Stud, 285.75mm BC, Hub-Piloted, Flanged Nut, with .472" Thick Increased Capacity Disc and Steel Hubs

(2) TIRE, FRONT 11R22.5 Load Range H FUEL MAX RSA (GOODYEAR), 497 rev/mile, 75 MPH, All-Position

WHEELS, TIRES - REAR

WHEELS, REAR {Accuride 29169} DUAL DISC; 22.5x8.25 Rims, Powder Coat Steel, 5-Hand Hole, 10-Stud, 285.75mm BC, Hub-Piloted, Flanged Nut, with .472" Thick Increased Capacity Disc and Steel Hubs

(4) TIRE, REAR 11R22.5 Load Range G ENDURANCE LHD (GOODYEAR), 493 rev/mile, 75 MPH, Drive

WHEELS MISC OPTIONS

WHEEL BEARING, FRONT, LUBE {EmGard FE-75W-90} Synthetic Oil

WHEEL GUARDS, FRONT {Accuride} for Metric Hub Piloted Wheels with Flanged Mounting Nuts Mounted Between Hub and Wheel

WHEEL GUARDS, REAR {Accuride} for Metric Hub Piloted Wheels with Flanged Mounting Nuts, Mounted Between Hub & Wheel and Between Dual Wheels

WHEEL SEALS, FRONT {Stemco Voyager} Oil Lubricated Wheel Bearings ILO Standard Oil Seals

WHEEL SEALS, REAR {Stemco Voyager} Oil Lubricated Wheel Bearings

Services Section:**WARRANTY**

WARRANTY Standard for HV507, HV50B, HV607 Models, Effective with Vehicles Built July 1, 2017 or Later, CTS-2025A

SRV CONTRACT, EXT ALLISON XMSN {Allison} To 60-Month/Unlimited Miles/km, for Allison 3500 RDS with Dump Truck or Mixer Vocations (ST01, ST06, ST07)

SRV CONTRACT, EXT CMS ENG/AFTR {Cummins} To 60-Month/100,000 Miles (160,000 km), Extended Cummins L9 Engine Coverage, Protection Plan 1 and Aftertreatment, (Truck Application Only)

GODWIN 14' FLAT DUMP W/BARN DOORS,3/16 AR FLOOR. QUOTE ATTACHED.

SAFETY EQUIPMENT & NC OR DOT INSPECTION.

PDI AND DEALER PREP.

Description

MATERIAL SURCHARGE \$500.00

DESTINATION CHARGE INCREASE \$250.00

(US DOLLAR)

Description

Price

Net Sales Price:

\$117,192.70

Please feel free to contact me regarding these specifications should your interests or needs change. I am confident you will be pleased with the quality and service of an International vehicle.

Approved by Seller:

Accepted by Purchaser:

Official Title and Date

Firm or Business Name

Authorized Signature

Authorized Signature and Date

White's International Trucks
7045 ALBERT PICK ROAD
PO BOX 18605
GREENSBORO NC 27419 -
(336)668-0491

**This proposal is not binding upon the seller
without Seller's Authorized Signature**

Official Title and Date

The TOPS FET calculation is an estimate for reference purposes only. The seller or retailer is responsible for calculating and reporting/paying appropriate FET to the IRS.

The limited warranties applicable to the vehicles described herein are Navistar, Inc.'s standard printed warranties which are incorporated herein by reference and to which you have been provided a copy and hereby agree to their terms and conditions.

PUBLIC WORKS

May 7, 2021

Mr. Rick Beavan
Municipal Sales Manager
White's International Trucks
PO Box 18605
Greensboro NC, 27419

Mr. Beavan:

The City of Greenville intends to purchase the following equipment:

- 2022 International HV607 SBA-Dump Truck according to proposal #15982-01 at a cost of \$117,192.70 which is based on the North Carolina Sheriffs' Association Heavy Equipment Contract #21-05-0506.

This Letter of Intent will serve as an official document to place the order with White's International Trucks and will lock in the price of the unit according to your proposal #15982-01 dated May 4, 2021.

Please reserve the equipment described in your proposal for delivery as soon as possible following receipt of our purchase order.

Sincerely,



Kevin Mulligan PE
Director of Public Works

PUBLIC WORKS

May 7, 2021

Mr. Mark Ahlstrom
President
Carolina Industrial Equipment, Inc.
PO Box 667907
Charlotte, NC 28266

Mr. Ahlstrom:


The City of Greenville intends to purchase the following equipment:

- Two (2) Schwarze Hypervac full vacuum street sweepers mounted on a Freightliner chassis per your proposal dated 4/12/21 which is based on the North Carolina Sheriffs' Association Heavy Equipment contract #21-05-0506 at a cost of \$289,098.00 each.

We understand that the NCSA contracts referenced above expire on 5/17/21 and that this letter must be received by Carolina Industrial Equipment, Inc. by that date in order to secure those prices for a purchase order to be received later in the month of May 2021.

Please reserve the equipment described in your proposal for delivery as soon as possible following receipt of our purchase order.

Sincerely,



Kevin Mulligan, PE
Director of Public Works



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Contract awards for the construction of South Elm Street Culvert Replacement, Construction Materials Testing, and Task Order #2 for Construction Administration and Observation

Explanation: The South Elm Street Culvert Replacement includes re-routing, replacing and upsizing the existing storm drainage system from Fourth Street to the Tar River. This includes replacing and re-routing existing utilities in order to install the new storm drainage system. Traffic control and erosion control are also included in this scope of this project.

Bids for construction of the South Elm Street Culvert Replacement Project were scheduled to be opened on July 29, 2021. Only two bids were submitted and staff rejected the bids per state statute. The project was re-advertised and bid opening was scheduled for August 6, 2021. Two bids were received, with J. Smith Civil of Goldsboro, NC submitting the lowest responsible, responsive base bid. Bid Alternate #1 was also included in the bid package, and will include an expanded wetland area between the Elm Street cul-de-sac and the greenway. Due to available budget, staff recommends proceeding with the Bid Alternate as well. A bid summary is attached.

Task Order #2 under the professional services contract with WK Dickson includes Construction Administration (CA) and Observation services. Services will include, but not be limited to, project administration, review of shop drawings, response to contractor's requests for information, negotiation and review of change orders, issuance of bulletin drawings, and daily inspection of work to ensure conformance to plans and specifications. The negotiated fee for these services is \$1,267,100.00, and the contract is attached.

In response to a Request for Qualifications (RFQ) for Construction Materials Testing (CMT) services for the South Elm Street Culvert Replacement Project, 3 proposals were received. After review, ECS Southeast, LLP of Greenville, NC was selected as the most qualified firm to perform these services. Services will include, but not be limited to, testing of concrete, asphalt, and backfill compaction, and providing associated reports. The fee for these services is a not-to-exceed amount of \$100,000, and the contract is attached.

Fiscal Note:

Funding for this project will come from a revenue bond identified in the 4 year stormwater plan that calls for a \$4 increase per ERU over the next four years.

The proposed budget is shown in the table below:

CONTRACT	AMOUNT
Culvert Replacement Bid + 20%	\$6,757,802.40
CA and Inspection	\$1,267,100.00
CMT	\$100,000
Total	\$8,124,902.40

Recommendation: City Council award the following contracts for the South Elm Street Culvert Replacement project:

CONTRACT	TO WHOM	AMOUNT
Culvert Replacement Bid + 20%	J Smith Civil of Goldsboro, NC	\$6,757,802.40
CA and Inspection	WK Dickson	\$1,267,100.00
CMT	ECS Southeast, LLP	\$100,000
Total		\$8,124,902.40

ATTACHMENTS

-  [Bid Summary South Elm Street Drainage Improvements.pdf](#)
-  [South Elm Street Draianage Improvements CA CO Contract.pdf](#)
-  [South Elm Street Drainage Improvements CMT Contract.pdf](#)

South Elm Street Culvert Replacement

Bid Summary Sheet

City of Greenville, NC

Engineering Division

Bid Opening August 6, 2020 @ 2:00pm

<i>Contractor</i>	<i>Bid Bond</i>		<i>Received All 4 Addendums</i>		<i>Total Base Bid</i>	<i>Division A-Alternate Bid</i>
	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>		
J. Smith Civil	X		X		\$ 5,540,117.00	\$ 91,385.00
Trader Construction	X		X		\$ 8,203,781.25	\$ 236,848.25

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

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

Prepared by



Issued and Published Jointly by



This Agreement has been prepared for use with EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition. Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance on the completion and use of this Agreement, see EJCDC® E-001, Commentary on the EJCDC Engineering Services Agreements, 2013 Edition.

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www.acec.org

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TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 – SERVICES OF ENGINEER.....	1
1.01 Scope	1
ARTICLE 2 – OWNER’S RESPONSIBILITIES.....	1
2.01 General	1
ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES.....	2
3.01 Commencement.....	2
3.02 Time for Completion	2
ARTICLE 4 – INVOICES AND PAYMENTS	2
4.01 Invoices	2
4.02 Payments	2
ARTICLE 5 – OPINIONS OF COST	3
5.01 Opinions of Probable Construction Cost	3
5.02 Designing to Construction Cost Limit	3
5.03 Opinions of Total Project Costs.....	3
ARTICLE 6 – GENERAL CONSIDERATIONS.....	3
6.01 Standards of Performance	3
6.02 Design Without Construction Phase Services	5
6.03 Use of Documents	6
6.04 Electronic Transmittals.....	6
6.05 Insurance	7
6.06 Suspension and Termination	8
6.07 Controlling Law.....	9
6.08 Successors, Assigns, and Beneficiaries	9
6.09 Dispute Resolution	10
6.10 Environmental Condition of Site.....	10
6.11 Indemnification and Mutual Waiver	11
6.12 Records Retention.....	12
6.13 Miscellaneous Provisions	12
ARTICLE 7 – DEFINITIONS.....	12
7.01 Defined Terms	12
ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS	17
8.01 Exhibits Included:	17
8.02 Total Agreement:	17
8.03 Designated Representatives:	17
8.04 Engineer's Certifications:	18

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

THIS IS AN AGREEMENT effective as of _____ (“Effective Date”) between
City of Greenville, NC _____ (“Owner”) and
W. K. Dickson & Co., Inc. _____ (“Engineer”).

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

South Elm Street Culvert Replacement Project, Task Order #2 _____ (“Project”).
Other terms used in this Agreement are defined in Article 7.

Engineer's services under this Agreement are generally identified as follows:
Construction Administration and Observation _____

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

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

ARTICLE 2 – OWNER’S RESPONSIBILITIES

2.01 *General*

- A. Owner shall have the responsibilities set forth herein and in Exhibit B.
- B. Owner shall pay Engineer as set forth in Article 4 and Exhibit C.
- C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- D. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
 - 1. any development that affects the scope or time of performance of Engineer’s services;
 - 2. the presence at the Site of any Constituent of Concern; or

3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 Commencement

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

3.02 Time for Completion

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

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 Invoices

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

4.02 Payments

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.
- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:
 1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and

2. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- C. *Disputed Invoices:* If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion subject to the terms of Paragraph 4.01.
- ~~D. *Sales or Use Taxes:* If after the Effective Date any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.~~

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.02 *Designing to Construction Cost Limit*

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

5.03 *Opinions of Total Project Costs*

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

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

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

circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.

- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures:*
 - 1. Engineer and Owner shall comply with applicable Laws and Regulations.
 - 2. Engineer shall comply with any and all policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
 - 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date to Laws and Regulations;
 - b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures;
 - c. changes after the Effective Date to Owner-provided written policies or procedures.
- F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.
- G. The general conditions for any construction contract documents prepared hereunder are to be EJCDC® C-700 "Standard General Conditions of the Construction Contract" (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise in Exhibit J or elsewhere in this Agreement.

- H. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- I. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- J. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.
- K. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- L. Engineer's services do not include providing legal advice or representation.
- M. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- N. While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

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

6.03 *Use of Documents*

- A. All Documents are instruments of service, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed.
- B. If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.
- C. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project. Engineer grants Owner a limited license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.
- D. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 *Electronic Transmittals*

- A. Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
- B. If this Agreement does not establish protocols for electronic or digital transmittals, then Owner and Engineer shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

6.05 Insurance

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G. Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.
- ~~B. Owner shall procure and maintain insurance as set forth in Exhibit G. Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability policies carried by Owner, which are applicable to the Project.~~
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project.
- D. ~~Owner and~~ Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
- E. All policies of property insurance relating to the Project, including but not limited to any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer or its Consultants. Owner and Engineer waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Project. Owner and Engineer shall take appropriate measures in other Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement.
- G. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.06 *Suspension and Termination*

A. *Suspension:*

1. *By Owner:* Owner may suspend the Project for up to 90 days upon seven days written notice to Engineer.
2. *By Engineer:* Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraph 4.02.B, or in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.10.D.

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

1. For cause,
 - a. by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
 - b. by Engineer:
 - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.10.D.
 - 3) Engineer shall have no liability to Owner on account of such termination.
 - c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.06.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
2. For convenience, by Owner effective upon Engineer's receipt of notice from Owner.

C. *Effective Date of Termination:* The terminating party under Paragraph 6.06.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks

whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

D. *Payments Upon Termination:*

1. In the event of any termination under Paragraph 6.06, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.
2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.06.D.1, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

6.07 *Controlling Law*

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.

[Note to User: If necessary, modify this provision to identify a specific controlling jurisdiction if other than the state where the Project is located; if multiple states are involved; or to identify controlling jurisdictions other than a state, such as a U.S. territory, commonwealth, or tribal jurisdiction/domestic dependent nation.]

6.08 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.08.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

- C. Unless expressly provided otherwise in this Agreement:
1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 3. Owner agrees that the substance of the provisions of this Paragraph 6.08.C shall appear in the Construction Contract Documents.

6.09 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to ~~invoking the procedures of Exhibit H or other provisions of this Agreement,~~ or exercising their rights at law.
- B. ~~If the parties fail to resolve a dispute through negotiation under Paragraph 6.09.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.~~

6.10 *Environmental Condition of Site*

- A. Owner represents to Engineer that as of the Effective Date to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- C. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
- D. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until such portion of the Project is no longer affected.
- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on seven days notice.

- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.11 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants. ~~This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."~~
- B. ~~*Indemnification by Owner:* Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations and to the extent (if any) required in Exhibit I, "Limitations of Liability."~~
- C. *Environmental Indemnification:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorneys fees and expenses) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (1) any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- D. *No Defense Obligation:* The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- E. *Percentage Share of Negligence:* To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.

- F. *Mutual Waiver:* To the fullest extent permitted by Laws and Regulations, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes.

6.12 *Records Retention*

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

6.13 *Miscellaneous Provisions*

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

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

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

1. *Addenda*—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
2. *Additional Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.
3. *Agreement*—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
4. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
5. *Basic Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.
6. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
7. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
8. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
9. *Construction Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.

10. *Construction Contract Documents*—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract.
11. *Construction Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
12. *Construction Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
13. *Construction Cost*—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner’s costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
14. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner’s work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
15. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer’s independent professional associates and consultants; subcontractors; or vendors.
16. *Contractor*—The entity or individual with which Owner enters into a Construction Contract.
17. *Documents*—Data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
18. *Drawings*—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date*—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
20. *Engineer*—The individual or entity named as such in this Agreement.

21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
23. *Owner*—The individual or entity named as such in this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
24. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.
25. *Record Drawings*—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer as an Additional Service and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
26. *Reimbursable Expenses*—The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic Services and Additional Services for the Project.
27. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.
28. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
29. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
30. *Site*—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

31. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
32. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
33. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
34. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
35. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner’s costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.
36. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
37. *Work Change Directive*—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. *Day*:

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 Exhibits Included:

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

[NOTE TO USER: If an exhibit is not to be included in the specific agreement, indicate "not used" after that exhibit in the list above.]

8.02 Total Agreement

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

8.03 Designated Representatives


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

8.04 *Engineer's Certifications*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
 3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

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

Owner:
City of Greenville, NC
By: _____
Print name: _____
Title: _____
Date Signed: _____

Engineer:
W. K. Dickson & Co., Inc.
By: 
Print name: Scott Sigmon, P.E.
Title: Vice President
Date Signed: 7-7-2021

Engineer License or Firm's Certificate No. (if required):
F-0374
State of: North Carolina

Address for Owner's receipt of notices:

1500 Beatty Street/PO Box 7207
Greenville NC 27834
Designated Representative (Paragraph 8.03.A):
Lisa Kirby, P.E.
Title: Director of Engineering
Phone Number: 252-329-4683
E-Mail Address: lkirby@greenvillenc.gov

Address for Engineer's receipt of notices:

720 Corporate Center Drive
Raleigh NC 27607
Designated Representative (Paragraph 8.03.A):
Marc Horstman, P.E.
Title: Project Manager
Phone Number: 919-782-0495
E-Mail Address: mhorstman@wkdickson.com

This is **EXHIBIT A**, consisting of 5 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].

Engineer's Services

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

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

1.0 PROJECT ADMINISTRATION

The Engineer will administer the project in a manner so as to be responsive to the needs and schedule of the Owner and assure the quality of the product. The following project administration efforts will include but not be limited to the following items:

1.1 Project Formulation and Work Plan Manual

The Engineer shall develop Project Work Plan Manual, perform project planning and formulation and shall manage the process to ensure the quality control program throughout the life of the project.

1.2 Project Billing Administration

The Engineer shall oversee the project team relative to ensuring budget, schedule and conformance to the project scope on a day-to-day basis up to **twenty-one (21) months** from City Council approval of the construction contract. The Engineer shall also provide a minimum of three project contacts for the Owner so that at any time someone familiar with the project can be available to the Owner if questions, comments, concerns, or other project needs arise.

Also, the Engineer shall maintain a project cost accounting system throughout the life of the project and will maintain a project filing system throughout the life of the project to use for storage and retrieval of project documents.

This task also includes update the project schedule (formally) if during the life of the project a substantial deviation in the schedule occurs for any reason, where additional monthly management fees shall be renegotiated if the schedule is substantially extended. All other minor schedule updates will occur in the monthly project reporting.

All project final deliverables will be certified (signed, sealed and dated) by a professional engineer and/or surveyor registered in the state of North Carolina. Engineer will participate in project closeout and ensure it is completed on a timely basis.

Project Management is anticipated to occur on an ongoing basis throughout the entire project for up to **twenty-one (21) months** from Notice to Proceed.

1.3 Monthly Status Meetings

The Engineer shall meet with the Owner's Project Team as appropriate throughout the life of the project via conference call or be available to answer project related questions on a regular basis via phone calls

and email. It is assumed that the Engineer will attend **ten (10)** monthly progress meetings in Greenville. It is assumed the rest of the monthly status meetings will be held virtually.

1.4 Monthly Status Reports

The Engineer shall prepare and submit via email a monthly progress report to update the project schedule, list milestones achieved, provide current status of each major task, support and document schedule changes, update product costs and justify any proposed changes to the schedule or budgets. Monthly progress reports are due at the end of each month and shall approximately coincide with monthly project invoicing. It is assumed that **twenty-one (21)** monthly status reports will be prepared.

2.0 CONSTRUCTION ADMINISTRATION

2.1 Pre-Construction Meetings

The Engineer shall conduct both the Utility Pre-Construction and Overall Pre-Construction Meeting with the Contractor's representatives, utility company's representatives, GUC staff, the City's staff, and the Engineer's sub-consultants as necessary. The Engineer shall provide assistance to the City as needed during these meetings in interpreting the plans and specifications, answering the Contractor's questions and attending a site walk with the Contractor. The Engineer will provide Meeting documentation for project records.

2.2 Monthly Construction Progress Meetings

The Engineer shall conduct monthly scheduled construction progress meetings with the Contractor's representatives, the City's staff, and the Engineer's sub-consultants as necessary. Such meetings shall be maintained throughout the entire construction period and shall be for the primary purpose of assessing the progress of the work. The Engineer will provide Meeting documentation for project records. It is assumed that there will be no more than **twenty-one (21)** monthly construction progress meetings.

2.3 Construction Oversight Visits

The Engineer shall conduct periodic Construction Oversight visits to ensure the Contractor's work is conforming to the Construction Contract Documents and will provide assistance in interpreting the plans and specifications. These site visits will occur more regularly during specialty item installation, including the channel installation, Cast-in-Place Structures, Active Shoring and deep pipe installation. It is assumed that at least **one (1)** visit per month will occur outside of the regularly scheduled Construction Progress Meetings.

2.4 Contractor Pay Application Review and Approval

The Engineer shall promptly review and approve or take other appropriate action upon the Contractor's submittals of their monthly payment application. During this review, the Engineer shall verify that each requested payment item conforms with the design concept expressed in the Construction Contract Documents. The Engineer's action shall be taken with such reasonable promptness as to cause no delay in the work or in the Project schedule. It is assumed that there will be no more than **twenty-one (21)** payment applications to evaluate.

2.5 Shop Drawing Reviews

The Engineer shall promptly review and approve or take other appropriate action upon the Contractor's submittals such as shop drawings, product data and samples for the purpose of: (1) compliance with applicable laws, statutes, ordinances, codes, orders, rules and regulations; and (2) determining whether or not the work, when completed, will be in conformance with the design concept expressed in the Construction Contract Documents. The Engineer's action shall be taken with such reasonable promptness as to cause no delay in the work or in the Project schedule. The Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Engineer shall receive contractor submittals for compliance with contract documents, review them, and properly distribute to contractor and City. It is assumed that there will be no more than **seventy (70)** contractor submittals to evaluate.

2.6 Respond to Contractor's Requests for Information

The Engineer shall promptly review and respond to the Contractor's Requests for Information (RFI) with such reasonable promptness as to cause no delay in the work or in the Project schedule. It is assumed that there will be no more than **one hundred and five (105)** RFIs will be evaluated.

2.7 Negotiate, Review and Prepare Change Orders

The Engineer shall promptly review and respond to the Contractor's Requests for Change Orders with such reasonable promptness as to cause no delay in the work or in the Project schedule. The Engineer will work with the Contractor and the City to make sure each Change Order reflects the value of the additional work proposed and that the proposed quantities fall within conformance to the Construction Contract Documents. It is assumed that there will be no more than **eight (8)** change orders that will be evaluated.

2.8 Issue Bulletin Drawings

The Engineer shall, as needed, promptly create and issue any Bulletin Construction Drawings with such reasonable promptness as to cause no delay in the work or in the Project schedule. Bulletin Construction Drawings will be issued to address any field changes or design clarifications that might arise during construction. It is assumed that there will be no more than **twenty (20)** bulletin drawings will be issued.

2.9 Conduct Final Inspection

The Engineer is responsible for scheduling and conducting a pre-final site visit to establish initial punch list items. The Engineer shall conduct a final review of the Project with the City's Project Manager and appropriate Project Stakeholders to check conformance of the work with the requirements of the Construction Contract Documents. The City shall issue the formal letter of acceptance and set the date for the beginning of the warranty phase.

2.10 Record Drawings

The Engineer shall comply with the requirements in the "Issuance of Record Drawings" promulgated by the North Carolina Board of Examiners for Engineers and Surveyors. These requirements specify how to produce, collect, and maintain records regarding infrastructure improvement designs and changes made to such designs during the construction process.

a. Completion of Construction

The Engineer's Observer shall finalize the annotated final drawings by ensuring that annotations describing field changes have been added and that the additions are complete and clear. The annotations should include any sketches, narratives, dimensions or other information that may be helpful in describing the changes.

b. Compilation and Certification

The Engineer will review the annotated plan set to the “designer of record” to determine if there were obvious errors or changes to the intent of the design and for the purposes of creating “Record Drawings” for the Project. The “designer of record” is the Engineer who sealed the final design drawings, approving them for construction. The Engineer shall use the annotated plan set to develop a set of “Record Drawings,” generally within **four (4)** calendar weeks. The drawings may be edited by hand instead of editing the AutoCAD file.

If the Engineer did not personally observe or verify the changes, the Engineer shall indicate the source of the information for the changes and provide language disclaiming any personal field verification.

The Engineer shall sign and seal the “Record Drawings” in accordance with NC Board of Examiners for Engineers and Surveyors rules to ensure that the information is ready for release and has been reviewed by a professional engineer. The Engineer submits the signed and sealed “Record Drawings” to the City’s Project Manager.

The Engineer shall submit **one (1)** set of reproducible “Record Drawings” and the annotated drawings they are based upon to the City’s Project Manager for review.

2.11 One Year Warranty Inspection and Issue Warranty List

The Engineer shall conduct with appropriate City officials and Contractors' representatives, one Warranty-phase inspections for the Project, at **eleven (11)** months after the beginning of the guarantee period.

3.0 RESIDENT PROJECT REPRESENTATIVE MANAGEMENT

3.1 Resident Project Representative

Refer to Exhibit D for the Duties, Responsibilities and Limitations of Authority of the Resident Project Representative.

3.2 Resident Project Representative Management

The Engineer will provide management of the full-time resident project representative to ensure that all duties, responsibilities and authority as outlined in Exhibit D is executed per this contract. This will include management of a full-time on-site residential construction observer who will represent the Engineer and the City for the duration of this contract.

4.0 Unspecified Additional Services

Engineering services described in this Scope do not include certain categories of work, which are usually referred to as “Unspecified Additional Services.” The Engineer will provide Unspecified Additional Services only upon receipt of written authorization from the City. To the extent possible, the Engineer will notify the City in advance if the need for Unspecified Additional Services is anticipated. Additional Unspecified Services include:

- Additional Hourly Services not listed above under “Scope of Services.”
- Other professional services related to the Project, but not specifically described in this Scope of Services, which are identified and authorized in writing by the City.

This is **EXHIBIT B**, consisting of 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].

Owner's Responsibilities

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

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

- A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations.
- B. Give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Furnish copies (or give specific directions requesting Engineer to use copies already in Engineer's possession) of all design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and draft Construction Contract Documents, when applicable. Owner shall have responsibility for the final content of (1) such bidding-related documents (or requests for proposals or other construction procurement documents), and (2) those portions of any Construction Contract other than the design (as set forth in the Drawings, Specifications, or otherwise), and other engineering or technical matters; and Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- C. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- D. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, obtain, furnish, or otherwise make available (if necessary through title searches, or retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 1. Property descriptions.
 2. Zoning, deed, and other land use restrictions.

Exhibit B – Owner's Responsibilities

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3. Utility and topographic mapping and surveys.
 4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
 6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
 7. Data or consultations as required for the Project but not otherwise identified in this Agreement.
- E. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
- F. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
1. Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 2. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
 3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the money paid.
- G. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

- I. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.
- J. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- K. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, then designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.
- L. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
- M. Examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- N. Inform Engineer regarding any need for assistance in evaluating the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
- O. Advise Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
- P. Place and pay for advertisement for Bids in appropriate publications.
- Q. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
- R. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
- S. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement, as required.
- T. Perform or provide the following: [] ***[List any other Owner responsibilities here.]***

Exhibit B – Owner's Responsibilities

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This is **EXHIBIT C**, consisting of 2 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated [REDACTED].

Payments to Engineer for Services and Reimbursable Expenses
COMPENSATION PACKET BC-2: Basic Services – Standard Hourly Rates

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

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01 Compensation For Basic Services (other than Resident Project Representative) – Standard Hourly Rates Method of Payment

- A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, except for services of Engineer’s Resident Project Representative, if any, as follows:
1. An amount equal to the cumulative hours charged to the Project by each class of Engineer’s personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Engineer’s Consultants' charges, if any.
 2. The Standard Hourly Rates charged by Engineer constitute full and complete compensation for Engineer’s services, including labor costs, overhead, and profit; the Standard Hourly Rates do not include Reimbursable Expenses or Engineer’s Consultants’ charges.
 3. Engineer’s Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit C as Appendices 1 and 2.
 4. The total compensation for services under Paragraph C2.01 is estimated to be **\$ 907,100.00** based on the following estimated distribution of compensation:

Phase	Task	Description	Hourly Fee
1.0		Project Management	\$ 40,300.00
	1.1	Project Formulation and Work Plan Manual	\$ 7,800.00
	1.2	Billing Administration	\$ 13,500.00
	1.3	Monthly Status Meetings	\$ 11,900.00
	1.4	Monthly Status Reports	\$ 7,100.00
2.0		Construction Administration	\$ 404,500.00
	2.1	Pre-Construction Meeting/Utility Pre-Con Meeting	\$ 9,700.00
	2.2	Monthly Construction Progress Meetings	\$ 101,600.00
	2.3	Construction Oversight Visits	\$ 33,800.00
	2.4	Contractor Pay Application Review and Approval	\$ 16,200.00
	2.5	Shop Drawing Review	\$ 60,000.00
	2.6	Respond to Contractor's Requests for Information	\$ 55,800.00
	2.7	Negotiate, review and prepare Change Orders	\$ 17,400.00
	2.8	Issue Bulletin Drawings	\$ 42,500.00
	2.9	Conduct Final Inspection	\$ 14,800.00
	2.10	Record Drawings	\$ 42,200.00
	2.11	One Year Warranty Inspection and Issue Warranty List	\$ 10,500.00
3.0		Resident Construction Observation	\$ 394,600.00
	3.1	Resident Construction Observation	\$ Fee in RPR-1
	3.2	Resident Construction Observation Management	\$ 394,600.00
4.0		*Unspecified Additional Services	\$ 50,000.00
5.0		Project Reimbursables	\$ 17,700.00
		Total	\$ 907,100.00

The subtotal, excluding the total RPR-1 Fee, is \$907,100.00. As indicated in the Compensation Packet RPR-1, the total RPR-1 fee is \$360,000. The overall Contract fee, including the above stated base compensation and RPR-1 Fee is \$1,267,100.00.

5. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total contract amount of \$1,267,100.00 unless approved in writing by Owner.
6. The total estimated compensation for Engineer's services included in the breakdown by phases as noted in Paragraph C2.01.A.3 incorporates all labor, overhead, profit, Reimbursable Expenses, and Engineer's Consultants' charges

7. The amounts billed for Engineer's services under Paragraph C2.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer's Consultants' charges.
 - ~~8. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of []) to reflect equitable changes in the compensation payable to Engineer.~~
- A. *Period of Service:* The compensation amount stipulated in Compensation Packet BC-2 is conditioned on a period of service not exceeding [21] months. If such period of service is extended, the compensation amount for Engineer's services shall be appropriately adjusted.

**COMPENSATION PACKET RPR-1:
Resident Project Representative – Standard Hourly Rates**

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

C2.04 Compensation for Resident Project Representative Basic Services – Standard Hourly Rates Method of Payment

A. Owner shall pay Engineer for Resident Project Representative Basic Services as follows:

1. *Resident Project Representative Services:* For services of Engineer's Resident Project Representative, if any, under Paragraph D1.01 of Exhibit D, the Standard Hourly Rate amount of \$99 per hour. The total amount for this service is **\$360,000.00**. The Standard Hourly Rate Schedule includes compensation for the Resident Project Representative's services. Appropriate amounts have been incorporated in the Standard Hourly Rate Schedule to account for labor costs, overhead, profit, and expenses (other than any expressly allowed Reimbursable Expenses) related to the Resident Project Representative's Services.
2. *Resident Project Representative Schedule:* Standard Hourly Rate Schedule amount set forth in Paragraph C2.04.A.1 above is based on full-time RPR services on an eight-hour workday Monday through Friday over a **21 month** construction schedule. Modifications to the schedule shall entitle Engineer to an equitable adjustment of compensation for RPR services.

This is **Appendix 1 to EXHIBIT C**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [].

Reimbursable Expenses Schedule

Reimbursable Expenses are subject to review and adjustment per Exhibit C. Rates and charges for Reimbursable Expenses as of the date of the Agreement are:

Mileage (auto)	\$ [0.555]/mile
Air Transportation	at cost
Meals and Lodging	at cost

This is **Appendix 2 to EXHIBIT C**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated []

Standard Hourly Rate Schedule

Standard Hourly Rate Schedule is subject to review and adjustment per Exhibit C. The Standard Hourly Rates for this contract as of the date of the Agreement are:

PROJECT ADMINISTRATION (WKD)	\$80 / hour
PROJECT ADMINISTRATION (RIVERS)	\$68 / hour
RESIDENT CONSTRUCTION OBSERVER (RIVERS)	\$99 / hour
SENIOR DESIGNER (WKD)	\$141 / hour
PROJECT ENGINEER (WKD)	\$156 / hour
TECHNICAL MANAGER (WKD)	\$187 / hour
CONSTRUCTION ADMINISTRATOR ENGINEER (RIVERS)	\$151 / hour
SENIOR PROJECT MANAGER (WKD)	\$213 / hour
SENIOR PROJECT MANAGER (RIVERS)	\$177 / hour

For any hourly amendments to this contract that are outside of the Overall Contract Fee, including the stated base compensation, the RP1-Fee and Unspecified Additional Services, a multiplier cap shall be placed on all hourly rates. Office and Field Personal hourly rates will be set at a 3.25 and 2.75 multiplier, respectively. A Standard Hourly Rate Schedule that will be mutually agreed upon by the Engineer and Owner will be prepared at the time of the requested contract amendment.

This is **EXHIBIT D**, consisting of 5 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].

Duties, Responsibilities, and Limitations of Authority of Resident Project Representative

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

ARTICLE 1 - SERVICES OF ENGINEER

D1.01 Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative (“RPR”) to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree. RPR is Engineer’s representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR’s actions.
- B. Through RPR’s observations of the Work, including field checks of materials and installed equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor’s work in progress, for the coordination of the Constructors’ work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any Constructor nor assumes responsibility for any Constructor’s failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in Exhibit A, Paragraph A1.05, of this Agreement are applicable.
- C. The duties and responsibilities of the RPR are as follows:
 - 1. *General:* RPR’s dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR’s dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
 - 2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.
 - 3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings

Exhibit D - Resident Project Representative.

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(but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

4. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
5. *Liaison:*
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
6. *Clarifications and Interpretations:* Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's clarifications, interpretations, and decisions to Contractor. ,
7. *Shop Drawings and Samples:*
 - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
 - b. Receive Samples that are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. *Proposed Modifications:* Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.
9. *Review of Work; Defective Work:*
 - a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected,

removed and replaced, or accepted as provided in the Construction Contract Documents.

- b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work. ; and
- c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. *Inspections, Tests, and System Start-ups:*

- a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.

11. *Records:*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, approved Shop Drawing and Sample submittals, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Upon request from Owner to Engineer, photograph or video Work in progress or Site conditions.

- d. Record and maintain accurate, up-to-date lists of the names, addresses, fax numbers, e-mail addresses, websites, and telephone numbers (including mobile numbers) of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- e. Maintain records for use in preparing Project documentation.
- f. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

12. *Reports:*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
- d. Immediately inform Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

13. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

14. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

15. *Completion:*

- a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion submit a punch list of observed items requiring completion or correction.
- b. Participate in Engineer's visit to the Site in the company of Owner and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.

- c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work (Exhibit E).
- D. Resident Project Representative shall not:
1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including “or-equal” items).
 2. Exceed limitations of Engineer’s authority as set forth in this Agreement.
 3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
 4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
 5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
 6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
 7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
 8. Authorize Owner to occupy the Project in whole or in part.

This is **EXHIBIT E**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].

[Notes to User

1. Exhibit A, Paragraph A1.05.A.25 of this Agreement indicates that in connection with recommending final payment of the Construction Contractor, the Engineer will also provide a notice to Owner and Contractor of the acceptability of the Work, subject to stated limitations. The form for that purpose, "Notice of Acceptability of Work," is attached on the following pages of this Exhibit E.

2. The Notice of Acceptability of Work should be served in compliance with the requirements for service of notice under the Construction Contract. See Paragraph 18.01, Giving Notice, of EJCDC C-700 (2013), Standard General Conditions of the Construction Contract.]



NOTICE OF ACCEPTABILITY OF WORK

PROJECT: **South Elm
Street Culvert Replacement Task Order #2,
Construction Administration and Observation**

OWNER: **Town of Greenville, NC**

CONTRACTOR:

OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:

EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:

ENGINEER: **W. K. Dickson & Co., Inc.**

NOTICE DATE:

**To: Town of Greenville, NC
 Owner**

And To:

**From: W. K. Dickson & Co., Inc.
Engineer**

The Engineer hereby gives notice to the above Owner and Contractor that Engineer has recommended final payment of Contractor, and that the Work furnished and performed by Contractor under the above Construction Contract is acceptable, expressly subject to the provisions of the related Contract Documents, the Agreement between Owner and Engineer for Professional Services dated _____, and the following terms and conditions of this Notice:

CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

The Notice of Acceptability of Work (“Notice”) is expressly made subject to the following terms and conditions to which all those who receive said Notice and rely thereon agree:

1. This Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the Engineer’s professional opinion.
3. This Notice is given as to the best of Engineer’s knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor’s work) under Engineer’s Agreement with Owner, and applies only to facts that are within Engineer’s knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Agreement.
5. This Notice is not a guarantee or warranty of Contractor’s performance under the Construction Contract, an acceptance of Work that is not in accordance with the related Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Construction Contract Documents, or to otherwise comply with the Construction Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract, and is subject to Owner’s reservations of rights with respect to completion and final payment.

By: _____

Title: _____

Dated: _____

This is **EXHIBIT F**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].

Construction Cost Limit

Paragraph 5.02 of the Agreement is supplemented to include the following agreement of the parties:

F5.02—Designing to Construction Cost Limit

- A. ~~Owner and Engineer hereby agree to a Construction Cost limit in the amount of \$[REDACTED].~~
- B. ~~A bidding or negotiating contingency of [REDACTED] percent will be added to any Construction Cost limit established.~~
- C. ~~The acceptance by Owner at any time during Basic Services of a revised opinion of probable Construction Cost in excess of the then established Construction Cost limit will constitute a corresponding increase in the Construction Cost limit.~~
- D. ~~Engineer will be permitted to determine what types and quality of materials, equipment and component systems are to be included in the Drawings and Specifications. Engineer may make reasonable adjustments in the scope, extent, and character of the Project to the extent consistent with the Project requirements and sound engineering practices, to bring the Project within the Construction Cost limit.~~
- E. ~~If the Bidding or Negotiating Phase has not commenced within three months after completion of the Final Design Phase, or if industry-wide prices are changed because of unusual or unanticipated events affecting the general level of prices or times of delivery in the construction industry, the established Construction Cost limit will not be binding on Engineer. In such cases, Owner shall consent to an adjustment in the Construction Cost limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or Bids are sought.~~
- F. ~~If the lowest bona fide proposal or Bid exceeds the established Construction Cost limit, Owner shall (1) give written approval to increase such Construction Cost limit, or (2) authorize negotiating or rebidding the Project within a reasonable time, or (3) cooperate in revising the Project's scope, extent, or character to the extent consistent with the Project's requirements and with sound engineering practices. In the case of (3), Engineer shall modify the Construction Contract Documents as necessary to bring the Construction Cost within the Construction Cost Limit. Owner shall pay Engineer's cost to provide such modification services, including the costs of the services of its Consultants, all overhead expenses reasonably related thereto, and Reimbursable Expenses, but without profit to Engineer on account of such services. The providing of such services will be the limit of Engineer's responsibility in this regard and, having done so, Engineer shall be entitled to payment for services and expenses in accordance with this Agreement and will not otherwise be liable for~~

Exhibit F – Construction Cost Limit.

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

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~~damages attributable to the lowest bona fide proposal or bid exceeding the established Construction Cost limit.~~

This is **EXHIBIT G**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].

Insurance

Paragraph 6.05 of the Agreement is supplemented to include the following agreement of the parties:

G6.05 Insurance

A. The limits of liability for the insurance required by Paragraph 6.05.A and ~~6.05.B~~ of the Agreement are as follows:

1. By Engineer:

- a. Workers' Compensation: Statutory
- b. Employer's Liability --
 - 1) Bodily injury, each accident: \$[REDACTED]
 - 2) Bodily injury by disease, each employee: \$[REDACTED]
 - 3) Bodily injury/disease, aggregate: \$[REDACTED]
- c. General Liability --
 - 1) Each Occurrence (Bodily Injury and Property Damage): \$1,000,000
 - 2) General Aggregate: \$2,000,000
- d. Excess or Umbrella Liability --
 - 1) Per Occurrence: \$5,000,000
 - 2) General Aggregate: \$5,000,000
- e. Automobile Liability --Combined Single Limit (Bodily Injury and Property Damage):
\$1,000,000
- f. Professional Liability --
 - 1) Each Claim Made \$1,000,000
 - 2) Annual Aggregate \$1,000,000
- g. Other (specify): \$[REDACTED]

2. By Owner:

Exhibit G – Insurance.

a. ~~Workers' Compensation:~~ Statutory

b. ~~Employer's Liability~~

- 1) ~~Bodily injury, Each Accident~~ \$[]
- 2) ~~Bodily injury by Disease, Each Employee~~ \$[]
- 3) ~~Bodily injury/Disease, Aggregate~~ \$[]

c. ~~General Liability~~

- 1) ~~General Aggregate:~~ \$[]
- 2) ~~Each Occurrence (Bodily Injury and Property Damage):~~ \$[]

d. ~~Excess Umbrella Liability~~

- 1) ~~Per Occurrence:~~ \$[]
- 2) ~~General Aggregate:~~ \$[]

e. ~~Automobile Liability – Combined Single Limit (Bodily Injury and Property Damage):~~

\$[]

f. ~~Other (specify):~~ \$[]

~~B. Additional Insureds:~~

- ~~1. The following individuals or entities are to be listed on Owner's general liability policies of insurance as additional insureds:~~

- a. [redacted]
Engineer
- b. [redacted]
Engineer's Consultant
- c. [redacted]
Engineer's Consultant
- d. [redacted]
{other}

- 2. During the term of this Agreement the Engineer shall notify Owner of any other Consultant to be listed as an additional insured on Owner's general liability policies of insurance.
- 3. The Owner shall be listed on Engineer's general liability policy as provided in Paragraph 6.05.A.

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

Dispute Resolution

Paragraph 6.09 of the Agreement is supplemented to include the following agreement of the parties:

[NOTE TO USER: Select one of the two alternatives provided.]

H6.08 — Dispute Resolution

A. ~~Mediation:~~ Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof (“Disputes”) to mediation by ~~*[here insert name of mediator, or mediation service]*~~. Owner and Engineer agree to participate in the mediation process in good faith. The process shall be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to a dispute resolution of their choice, or (2) either party may seek to have the Dispute resolved by a court of competent jurisdiction.

[or]

A. ~~Arbitration:~~ All Disputes between Owner and Engineer shall be settled by arbitration in accordance with the ~~*[insert the name of a specified arbitration service or organization here]*~~ rules effective at the Effective Date, subject to the conditions stated below. This agreement to arbitrate and any other agreement or consent to arbitrate entered into in accordance with this Paragraph H6.09.A will be specifically enforceable under prevailing law of any court having jurisdiction.

1. ~~Notice of the demand for arbitration must be filed in writing with the other party to the Agreement and with the *[specified arbitration service or organization]*. The demand must be made within a reasonable time after the Dispute has arisen. In no event may the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such Dispute would be barred by the applicable statute of limitations.~~

2. ~~All demands for arbitration and all answering statements thereto which include any monetary claims must contain a statement that the total sum or value in controversy as alleged by the party making such demand or answering statement is not more than \$[] (exclusive of interest and costs). The arbitrators will not have jurisdiction, power, or authority to consider, or make findings (except in denial of their own jurisdiction) concerning any Dispute if the amount in controversy in such Dispute is more than \$[] (exclusive of interest and costs), or to render a monetary award in response thereto against any party which totals more than \$[] (exclusive of interest and costs). Disputes that are not~~

Exhibit H - Dispute Resolution.

~~subject to arbitration under this paragraph may be resolved in any court of competent jurisdiction.~~

- ~~3. The rules of any arbitration shall be supplemented to include the following: The award rendered by the arbitrators shall be in writing, and shall include (a) a precise breakdown of the award, and (b) a written explanation of the award specifically citing the Agreement provisions deemed applicable and relied on in making the award.~~
- ~~4. The award rendered by the arbitrators will be consistent with the Agreement of the parties and final, and judgment may be entered upon it in any court having jurisdiction thereof, and will not be subject to appeal or modification.~~
- ~~5. If a Dispute in question between Owner and Engineer involves the work of a Contractor, Subcontractor, or consultants to the Owner or Engineer (each a "Joinable Party"), and such Joinable Party has agreed contractually or otherwise to participate in a consolidated arbitration concerning this Project, then either Owner or Engineer may join such Joinable Party as a party to the arbitration between Owner and Engineer hereunder. Nothing in this Paragraph H6.09.A.5 nor in the provision of such contract consenting to joinder shall create any claim, right, or cause of action in favor of the Joinable Party and against Owner or Engineer that does not otherwise exist.~~

This is **EXHIBIT I**, consisting of 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].

Limitations of Liability

Paragraph 6.11 of the Agreement is supplemented to include the following agreement of the parties:

A.—Limitation of Engineer's Liability

~~{NOTE TO USER: Select one of the three alternatives listed below for 16.11. A.1}~~

- ~~1.—*Engineer's Liability Limited to Stated Amount, or Amount of Engineer's Compensation:* To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants, to Owner and anyone claiming by, through, or under Owner for any and all injuries, claims, losses, expenses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project, Engineer's or its Consultants' services, or this Agreement, from any cause or causes whatsoever, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants, shall not exceed the total amount of \$[REDACTED] or the total compensation received by Engineer under this Agreement, whichever is greater. Higher limits are available for an additional fee.~~

~~{or}~~

- ~~1.—*Engineer's Liability Limited to Amount of Engineer's Compensation:* To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants, to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants shall not exceed the total compensation received by Engineer under this Agreement.~~

[or]

~~1.—*Engineer’s Liability Limited to Amount of Insurance Proceeds:* Engineer shall procure and maintain insurance as required by and set forth in Exhibit G to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by Laws and Regulations, the total liability, in the aggregate, of Engineer and Engineer’s officers, directors, members, partners, agents, employees, and Consultants to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of Engineer or Engineer’s officers, directors, members, partners, agents, employees, or Consultants (hereafter “Owner’s Claims”), shall not exceed the total insurance proceeds paid on behalf of or to Engineer by Engineer’s insurers in settlement or satisfaction of Owner’s Claims under the terms and conditions of Engineer’s insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal), up to the amount of insurance required under this Agreement. If no such insurance coverage is provided with respect to Owner’s Claims, then the total liability, in the aggregate, of Engineer and Engineer’s officers, directors, members, partners, agents, employees, and Consultants to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner’s Claims shall not exceed \$[_____].~~

~~***[NOTE TO USER: If appropriate and desired, include 16.11.A.2 below as a supplement to Paragraph 6.11, which contains a mutual waiver of damages applicable to the benefit of both Owner and Engineer.]***~~

~~2.—*Exclusion of Special, Incidental, Indirect, and Consequential Damages:* To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision in the Agreement, consistent with the terms of Paragraph 6.11, the Engineer and Engineer’s officers, directors, members, partners, agents, Consultants, and employees shall not be liable to Owner or anyone claiming by, through, or under Owner for any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes, including but not limited to:~~

~~***[NOTE TO USER: List here particular types of damages that may be of special concern because of the nature of the project or specific circumstances, e.g., cost of replacement power, loss of use of equipment or of the facility, loss of profits or revenue, loss of financing, regulatory fines, etc.]***~~

~~***[NOTE TO USER: the above exclusion of consequential and other damages can be converted to a limitation on the amount of such damages, following the format of Paragraph 16.11.A.1 above, by providing that “Engineer’s total liability for such damages shall not exceed \$_____.”]***~~

~~**[NOTE TO USER: Many professional service agreements contain mutual indemnifications. If the parties elect to provide a mutual counterpart to the indemnification of Owner by Engineer in Paragraph 6.11.A, then supplement Paragraph 6.11.B by including the following indemnification of Engineer by Owner as Paragraph 16.11.B.]**~~

~~B. *Indemnification by Owner:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, members, partners, agents, employees, consultants, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.~~

This is **EXHIBIT J**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated [REDACTED].

Section J: Special Provisions- Removed from Contract

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

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. _____

The Effective Date of this Amendment is: _____.

Background Data

Effective Date of Owner-Engineer Agreement:

Owner:

Engineer:

Project:

Nature of Amendment: [Check those that are applicable and delete those that are inapplicable.]

- ____ Additional Services to be performed by Engineer
- ____ Modifications to services of Engineer
- ____ Modifications to responsibilities of Owner
- ____ Modifications of payment to Engineer
- ____ Modifications to time(s) for rendering services
- ____ Modifications to other terms and conditions of the Agreement

Description of Modifications:

Here describe the modifications, in as much specificity and detail as needed. Use an attachment if necessary.

Agreement Summary:

Original agreement amount:	\$ _____
Net change for prior amendments:	\$ _____
This amendment amount:	\$ _____
Adjusted Agreement amount:	\$ _____

Change in time for services (days or date, as applicable): _____

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

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

OWNER:

ENGINEER:

By: _____
Print
name: _____

By: _____
Print
name: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____

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

AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE



and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

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

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

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TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 – SERVICES OF ENGINEER.....	1
1.01 Scope.....	1
ARTICLE 2 – OWNER’S RESPONSIBILITIES	1
2.01 General	1
ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES	2
3.01 Commencement	2
3.02 Time for Completion	2
ARTICLE 4 – INVOICES AND PAYMENTS.....	2
4.01 Invoices	2
4.02 Payments	2
ARTICLE 5 – OPINIONS OF COST	3
5.01 Opinions of Probable Construction Cost.....	3
5.02 Designing to Construction Cost Limit.....	3
5.03 Opinions of Total Project Costs	3
ARTICLE 6 – GENERAL CONSIDERATIONS	4
6.01 Standards of Performance.....	4
6.02 Design Without Construction Phase Services.....	5
6.03 Use of Documents.....	5
6.04 Insurance	6
6.05 Suspension and Termination	7
6.06 Controlling Law	9
6.07 Successors, Assigns, and Beneficiaries	9
6.08 Dispute Resolution.....	9
6.09 Environmental Condition of Site.....	10
6.10 Indemnification and Mutual Waiver	10
6.11 Miscellaneous Provisions	11
ARTICLE 7 – DEFINITIONS	12
7.01 Defined Terms	12
ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS.....	15
8.01 Exhibits Included	15
8.02 Total Agreement	16
8.03 Designated Representatives	16
8.04 Engineer's Certifications	16



ENGINEERS JOINT CONTRACT
DOCUMENTS COMMITTEE

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

THIS IS AN AGREEMENT effective as of _____, 2021 ("Effective Date") between

City of Greenville ("Owner") and

ECS Southeast, LLP ("Engineer").

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

South Elm Street Drainage Improvements Projects

("Project").

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

construction materials testing services for South Elm Street Drainage Improvements Project

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

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

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 *General*

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

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

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 Commencement

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

3.02 Time for Completion

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

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 Invoices

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

4.02 Payments

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

1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and
 2. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- C. *Disputed Invoices:* If Owner contests an invoice, Owner shall promptly advise Engineer of the specific basis for doing so, may withhold only that portion so contested, and must pay the undisputed portion.
- D. *Legislative Actions:* ~~If after the Effective Date any governmental entity takes a legislative action that imposes taxes, fees, or charges on Engineer's services or compensation under this Agreement, then the Engineer may invoice such new taxes, fees, or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Owner shall reimburse Engineer for the cost of such invoiced new taxes, fees, and charges; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.~~

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

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

5.02 *Designing to Construction Cost Limit*

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

5.03 *Opinions of Total Project Costs*

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

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer’s services.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer’s services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures:*
 - 1. Engineer and Owner shall comply with applicable Laws and regulations.
 - 2. Prior to the Effective Date, Owner provided to Engineer in writing any and all policies and procedures of Owner applicable to Engineer's performance of services under this Agreement. provided to Engineer in writing. Engineer shall comply with such policies and procedures, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
 - 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. Changes after the Effective Date to these Laws and Regulations, or to Owner-provided written policies and procedures, may be the basis for modifications to Owner’s responsibilities or to Engineer’s scope of services, times of performance, or compensation.
- F. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents.
- G. The general conditions for any construction contract documents prepared hereunder are to be the “Standard General Conditions of the Construction Contract” as prepared by the Engineers Joint

Contract Documents Committee (EJCDC C-700, 2007 Edition) unless both parties mutually agree to use other general conditions by specific reference in Exhibit J.

- H. Engineer shall not at any time supervise, direct, control, or have authority over any contractor work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's furnishing and performing of its work.
- I. Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- J. Engineer shall not provide or have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- K. Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons (except Engineer's own agents, employees, and Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification, of the Contract Documents, other than those made by Engineer.
- L. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

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

6.03 *Use of Documents*

- A. All Documents are instruments of service in respect to this Project, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed. Owner shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants.

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

6.04 *Insurance*

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.

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

6.05 *Suspension and Termination*

A. *Suspension:*

1. By Owner: Owner may suspend the Project for up to 90 days upon seven days written notice to Engineer.
2. By Engineer: Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Engineer's performance has been substantially delayed through no fault of Engineer.

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

1. For cause,

- a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
- b. By Engineer:
 - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
 - 3) Engineer shall have no liability to Owner on account of such termination.
- c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience,

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

C. *Effective Date of Termination:* The terminating party under Paragraph 6.05.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

D. *Payments Upon Termination:*

- 1. In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.E.
- 2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.05.D.1, to invoice Owner and to payment of a reasonable amount for services and expenses directly

attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

6.06 *Controlling Law*

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

6.07 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.07.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
 - 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Subcontractor, Supplier, other individual or entity, or to any surety for or employee of any of them.
 - 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 - 3. Owner agrees that the substance of the provisions of this Paragraph 6.07.C shall appear in the Contract Documents.

6.08 *Dispute Resolution*

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

6.09 *Environmental Condition of Site*

- A. Owner has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.
- B. Owner represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.
- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. ~~It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern.~~ If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner" ~~"arranger,"~~ "operator," or "generator," ~~or "transporter"~~ of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.10 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees from reasonable claims, costs, losses, and damages arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants. ~~This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."~~

- B. ~~*Indemnification by Owner:* Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations and to the extent (if any) required in Exhibit I, Limitations of Liability.~~
- C. *Environmental Indemnification:* To the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (1) any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- D. ~~*Percentage Share of Negligence:* To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.~~
- E. *Mutual Waiver:* To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

6.11 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver:* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

- E. *Accrual of Claims*: To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following provisions:
1. *Additional Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.
 2. *Agreement* – This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
 3. *Asbestos* – Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 4. *Basic Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.
 5. *Construction Contract* – The entire and integrated written agreement between Owner and Contractor concerning the Work.
 6. *Construction Cost* – The cost to Owner of those portions of the entire Project designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to properties; Owner’s costs for legal, accounting, insurance counseling or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.
 7. *Constituent of Concern* – Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; and (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

8. *Consultants* – Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer’s independent professional associates and consultants; subcontractors; or vendors.
9. *Contract Documents* – Those items so designated in the Construction Contract, including the Drawings, Specifications, construction agreement, and general and supplementary conditions. Only printed or hard copies of the items listed in the Construction Contract are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
10. *Contractor* – The entity or individual with which Owner has entered into a Construction Contract.
11. *Documents* – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
12. *Drawings* – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.
13. *Effective Date* – The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
14. *Engineer* – The individual(s) (Engineer and/or Geologist) or entity named as such in this Agreement.
15. *Hazardous Waste* – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
16. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
17. *Owner* – The individual or entity with which Engineer has entered into this Agreement and for which the Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
18. *PCBs* – Polychlorinated biphenyls.
19. *Petroleum* – Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-hazardous waste and crude oils.

20. *Project* – The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
21. *Radioactive Material* – Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
22. *Record Drawings* – Drawings depicting the completed Project, prepared by Engineer as an Additional Service and based solely on Contractor's record copy of all Drawings, Specifications, addenda, change orders, work change directives, field orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
23. *Reimbursable Expenses* – The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Project.
24. *Resident Project Representative* – The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative agreed to by Owner. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.
25. *Samples* – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
26. *Shop Drawings* – All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
27. *Site* – Lands or areas to be indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
28. *Specifications* – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
29. *Subcontractor* – An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
30. *Substantial Completion* – The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.

31. *Supplier* – A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
32. *Total Project Costs* – The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner’s costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.
33. *Work* – The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Exhibits Included:*

- A. Exhibit A, Engineer’s Services.
- B. Exhibit B, Owner’s Responsibilities.
- C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.
- D. ~~Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative.~~ (not included)
- E. Exhibit E, Notice of Acceptability of Work.
- F. ~~Exhibit F, Construction Cost Limit.~~ (not included)
- G. Exhibit G, Insurance.
- H. ~~Exhibit H, Dispute Resolution.~~ (not included)
- I. ~~Exhibit I, Limitations of Liability.~~ (not included)
- J. ~~Exhibit J, Special Provisions.~~ (not included)
- K. Exhibit K, Amendment to Owner-Engineer Agreement.

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

8.02 *Total Agreement:*

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

8.03 *Designated Representatives:*

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

8.04 *Engineer's Certifications:*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
 - 3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

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

Owner: City of Greenville

Engineer: ECS Southeast, LLP

By: P. J. Connelly

By: Kris J. Stamm

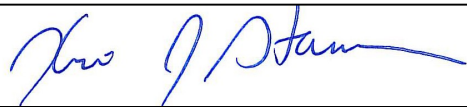
Title: Mayor

Title: Vice President

Date: _____

Date: 8-20-21

Signed: _____

Signed: 

Engineer License or Firm's Certificate No. F-1078
State of: NC

Address for giving notices:
Engineering Department
1500 Beatty Street / PO Box 7207
Greenville, NC 27834

Address for giving notices:
ECS Southeast, LLP
571-C West Fire Tower Rd
Winterville, NC 28590

Designated Representative (Paragraph 8.03.A):
Ted Triantis

Designated Representative (Paragraph 8.03.A):
Kris J. Stamm

Title: Engineer

Title: Vice President

Phone Number: 252-329-4810

Phone Number: 910-686-9114

Facsimile Number: 252-329-3545

Facsimile Number: 910-686-9666

E-Mail Address: ttriantis@greenvillenc.gov

E-Mail Address: kstamm@ecslimited.com

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

Engineer's Services

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

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

PART 1 – BASIC SERVICES

A1.01 Study and Report Phase

~~A. Engineer shall:~~

- ~~1. Consult with Owner to define and clarify Owner's requirements for the Project and available data.~~
- ~~2. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B which are not part of Engineer's Basic Services.~~
- ~~3. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project designed or specified by Engineer, including but not limited to mitigating measures identified in the environmental assessment.~~
- ~~4. Identify and evaluate *[insert specific number or list here]* alternate solutions available to Owner and, after consultation with Owner, recommend to Owner those solutions which in Engineer's judgment meet Owner's requirements for the Project.~~
- ~~5. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed to requirements, considerations involved, and those alternate solutions available to Owner which Engineer recommends. For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants; and, on the basis of information furnished by Owner, a summary of allowances for other items and services included within the definition of Total Project Costs.~~
- ~~6. Perform or provide the following additional Study and Report Phase tasks or deliverables: *[here list any such tasks or deliverables]*~~
- ~~7. Furnish _____ review copies of the Report and any other deliverables to Owner within _____ calendar days of the Effective Date and review it with Owner. Within _____ calendar days of receipt, Owner shall submit to Engineer any comments regarding the Report and any other deliverables.~~

~~8. Revise the Report and any other deliverables in response to Owner's comments, as appropriate, and furnish ___ copies of the revised Report and any other deliverables to the Owner within ___ calendar days of receipt of Owner's comments.~~

~~B. Engineer's services under the Study and Report Phase will be considered complete on the date when the revised Report and any other deliverables have been delivered to Owner.~~

~~A1.02 Preliminary Design Phase~~

~~A. After acceptance by Owner of the Report and any other deliverables, selection by Owner of a recommended solution and indication of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner, and upon written authorization from Owner, Engineer shall:~~

~~1. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.~~

~~2. Provide necessary field surveys and topographic and utility mapping for design purposes. Utility mapping will be based upon information obtained from utility owners.~~

~~3. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services.~~

~~4. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in collating the various cost categories which comprise Total Project Costs.~~

~~5. Perform or provide the following additional Preliminary Design Phase tasks or deliverables:
[here list any such tasks or deliverables]~~

~~6. Furnish ___ review copies of the Preliminary Design Phase documents and any other deliverables to Owner within ___ calendar days of authorization to proceed with this phase, and review them with Owner. Within ___ calendar days of receipt, Owner shall submit to Engineer any comments regarding the Preliminary Design Phase documents and any other deliverables.~~

~~7. Revise the Preliminary Design Phase documents and any other deliverables in response to Owner's comments, as appropriate, and furnish to Owner ___ copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables within ___ calendar days after receipt of Owner's comments.~~

~~B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables have been delivered to Owner.~~

~~A1.03—Final Design Phase~~

- ~~A. After acceptance by Owner of the Preliminary Design Phase documents, revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, and any other deliverables subject to any Owner directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from Owner, Engineer shall:~~
- ~~1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.~~
 - ~~2. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design of the Project; assist Owner in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities.~~
 - ~~3. Advise Owner of any adjustments to the opinion of probable Construction Cost known to Engineer.~~
 - ~~4. Perform or provide the following additional Final Design Phase tasks or deliverables: [here list any such tasks or deliverables]~~
 - ~~5. Prepare and furnish bidding documents for review by Owner, its legal counsel, and other advisors, and assist Owner in the preparation of other related documents. Within ___ days of receipt, Owner shall submit to Engineer any comments and, subject to the provisions of Paragraph 6.01.G, instructions for revisions.~~
 - ~~6. Revise the bidding documents in accordance with comments and instructions from the Owner, as appropriate, and submit ___ final copies of the bidding documents, a revised opinion of probable Construction Cost, and any other deliverables to Owner within ___ calendar days after receipt of Owner's comments and instructions.~~
- ~~B. Engineer's services under the Final Design Phase will be considered complete on the date when the submittals required by Paragraph A1.03.A.6 have been delivered to Owner.~~
- ~~C. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such contracts is to proceed concurrently.~~

~~D. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is _____. If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.~~

~~A1.04 Bidding or Negotiating Phase~~

~~A. After acceptance by Owner of the bidding documents and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:~~

- ~~1. Assist Owner in advertising for and obtaining bids or proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre bid conferences, if any, and receive and process contractor deposits or charges for the bidding documents.~~
- ~~2. Issue addenda as appropriate to clarify, correct, or change the bidding documents.~~
- ~~3. Provide information or assistance needed by Owner in the course of any negotiations with prospective contractors.~~
- ~~4. Consult with Owner as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors for those portions of the Work as to which such acceptability is required by the bidding documents.~~
- ~~5. If bidding documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by bidders, but subject to the provisions of paragraph A2.02.A.2 of this Exhibit A.~~
- ~~6. Attend the Bid opening, prepare Bid tabulation sheets, and assist Owner in evaluating Bids or proposals and in assembling and awarding contracts for the Work.~~
- ~~7. Perform or provide the following additional Bidding or Negotiating Phase tasks or deliverables: [here list any such tasks or deliverables]~~

~~B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors (except as may be required if Exhibit F is a part of this Agreement).~~

A1.05 Construction Phase

A. Upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from Owner, Engineer shall:

Earthwork/Soils

- Observe the contractor proofroll the site to observe that unstable soils have been identified and removed, or repaired in-place, prior to fill placement.

- Conduct laboratory tests on proposed engineered fill soils (ASTM D-422, ASTM D-1140, ASTM D- 698 and ASTM D-1557).
- Observe fill placement activities for conformance with the project specifications.
- Perform in-place density testing of fill materials to verify the percent compaction/in-place dry density is in compliance with the project specifications.
- Perform periodic testing by Dynamic Cone Penetrometer of soils at foundation bearing level to verify that the soils encountered are satisfactory for the design bearing pressure.

Concrete

- *As applicable, observe reinforcing steel prior to concrete placement to confirm bar size, lap splices, clearances, support methods, and cleanliness.*
- *Document general curing procedures.*
- *If extreme weather conditions are apparent, document that hot or cold weather procedures are followed*
- *Sample and test plastic concrete to include slump tests, air content, unit weight of lightweight concrete, and temperature.*
- *Cast and cure 4 by 8 inch concrete cylinder test specimens for compressive strength testing per specifications.*
- *Deliver test specimens to the ECS laboratory within 24 hours after casting.*
- *Laboratory curing, compressive strength testing and report of concrete cylinder test specimens.*

Aggregate Base Course

- Observe proofrolling of soil subgrades prior to ABC stone placement.
- Observe proofrolling of ABC stone elevations prior to paving.
- Conduct laboratory tests on the Aggregate Base Course stone for optimum moisture content and maximum dry density utilizing the modified Proctor method (ASTM D-1557).
- Conduct in-place thickness measurements and in-place density tests on aggregate base course to verify compaction.

Asphalt Quality Control

- Review Job Mix Formula data for proposed bituminous pavement materials.

- Monitor temperature and density of asphalt pavements during installation and provide information as to the performance of these materials during installation for the purpose of quality control.
- Extract and analyze asphalt cores after placement to verify asphalt thickness and bulk specific gravity, if required

Construction Materials Testing Services

Construction Materials Testing (CMT) services are performed to help provide the project's contractors, designers, owners and local code officials an indication of the level of compliance obtained by the installing contractors with the project specification. These services are provided at periodic intervals which typically are defined by the project specifications and on some occasions by the applicable building code. Test locations for most materials, i.e. soils, concrete and fireproofing, are generally based upon random selection; as such not all materials incorporated into a construction project are tested or observed.

The greater the testing frequency, the greater the confidence level that the test results are representative of other untested areas, however, no amount of testing can assure 100% compliance. Testing and observation services provided by ECS do not relieve the installing contractors from their obligation to install all materials in accordance with the applicable project plans and specifications. ECS makes reasonable effort to test in accordance with the applicable project requirements and to identify areas of materials that may not comply with the project specifications. However, due to the periodic and random nature of our testing, we cannot guarantee that all materials have been installed in accordance with the specifications.

The responsibility to correct or remediate non-complying conditions, even non-complying conditions discovered after testing or during subsequent phases of construction remains solely with the installing contractors.

Communications

To expedite the timely distribution of our daily reports, our field personnel utilize wireless technology to collect, process, and return data to our office. Our use of this technology typically facilitates electronic distribution of our reports within approximately 24 hours. This enhanced reporting technology allows us to simultaneously communicate our testing data with all project team members.

We anticipate our services will be needed on a full-time basis during all earthwork operations and typically on an on-call basis for other activities. The appropriate contractor or owner representative should contact our scheduling coordinator to provide the appropriate level of staffing to meet the project requirements; the direct phone number is 910-726-3025. All scheduling requests must be made prior to 2 pm the day before the testing is needed so that the proper personnel may be scheduled for the required inspection task. Each scheduling request will be assigned a work order number so that the scheduled testing and inspection is documented. We also ask that we be provided with one full or half set of up-to-date project drawings and specifications prior to starting work on this project.

ECS will transmit reports by e-mail (and up to three hard copies via U.S. Mail, if requested). Please list those to whom the reports should be sent and provide their e-mail addresses or mailing addresses, as appropriate, on the attached Proposal Acceptance Form. Defective Work: Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work (a) is defective under the standards set forth in the Contract Documents, (b) will not produce a completed Project that conforms to the Contract Documents, or (c) will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

Clarifications and Interpretations; Field Orders: Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Subject to any limitations in the Contract Documents, Engineer may issue field orders authorizing minor variations in the Work from the requirements of the Contract Documents.

Change Orders and Work Change Directives: Recommend change orders and work change directives to Owner, as appropriate, and prepare change orders and work change directives as required.

Shop Drawings and Samples: Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.

Substitutes and "or-equal": Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.

Inspections and Tests: Require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Engineer shall be entitled to rely on the results of such tests.

Disagreements between Owner and Contractor: Render formal written decisions on all duly submitted issues relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance, or progress of Contractor's Work; review each duly submitted Claim by Owner or Contractor, and in writing either deny such Claim in whole or in part, approve such Claim, or decline to resolve such Claim if Engineer in its discretion concludes that to do so would be inappropriate. In

rendering such decisions, Engineer shall be fair and not show partiality to Owner or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

Applications for Payment: Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:

- a. Determine the amounts that Engineer recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe Contractor's Work. In the case of unit price work, Engineer's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).
- b. By recommending any payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control Contractor's Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the Work in progress, materials, or equipment has passed to Owner free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.

Contractor's Completion Documents: Receive, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, Shop Drawings, Samples and other data approved as provided under Paragraph A1.05.A.11, and transmit the annotated record documents which are to be assembled by Contractor in

accordance with the Contract Documents to obtain final payment. The extent of such review by Engineer will be limited as provided in Paragraph A1.05.A.11.

Substantial Completion: Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Project to determine if the Work is substantially complete. If after considering any objections of Owner, Engineer considers the Work substantially complete, Engineer shall deliver a certificate of Substantial Completion to Owner and Contractor.

Additional Tasks: Perform or provide the following additional Construction Phase tasks or deliverables: [*here list any such tasks or deliverables*].

Final Notice of Acceptability of the Work: Conduct a final visit to the Project to determine if the completed Work of Contractor is acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice in the form attached hereto as Exhibit E (the "Notice of Acceptability of Work") that the Work is acceptable (subject to the provisions of Paragraph A1.05.A.15.b) to the best of Engineer's knowledge, information, and belief and based on the extent of the services provided by Engineer under this Agreement.

- B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the Project involves more than one prime contract as indicated in Paragraph A1.03.C, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.
- C. *Limitation of Responsibilities:* Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor or Supplier, or other individuals or entities performing or furnishing any of the Work, for safety or security at the Site, or for safety precautions and programs incident to Contractor's Work, during the Construction Phase or otherwise. Engineer shall not be responsible for the failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

~~A1.06—Post Construction Phase~~

~~A. Upon written authorization from Owner during the Post Construction Phase Engineer shall:~~

- ~~1. Together with Owner, visit the Project to observe any apparent defects in the Work, assist Owner in consultations and discussions with Contractor concerning correction of any such defects, and make recommendations as to replacement or correction of defective Work, if any.~~

~~2. Together with Owner or Owner's representative, visit the Project within one month before the end of the correction period to ascertain whether any portion of the Work is subject to correction.~~

~~3. Perform or provide the following additional Post-Construction Phase tasks or deliverables:
{Here list any such tasks or deliverables}~~

~~B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract's correction period.~~

PART 2 – ADDITIONAL SERVICES

A2.01 Additional Services Requiring Owner's Written Authorization

A. If authorized in writing by Owner, Engineer shall furnish or obtain from others Additional Services of the types listed below.

1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer or its design requirements including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
4. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those identified in Paragraph A1.01.A.4.
5. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
6. Providing renderings or models for Owner's use.
7. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of financial feasibility and cash flow studies, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting Owner in obtaining

- process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by Owner.
8. Furnishing services of Consultants for other than Basic Services.
 9. Services attributable to more prime construction contracts than specified in Paragraph A1.03.D.
 10. Services during out-of-town travel required of Engineer other than for visits to the Site or Owner's office.
 11. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructibility review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
 12. Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by Owner for the Work or a portion thereof.
 13. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required by Exhibit F.
 14. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Paragraph A1.05.A.6, and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
 15. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor.
 16. Providing assistance in responding to the presence of any Constituent of Concern at the Site, in compliance with current Laws and Regulations.
 17. Preparing Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor, and furnishing such Record Drawings to Owner.
 18. Preparation of operation and maintenance manuals.
 19. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, or other dispute resolution process related to the Project.
 20. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
 21. Assistance in connection with the adjusting of Project equipment and systems.

22. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
23. Assistance to Owner in developing procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related record-keeping.
24. Overtime work requiring higher than regular rates.
25. Other services performed or furnished by Engineer not otherwise provided for in this Agreement.

A2.02 Additional Services Not Requiring Owner's Written Authorization

- A. Engineer shall advise Owner in advance that Engineer is will immediately commence to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice from Owner.
 1. Services in connection with work change directives and change orders to reflect changes requested by Owner.
 2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.
 3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
 4. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work (advance notice not required), (2) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.
 5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of any part of the Work by Owner prior to Substantial Completion.
 6. Evaluating an unreasonable claim or an excessive number of claims submitted by Contractor or others in connection with the Work.
 7. Services during the Construction Phase rendered after the original date for completion of the Work referred to in A1.05.B.

8. Reviewing a Shop Drawing more than three times, as a result of repeated inadequate submissions by Contractor.
9. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, state, or local safety authorities for similar construction sites.

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

Owner's Responsibilities

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

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

- A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.
- B. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.
- C. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 1. Property descriptions.
 2. Zoning, deed, and other land use restrictions.
 3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions relating to existing surface or subsurface structures at the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
 5. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
 6. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.
- D. Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of the presence at the Site of any Constituent of Concern, or of any other development that affects the

scope or time of performance of Engineer's services, or any defect or nonconformance in Engineer's services, the Work, or in the performance of any Contractor.

- E. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.
- F. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
- G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.
- I. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
 - 1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
 - 2. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
 - 3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the moneys paid.
- J. Place and pay for advertisement for Bids in appropriate publications.
- K. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.
- L. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
- M. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.

- N. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.
- O. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment visits to the Project.
- P. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof.
- Q. Provide Engineer with the findings and reports generated by the entities providing services to Owner pursuant to this paragraph.
- R. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
- S. Perform or provide the following additional services: *[Here list any such additional services]*.

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

Payments to Engineer for Services and Reimbursable Expenses
COMPENSATION PACKET BC-2: Basic Services – Standard Hourly Rates

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

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01 Compensation For Basic Services (other than Resident Project Representative) – Standard Hourly Rates Method of Payment

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, except for services of Engineer’s Resident Project Representative, if any, as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer’s personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Engineer’s Consultants' charges, if any.

2. Engineer’s Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit C as Appendices 1 and 2.

3. The total compensation for services under Paragraph C2.01 is estimated to be \$100,000.00 based on the following estimated distribution of compensation:

- a. Study and Report Phase \$ _____
- b. Preliminary Design Phase \$ _____
- c. Final Design Phase \$ _____
- d. Bidding or Negotiating Phase \$ _____
- e. Construction Phase \$ 100,000.00 Not-to-Exceed _____
- f. Post-Construction Phase \$ _____

4. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by Owner. See also C2.03.C.2 below.

5. The total estimated compensation for Engineer's services included in the breakdown by phases as noted in Paragraph C2.01.A.3 incorporates all labor, overhead, profit, Reimbursable Expenses and Engineer's Consultants' charges.
6. The amounts billed for Engineer's services under Paragraph C2.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer's Consultants' charges.
7. The Standard Hourly Rates and Reimbursable Expenses Schedule ~~will~~ may be adjusted annually (as of January 1, 2023) to reflect equitable changes in the compensation payable to Engineer.

C2.02 *Compensation For Reimbursable Expenses*

- A. Owner shall pay Engineer for all Reimbursable Expenses at the rates set forth in Appendix 1 to this Exhibit C.
- B. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls and mobile phone charges; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Exhibit A. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
- C. The amounts payable to Engineer for Reimbursable Expenses will be the Project-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to the Project, the latter multiplied by a factor of 1.15.

C2.03 *Other Provisions Concerning Payment*

- A. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.15.
- B. Factors. The external Reimbursable Expenses and Engineer's Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

C. *Estimated Compensation Amounts:*

1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice, Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend the Engineer's services during the negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
- D. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

C2.03 *Other Provisions Concerning Payment*

- A. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of _____.
- B. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
- C. *Estimated Compensation Amounts:*
 - 1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 - 2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice, Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend Engineer's services during negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
 - 3. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

**COMPENSATION PACKET AS-1:
Additional Services – Standard Hourly Rates**

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

~~C2.05 — Compensation for Additional Services — Standard Hourly Rates Method of Payment~~

A. Owner shall pay Engineer for Additional Services, if any, as follows:

1. *General:* For services of Engineer's personnel engaged directly on the Project pursuant to Paragraph A2.01 or A2.02 of Exhibit A, except for services as a consultant or witness under Paragraph A2.01.A.20, (which if needed shall be separately negotiated based on the nature of the required consultation or testimony) an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Additional Services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any.

B. *Compensation For Reimbursable Expenses:*

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01 and are directly related to the provision of Additional Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
2. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls and mobile phone charges; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Exhibit A. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be the Additional Services-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such Additional Services, the latter multiplied by a factor of 1.15.
4. The Reimbursable Expenses Schedule maybe adjusted annually (as of January 1, 2019) to reflect equitable changes in the compensation payable to Engineer.

C. *Other Provisions Concerning Payment For Additional Services:*

1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of _____.

2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's Factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

This is **Appendix 1 to EXHIBIT C**, consisting of _____ pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, _____.

Reimbursable Expenses Schedule

Current agreements for engineering services stipulate that the Reimbursable Expenses are subject to review and adjustment per Exhibit C. Reimbursable expenses for services performed on the date of the Agreement are:

Fax	\$ <u>n/a</u> /page
8"x11" Copies/Impressions	<u>n/a</u> /page
Blue Print Copies	<u>n/a</u> /sq. ft.
Reproducible Copies (Mylar)	<u>n/a</u> /sq. ft.
Reproducible Copies (Paper)	<u>n/a</u> /sq. ft.
Mileage (auto)	0.545 _____/mile
Field Truck Daily Charge	<u>0</u> /day
Mileage (Field Truck)	<u>0.545</u> /mile
Field Survey Equipment	<u>n/a</u> /day
Confined Space Equipment	<u>n/a</u> /day plus expenses
Resident Project Representative Equipment	<u>n/a</u> /month
Specialized Software	<u>n/a</u> /hour
CAD Charge	<u>0</u> /hour
CAE Terminal Charge	<u>n/a</u> /hour
Video Equipment Charge	<u>n/a</u> /day, \$ _____/week, or \$ _____/month
Electrical Meters Charge	<u>n/a</u> /week, or \$ _____/month
Flow Meter Charge	<u>n/a</u> /week, or \$ _____/month
Rain Gauge	<u>n/a</u> /week, or \$ _____/month
Sampler Charge	<u>n/a</u> /week, or \$ _____/month
Dissolved Oxygen Tester Charge	<u>n/a</u> /week
Fluorometer	<u>n/a</u> /week
Laboratory Pilot Testing Charge	<u>n/a</u> /week, or \$ _____/month
Soil Gas Kit	<u>n/a</u> /day
Submersible Pump	<u>n/a</u> /day
Water Level Meter	<u>10</u> /day, or \$ _____/month
Soil Sampling	<u>cost plus</u> /sample
Groundwater Sampling	<u>cost plus</u> /sample
Health and Safety Level D	<u>n/a</u> /day
Health and Safety Level C	<u>n/a</u> /day
pH Temperature Meter/Pen	<u>n/a</u> /day
Turbidity Meter	<u>n/a</u> /day
Mobile Phone	<u>0</u> /day
Meals and Lodging	at cost n/a

[Note to User: Customize this Schedule to reflect anticipated reimbursable expenses on this specific Project]

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

Standard Hourly Rates Schedule

A. Standard Hourly Rates:

1. Standard Hourly Rates are set forth in this Appendix 2 to this Exhibit C and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in Article C2.

B. Schedule:

Hourly rates for services performed on or after the date of the Agreement are:

Construction Materials Testing

Soil or Materials Field Technician (Concrete, Soils, Masonry)	\$ 48.00/hour
Pile Foundation Technician	\$ 50.00/hour
QMS Certified NCDOT Technician	\$ 60.00/hour
Chief Technician	\$ 55.00/hour
Masonry or Concrete Special Inspector (ICC Certified)	\$ 65.00/hour
Fireproofing Technician	\$ 75.00/hour
CWI/NDE Technician Level 2	\$ 85.00/hour
Secretary	\$ 45.00/hour
Project Manager	\$ 125.00/hour
Principal Engineer/Special Inspector	\$ 150.00/hour
Transportation via company vehicle	\$ 0.545/mile

Note: Charges for engineering and technical personnel will be made for time spent in the field, in engineering analysis, in preparation and review of reports, and in travel to and from our office.

Overtime = Standard Rate x 1.5 for services performed exceeding 8 hours per day, outside our normal business hours of 7:00 am to 5:00 pm, holidays, Saturday, and Sunday.

Equipment and Laboratory

Standard Proctor (ASTM D-698)	\$ 135.00 each
Modified Proctor (ASTM D-1557)	\$ 155.00 each
Asphalt Density Determination	\$ 40.00/core
Atterberg Limits (LL & PL) Determination (ASTM D-4318)	\$ 70.00/test

Grain Size Analysis Test (ASTM D-422)	\$ 60.00/test
Moisture Content (ASTM D-2216)	\$ 10.00/test
Organic Content	\$ 40.00/test
Soil pH (ASTM D-4972)	\$ 25.00/test
Testing of Cylinders, Core Specimens:	
Compressive strength of grout prisms	\$ 15.00 each
Compressive strength of masonry prisms	\$ 75.00 each
Compressive strength of grout cubes	\$ 15.00 each
Compressive strength of concrete cylinders	\$ 15.00 each
Compressive strength of concrete cores, (ASTM C-42)	\$ 50.00 each
Density Test Equipment (Nuclear Gauge/Sand Cone/Drive Tube)	\$ 60.00/day
Fireproofing Test Equipment	\$ 60.00/day
Floor Flatness Equipment	\$ 150.00/day
Ultrasonic Weld Testing Equipment	\$ 200.00/day
Core machine	\$ 200.00/day
Rental Equipment & Non-standard Supplies	Cost x 1.15

Note: The above charges will be made for tests and equipment operated by ECS SOUTHEAST, LLP personnel in addition to personnel charges already listed.

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

NOTICE OF ACCEPTABILITY OF WORK

PROJECT: South Elm Street Drainage Improvements Project Geotechnical/CMT Services

OWNER: City of Greenville

CONTRACTOR:

OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:

EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:

ENGINEER: ECS Southeast, LLP

NOTICE DATE:

To: _____
Owner

And To: _____
Contractor

From: _____
Engineer

The Engineer hereby gives notice to the above Owner and Contractor that the completed Work furnished and performed by Contractor under the above Contract is acceptable, expressly subject to the provisions of the related Contract Documents, the Agreement between Owner and Engineer for Professional Services dated _____, _____, and the terms and conditions set forth in this Notice.

By: _____

Title: _____

Dated: _____

CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

The Notice of Acceptability of Work (“Notice”) is expressly made subject to the following terms and conditions to which all those who receive said Notice and rely thereon agree:

1. This Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the professional judgment of Engineer.
3. This Notice is given as to the best of Engineer’s knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor’s work) under Engineer’s Agreement with Owner and under the Construction Contract referred to in this Notice, and applies only to facts that are within Engineer’s knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Agreement and Construction Contract.
5. This Notice is not a guarantee or warranty of Contractor’s performance under the Construction Contract referred to in this Notice, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Contract Documents.

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

Insurance

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

G6.04 Insurance

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

1. By Engineer:

- | | |
|--|--------------------|
| a. Workers' Compensation: | Statutory |
| b. Employer's Liability -- | |
| 1) Each Accident: | \$ 1,000,000 _____ |
| 2) Disease, Policy Limit: | \$ _____ |
| 3) Disease, Each Employee: | \$ _____ |
| c. General Liability -- | |
| 1) Each Occurrence (Bodily Injury and Property Damage): | \$ _____ |
| 2) General Aggregate: | \$ _____ |
| d. Excess or Umbrella Liability -- | |
| 1) Each Occurrence: | \$ 1,000,000 _____ |
| 2) General Aggregate: | \$ 2,000,000 _____ |
| e. Automobile Liability --Combined Single Limit (Bodily Injury and Property Damage): | |
| Each Accident | \$ 1,000,000 _____ |
| f. Professional Liability -- | |
| 1) Each Claim Made | \$ 1,000,000 _____ |
| 2) Annual Aggregate | \$ 1,000,000 _____ |
| g. Other (specify): | \$ _____ |

2. ~~By Owner:~~

a. ~~Workers' Compensation:~~ _____ ~~Statutory~~

b. ~~Employer's Liability~~ —

- 1) ~~Each Accident~~ _____ \$ _____
- 2) ~~Disease, Policy Limit~~ _____ \$ _____
- 3) ~~Disease, Each Employee~~ _____ \$ _____

c. ~~General Liability~~ —

- 1) ~~General Aggregate:~~ _____ \$ _____
- 2) ~~Each Occurrence (Bodily Injury and Property Damage):~~ _____ \$ _____

d. ~~Excess Umbrella Liability~~ _____`

- 1) ~~Each Occurrence:~~ _____ \$ _____
- 2) ~~General Aggregate:~~ _____ \$ _____

e. ~~Automobile Liability Combined Single Limit (Bodily Injury and Property Damage):~~

~~Each Accident:~~ _____ \$ _____

f. ~~Other (specify):~~ _____ \$ _____

B. *Additional Insureds:*

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

a. _____
Engineer

b. _____
Engineer's Consultant

c. _____
Engineer's Consultant

~~2. During the term of this Agreement the Engineer shall notify Owner of any other Consultant to be listed as an additional insured on Owner's general liability and property policies of insurance.~~

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

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

AMENDMENT TO OWNER-ENGINEER AGREEMENT

Amendment No. _____

1. *Background Data:*

Effective Date of Owner-Engineer Agreement: _____

Owner: City of Greenville

Engineer: ECS Southeast, LLP

Project: South Elm Street Drainage Improvements Project - Geotechnical/CMT Services

2. *Description of Modifications:*

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

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

[List other Attachments, if any]

5. Agreement Summary (Reference only)
- a. Original Agreement amount: \$ _____
 - b. Net change for prior amendments: \$ _____
 - c. This amendment amount: \$ _____
 - d. Adjusted Agreement amount: \$ _____

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

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

OWNER:

ENGINEER:

By: _____

By: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Contract with The East Group for On-Call Civil Engineering Services

Explanation: On June 7, 2021, the Engineering Department issued a request for qualifications for on-call Civil Engineering services. The Department desires to supplement its existing professional engineering staff to accomplish its mission of developing and executing Capital Improvement Projects.

The engineering firm will provide design and study support to the City for projects. Total compensation for the contract shall not exceed \$500,000. The initial term of the contract shall be two years from the date of execution with an option for a one-year extension. Typical work includes, but is not limited to, the following:

- o Design services for emergency repairs for city infrastructure;
- o Design services for repair of storm water drainage systems;
- o Design services for projects to construct streets, sidewalks, and bike lanes;
- o Geotechnical engineering services;
- o Surveying services;
- o Data Collection: including turning movement counts (TMC), Average Daily Traffic (ADT), speed, classification, geometrics;
- o Capacity Analysis (Roadway Links, Signalized and Unsignalized Intersections, Roundabouts);
- o Traffic Signal Design;
- o Traffic Signal Operations (Phasing, Timing, Interconnection/Coordination);
- o Traffic Impact Studies and Reviews;
- o Accident Analyses;
- o Traffic Modeling and Simulation;
- o Signing, Pavement Marking, and Traffic Control Plans for Highway Improvements;
- o Traffic Management Plans;
- o Miscellaneous Traffic Studies, Safety Investigations, and Traffic Engineering Field Work Support;
- o Traffic Calming Investigation, Recommendations and Design;
- o Transportation Planning;
- o Parking Studies;
- o Obtaining right-of-way or easements for projects;
- o Research City records to determine status of existing roads, rights-of-way, and easements;
- o Analyze road/drainage system failures to determine cause and corrective

actions.

The previous civil engineering on-call contract was with River & Associates; however, the contract time had expired. Four firms submitted qualifications on June 29, 2021. The four firms submitting qualifications were:

- ARK Consulting Group
- Rivers & Associates
- The East Group
- The Wooten Company

Of the four firms, the most qualified firm was determined to be The East Group. The contract is for on-call services for a two-year period from the date the contract is executed, which may be extended for an additional year. The professional services contract is attached.

Staff, based on anticipated workload over the next two years, recommends an authorization level of \$500,000 due to the City's growth and continued capital improvement needs. The authorization level is not a guarantee of work; it is a not-to-exceed amount. Task orders will be utilized to perform work under this contract, and will be executed in accordance with City purchasing policy.

Fiscal Note:

Funds for each task order come from the budget of the department initiating the task order or from approved Capital Improvement Program projects. The maximum value of the contract is \$500,000 over the term of the contract.

Recommendation:

Award the attached contract for on-call civil engineering services to The East Group in an amount not to exceed \$500,000 over the term of the contract.

ATTACHMENTS

-  [Lynn - Engineering On_Call Agreement.pdf](#)
-  [Lynn - Engineering_On_Call_Rating_Summary.pdf](#)

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

AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE



and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

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

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

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TABLE OF CONTENTS

Page

ARTICLE 1 – SERVICES OF ENGINEER.....	1
1.01 Scope.....	1
ARTICLE 2 – OWNER’S RESPONSIBILITIES.....	2
2.01 General.....	2
ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES.....	2
3.01 Commencement.....	2
3.02 Time for Completion.....	2
ARTICLE 4 – INVOICES AND PAYMENTS.....	2
4.01 Invoices.....	2
4.02 Payments.....	3
ARTICLE 5 – OPINIONS OF COST.....	3
5.01 Opinions of Probable Construction Cost.....	3
5.02 Designing to Construction Cost Limit.....	4
5.03 Opinions of Total Project Costs.....	4
ARTICLE 6 – GENERAL CONSIDERATIONS.....	4
6.01 Standards of Performance.....	4
6.02 Design Without Construction Phase Services.....	5
6.03 Use of Documents.....	6
6.04 Insurance.....	7
6.05 Suspension and Termination.....	8
6.06 Controlling Law.....	9
6.07 Successors, Assigns, and Beneficiaries.....	9
6.08 Dispute Resolution.....	10
6.09 Environmental Condition of Site.....	10
6.10 Indemnification and Mutual Waiver.....	11
6.11 Miscellaneous Provisions.....	12
ARTICLE 7 – DEFINITIONS.....	12
7.01 Defined Terms.....	12
ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS.....	16
8.01 Exhibits Included.....	16
8.02 Total Agreement.....	16
8.03 Designated Representatives.....	16
8.04 Engineer's Certifications.....	16

EJCDC

ENGINEERS JOINT CONTRACT
DOCUMENTS COMMITTEE

AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of _____, _____ (“Effective Date”) between
City of Greenville, NC (“Owner”) and
The East Group, P.A. (“Engineer”).

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

On Call Engineering Services to the City of Greenville, NC for a period of 2 years from the effective date of the Agreement, which may be extended for an additional year by the Owner, in its sole discretion. ("Project").

Engineer's Services under this Agreement are generally identified as follows:

Provide On Call Engineering services to supplement the Department of Engineering for small low-cost projects and studies.

Owner and Engineer further agree as follows:

ARTICLE 1- SERVICES OF ENGINEER

1.01 *Scope*

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

ARTICLE 2 – OWNER’S RESPONSIBILITIES

2.01 *General*

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

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 *Commencement*

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

3.02 *Time for Completion*

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

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

- A. A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Engineer

shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.02 *Payments*

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.
- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:
 - 1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and
 - 2. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- C. *Disputed Invoices:* If Owner contests an invoice, Owner shall promptly advise Engineer of the specific basis for doing so, may withhold only that portion so contested, and must pay the undisputed portion.
- D. *Legislative Actions:* If after the Effective Date any governmental entity takes a legislative action that imposes taxes, fees, or charges on Engineer's services or compensation under this Agreement, then the Engineer may invoice such new taxes, fees, or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Owner shall reimburse Engineer for the cost of such invoiced new taxes, fees, and charges; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

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

5.02 *Designing to Construction Cost Limit*

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

5.03 *Opinions of Total Project Costs*

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

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services.
- B. B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. C. *Consultants:* Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. E. Compliance with Laws and Regulations, and Policies and Procedures:
- F. 1. Engineer and Owner shall comply with applicable Laws and regulations.
2. Prior to the Effective Date, Owner provided to Engineer in writing any and all policies and procedures of Owner applicable to Engineer's performance of services under this Agreement. provided to Engineer in writing. Engineer shall comply with such policies and procedures, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.

3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. Changes after the Effective Date to these Laws and Regulations, or to Owner-provided written policies and procedures, may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation.
- G. F. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents.
- H. G. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (EJCDC C-700, 2007 Edition) unless both parties mutually agree to use other general conditions by specific reference in Exhibit J.
- I. H. Engineer shall not at any time supervise, direct, control, or have authority over any contractor work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's furnishing and performing of its work.
- J. I. Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- K. J. Engineer shall not provide or have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- L. K. Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons (except Engineer's own agents, employees, and Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification, of the Contract Documents, other than those made by Engineer.
- M. L. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

- A. A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A, Paragraph A1.05. With the exception of such

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

6.03 *Use of Documents*

- A. A. All Documents are instruments of service in respect to this Project, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed. Owner shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants.
- B. B. Either party to this Agreement may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern. If the parties agree to other electronic transmittal procedures, such are set forth in Exhibit J.
- C. C. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.
- D. D. When transferring documents in electronic media format, the transferring party makes no representations as to long-term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.
- E. E. Owner may make and retain copies of Documents for information and reference in connection with use on the Project by Owner. Engineer grants Owner a limited license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment for all services relating to preparation of the Documents and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on

extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.

- F. F. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 Insurance

- A. A. Engineer shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.
- B. B. Owner shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability policies and as loss payees on any property insurance policies carried by Owner which are applicable to the Project.
- C. C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, property damage (other than to the Work itself), motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.
- D. D. ~~Owner and Engineer shall each deliver to the other~~ certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
- E. E. All policies of property insurance relating to the Project shall contain provisions to the effect that Engineer's and its Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against Engineer or its Consultants, or any insureds, additional insureds, or loss payees thereunder.
- F. F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will

not be refused, until at least 30 days prior written notice has been given to Owner and Engineer and to each other additional insured (if any) to which a certificate of insurance has been issued.

- G. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.05 *Suspension and Termination*

A. A. Suspension:

1. By Owner: Owner may suspend the Project for up to 90 days upon seven days written notice to Engineer.
2. By Engineer: Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Engineer's performance has been substantially delayed through no fault of Engineer.

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

1. For cause,

- a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
- b. By Engineer:
 - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
 - 3) Engineer shall have no liability to Owner on account of such termination.
- c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of

receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

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

6.06 *Controlling Law*

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

6.07 *Successors, Assigns, and Beneficiaries*

- A. A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.07.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this

Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

- C. C. Unless expressly provided otherwise in this Agreement:
 - 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Subcontractor, Supplier, other individual or entity, or to any surety for or employee of any of them.
 - 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 - 3. Owner agrees that the substance of the provisions of this Paragraph 6.07.C shall appear in the Contract Documents.

6.08 *Dispute Resolution*

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

6.09 *Environmental Condition of Site*

- A. A. Owner has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.
- B. B. Owner represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.
- C. C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern. If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected

thereby until Owner: (1) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.

- E. E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days notice.
- F. F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner" "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.10 *Indemnification and Mutual Waiver*

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

insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

6.11 *Miscellaneous Provisions*

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

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following provisions:
 - 1. *Additional Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.
 - 2. *Agreement* – This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
 - 3. *Asbestos* – Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

4. *Basic Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.
5. *Construction Contract* – The entire and integrated written agreement between Owner and Contractor concerning the Work.
6. *Construction Cost* – The cost to Owner of those portions of the entire Project designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to properties; Owner’s costs for legal, accounting, insurance counseling or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.
7. *Constituent of Concern* – Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; and (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
8. *Consultants* – Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer’s independent professional associates and consultants; subcontractors; or vendors.
9. *Contract Documents* – Those items so designated in the Construction Contract, including the Drawings, Specifications, construction agreement, and general and supplementary conditions. Only printed or hard copies of the items listed in the Construction Contract are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
10. *Contractor* – The entity or individual with which Owner has entered into a Construction Contract.
11. *Documents* – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
12. *Drawings* – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.

13. *Effective Date* – The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
14. *Engineer* – The individual or entity named as such in this Agreement. For the purpose of this agreement, where "Engineer" is written, it shall mean "Architect".
15. *Hazardous Waste* – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
16. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
17. *Owner* – The individual or entity with which Engineer has entered into this Agreement and for which the Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
18. *PCBs* – Polychlorinated biphenyls.
19. *Petroleum* – Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-hazardous waste and crude oils.
20. *Project* – The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
21. *Radioactive Material* – Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
22. *Record Drawings* – Drawings depicting the completed Project, prepared by Engineer as an Additional Service and based solely on Contractor's record copy of all Drawings, Specifications, addenda, change orders, work change directives, field orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
23. *Reimbursable Expenses* – The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Project.
24. *Resident Project Representative* – The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative agreed to by Owner. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.

25. *Samples* – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
26. *Shop Drawings* – All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
27. *Site* – Lands or areas to be indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
28. *Specifications* – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
29. *Subcontractor* – An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
30. *Substantial Completion* – The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
31. *Supplier* – A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
32. *Total Project Costs* – The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner’s costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.
33. *Work* – The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Exhibits Included:*

- A. A. Exhibit A, Engineer's Services.
- B. B. Exhibit B, Owner's Responsibilities.
- C. C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.
- D. D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative.
- E. E. Exhibit E, Notice of Acceptability of Work.
- F. F. Exhibit F, Construction Cost Limit.
- G. G. Exhibit G, Insurance.
- H. H. Exhibit H, Dispute Resolution.
- I. I. Exhibit I, Limitations of Liability.
- J. J. Exhibit J, Special Provisions.
- K. K. Exhibit K, Amendment to Owner-Engineer Agreement.

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

8.02 *Total Agreement:*

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

8.03 *Designated Representatives:*

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

8.04 *Engineer's Certifications:*

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

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the selection process or in the Agreement execution;
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

8.05 *E-Verify Compliance:*

- A. The Engineer shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the Engineer furnishes services, programs or goods to the owner utilizing a subcontract, the Engineer shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. The Engineer represents that the Engineer and its subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

8.06 *Iran Divestment Act Certification.*

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

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

Owner:
City of Greenville

Engineer:
The East Group, P.A.

Signature: _____

Signature: _____

By: _____

By: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____

Engineer License or Firm's
Certificate Number: C-0206
State of: North Carolina

Address for giving notices:

1500 Beatty Street

Greenville, NC

Designated Representative (Paragraph 8.03.A):

James Lynn Raynor, PE

Title: Civil Engineer III

Phone Number: 252-329-4620

Facsimile Number: 252-329-4535

Email Address: lraynor@greenvillenc.gov

Address for giving notices:

324 Evans Street

Greenville, NC 27858

Designated Representative (Paragraph 8.03.A):

Myriah Shewchuk, PLA, LEED AP

Title: Project Manager

Phone Number: 252-758-3746

Facsimile Number: 252-830-3954

E-Mail Address: myriah.shewchuk@eastgroup.com

APPROVED AS TO FORM:

Emanuel D. McGirt, City Attorney

PRE-AUDIT CERTIFICATION:

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

Byron Hayes, Director of Financial Services

Various accounts utilized based on projects

Engineer's Services

Article 1 of the Agreement is supplemented to include the following agreement of the parties. Engineer shall provide Basic and Additional Services as set forth below.

PART 1— BASIC SERVICES

Al.01 This contract is for on-call services for two years from the effective date of the agreement. The Owner, in its sole discretion, may extend this period for an additional year by providing notice of the extension to the Engineer in writing. The Engineer shall provide all or some of the basic services as set forth below when directed by task order:

1. Typical work may include:

Design services for emergency repairs for city infrastructure;

Design services for repair of storm water drainage systems;

Design services for projects to construct streets, sidewalks, and bike lanes;

Geotechnical engineering services;

Surveying services;

Data Collection: including turning movement counts (TMC), Average Daily Traffic (ADT), speed, classification, geometrics;

Capacity Analysis (Roadway Links, Signalized and Unsignalized Intersections, Roundabouts);

Traffic Signal Design;

Traffic Signal Operations (Phasing, Timing, Interconnection/Coordination);

Traffic Impact Studies and Reviews;

Accident Analyses;

Traffic Modeling and Simulation;

Signing, Pavement Marking, and Traffic Control Plans for Highway Improvements;

Traffic Management Plans;

Miscellaneous Traffic Studies, Safety Investigations, and Traffic Engineering Field Work Support;

Traffic Calming Investigation, Recommendations and Design;

Transportation Planning;

Parking Studies;

Obtaining right-of-way or easements for projects;

Research City records to determine status of existing roads, rights-of-way, and easements;

Analyze road/drainage system failures to determine cause and corrective actions.

2. Conduct Staff Actions including by not limited to:

Developing concepts that can be used to develop proposals to obtain consultants for high cost projects.

Develop space management plans.

3. Other City Services:

City, through its City Manager, Assistant City Manager, Director of Public Works, or Director of Engineer may authorize the consultant to perform such selected services on an as needed basis.

4. The engineer shall implement measures to ensure that the Consultant does not obtain any advantage in responding to a Request for Proposal for a project in which the employee of the Consultant manages or otherwise has been involved with due to any Agreement between the City and the Consultant resulting from this Request for Proposal. At a minimum, the following procedures shall be implemented and adhered to:

- a. During preparation of and issuance of Design/Study RFP and selection of consulting engineer services:

No direct communication on the proposal between the employee of the Consultant assigned project management duties and the Consultant;

Any requests for information by the Consultant must be in writing addressed to the Director of Public Works to ensure any reply will be to all consulting engineer firms participating in the selection process; and Employee of the Consultant may not discuss the selection process or the results for any consulting engineering services.

- b. A proposal submitted by the Consultant for a project in which the employee of the Consultant manages or otherwise has been involved due to any Agreement between the City and the Consultant resulting from this Request for Proposal will not be considered as a responsible proposal in the event the Director of Public Works determines that the Consultant has not implemented or adhered to the minimum procedures set forth above or otherwise has obtained an advantage in responding to the Request for Proposal.

5. Task Orders:

The Engineer and owner will negotiate the anticipated project duration and staff hours and cost required to complete the project. The Owner will issue work to the Engineer under this contract by task order. The Engineer will not begin work on the project until the task order is executed.

The Engineer is not authorized to exceed the funds identified on a task order.

6. Task orders issued under this contract will consist of the following four documents:

- Exhibit A to EJCDC E-500 Dated 2008. To identify the scope of work.
- Exhibit B to EJCDC E-500 Dated 2008. To identify any owner's responsibilities.
- Exhibit C Compensation Packet Signature page.

Owner's Responsibilities

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

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

- A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies or all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.
- B. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.
- C. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 - 1. Property descriptions.
 - 2. Zoning, deed, and other land use restrictions.
 - 3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 - 4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions relating to existing surface or subsurface structures at the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
 - 5. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
 - 6. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.
- D. Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of the presence at the Site of any Constituent of Concern, or of any other development that affects the scope or time of performance of Engineer's services, or any defect or nonconformance in Engineer's services, the Work, or in the performance of any Contractor.

- E. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.
- F. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
- G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.
- I. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
 - 1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
 - 2. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
 - 3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the moneys paid.
- J. Place and pay for advertisement for Bids in appropriate publications.
- K. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.
- L. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
- M. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- N. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties,

(Exhibit B – Owner's Responsibilities)

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

- O. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment visits to the Project.
- P. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof.
- Q. Provide Engineer with the findings and reports generated by the entities providing services to Owner pursuant to this paragraph.
- R. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.

(Exhibit B – Owner's Responsibilities)

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

Payments to Engineer for Services and Reimbursable Expenses
COMPENSATION PACKET BC-2: Negotiated Lump Sum

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

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01 Compensation For Basic Services – negotiated lump sum for each task order

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, as follows:

1. A negotiated lump sum for each task order issued to the Engineer.
2. In no event shall total compensation for services under Paragraph C2.01 be greater than \$500,000 without going to City Council for an increase in authorization level. based on the following estimated distribution of compensation:
 - a. Study and Report Phase _____ \$ _____
 - b. Preliminary Design Phase _____ \$ _____
 - c. Final Design Phase _____ \$ _____
 - d. Bidding or Negotiating Phase _____ \$ _____
 - e. Construction Phase _____ \$ _____
 - f. Post Construction Phase _____ \$ _____
3. ~~Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by Owner. See also C2.03.C2 below.~~
4. ~~The total estimated compensation for Engineer’s services included in the breakdown by phases as noted in Paragraph C2.01.A3 incorporates all labor, overhead, profit, Reimbursable Expenses and Engineer’s Consultants’ charges.~~
5. ~~The amounts billed for Engineer’s services under Paragraph C2.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer’s employees times Standard Hourly Rates for each applicable billings class, plus Reimbursable Expenses and Engineer’s Consultants’ charges.~~

Exhibit C – Compensation Packet BC-2: Basic Services (other than RPR) – Lump Sum Method of Payment

~~6. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of _____) to reflect equitable changes in the compensation payable to Engineer.~~

~~C2.02 Compensation For Reimbursable Expenses~~

~~B. Owner shall pay Engineer for all Reimbursable Expenses at the rates set forth in Appendix 1 to this Exhibit C.~~

~~C. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls and mobile phone charges; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project related items in addition to those required under Exhibit A. In addition, of authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.~~

~~D. The amounts payable to Engineer for Reimbursable Expenses will be the Project related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to the Project, the latter multiplied by a factor or _____.~~

~~C2.03 Other Provisions Concerning Payment~~

~~E. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor or _____.~~

~~F. Factors. The external Reimbursable Expenses and Engineer's Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.~~

~~G. Estimated Compensation Amounts:~~

- ~~1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.~~
 - ~~2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice, Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount when such services are completed. If Owner decides not to suspend the Engineer's services during the negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, the Engineer shall be paid for all services rendered hereunder.~~
- ~~H. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.~~



Corporate Rate Schedule
Effective
January 1, 2021 through December 31, 2021

Corporate Office

324 Evans St
Greenville
NC 27858

Tel 252.758.3746

Fax 252.830.3954

Raleigh Office

4325 Lake Boone Trail
Suite 311
Raleigh
NC 27607

Tel 919.784.9330

Fax 919.784.9331

www.eastgroup.com

Category	Rates	Category	Rates
Principal	\$205	Construction Inspector	\$90
Associate	\$180	Senior Project Administrator	\$75
Senior Engineer	\$160	Project Administrator	\$65
Engineer	\$140	Helper/Technical Assistant	\$50
Senior Engineer Intern	\$110	Specialist IV	\$130
Engineer Intern	\$100	Specialist III	\$110
Senior Project Manager (PM III)	\$160	Specialist II	\$100
Project Manager II	\$145	Specialist I	\$90
Project Manager I	\$110	Professional Land Survey (PLS II)	\$125
Senior Architect	\$160	Professional Land Survey (PLS I)	\$110
Architect	\$140	Land Survey Intern	\$100
Senior Landscape Architect	\$140	Senior Survey Cad Technician	\$90
Landscape Architect	\$110	Survey Cad Technician	\$80
Designer V	\$140	Survey Party Chief	\$100
Designer IV	\$130	Survey Technician	\$90
Designer III	\$120	3 Man Survey Party	\$160
Designer II	\$105	2 Man Survey Party	\$135
Designer I	\$90	3 Man Construction Survey Party	\$170
Senior Drafter (Cad)	\$85	2 Man Construction Survey Party	\$150
Drafter (Cad)	\$75		
Senior Construction Inspector	\$110		

Reimbursables

Mileage: Will be charged according to IRS published rates
Expenses: Cost plus 10% (reproductions, meals, lodging, fees, consultants, etc.)

ENGINEERING
—
ARCHITECTURE
—
SURVEYING
—
TECHNOLOGY
—

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

NOTICE OF ACCEPTABILITY OF WORK

PROJECT:

OWNER:

CONTRACTOR:

OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:

EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:

ENGINEER:

NOTICE DATE:

To: _____
Owner

And To: _____
Contractor

From: _____
Engineer

The Engineer hereby gives notice to the above Owner and Contractor that the completed Work furnished and performed by Contractor under the above Contract is acceptable, expressly subject to the provisions of the related Contract Documents, the Agreement between Owner and Engineer for Professional Services dated _____, _____, and the terms and conditions set forth in this Notice.

By: _____

Title: _____

Dated: _____

CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

The Notice of Acceptability of Work ("Notice") is expressly made subject to the following terms and conditions to which all those who receive said Notice and rely thereon agree:

1. This Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the professional judgment of Engineer.
3. This Notice is given as to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's work) under Engineer's Agreement with Owner and under the Construction Contract referred to in this Notice, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Agreement and Construction Contract.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract referred to in this Notice, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Contract Documents.

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

Construction Cost Limit

Paragraph 5.02 of the Agreement is supplemented to include the following agreement of the parties:

~~F5.02—Designing to Construction Cost Limit~~

- ~~A. Owner and Engineer hereby agree to a Construction Cost limit in the amount of \$_____.~~
- ~~B. A bidding or negotiating contingency of _____ percent will be added to any Construction Cost limit established.~~
- ~~C. The acceptance by Owner at any time during Basic Services of a revised opinion of probable Construction Cost in excess of the then established Construction Cost limit will constitute a corresponding increase in the Construction Cost limit.~~
- ~~D. Engineer will be permitted to determine what types and quality of materials, equipment and component systems are to be included in the Drawings and Specifications. Engineer may make reasonable adjustments in the scope, extent, and character of the Project to the extent consistent with the Project requirements and sound engineering practices, to bring the Project within the Construction Cost limit.~~
- ~~E. If the Bidding or Negotiating Phase has not commenced within three months after completion of the Final Design Phase, or if industry wide prices are changed because of unusual or unanticipated events affecting the general level of prices or times of delivery in the construction industry, the established Construction Cost limit will not be binding on Engineer. In such cases, Owner shall consent to an adjustment in the Construction Cost limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or Bids are sought.~~
- ~~F. If the lowest bona fide proposal or Bid exceeds the established Construction Cost limit, Owner shall (1) give written approval to increase such Construction Cost limit, or (2) authorize negotiating or rebidding the Project within a reasonable time, or (3) cooperate in revising the Project's scope, extent, or character to the extent consistent with the Project's requirements and with sound engineering practices. In the case of (3), Engineer shall modify the Contract Documents as necessary to bring the Construction Cost within the Construction Cost Limit. Owner shall pay Engineer's cost to provide such modification services, including the costs of the services of its Consultants, all overhead expenses reasonably related thereto, and Reimbursable Expenses, but without profit to Engineer on account of such services. The providing of such services will be the limit of Engineer's responsibility in this regard and, having done so, Engineer shall be entitled to payment for services and expenses in accordance with this Agreement and will not otherwise be liable for damages attributable to the lowest bona fide proposal or bid exceeding the established Construction Cost limit.~~

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

Insurance

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

G6.04 *Insurance*

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

1. By Engineer:

- | | |
|---|--------------------|
| a. Workers' Compensation: | Statutory |
| b. Employer's Liability -- | |
| 1) Each Accident: | <u>\$100,000</u> |
| 2) Disease, Policy Limit: | <u>\$500,000</u> |
| 3) Disease, Each Employee: | <u>\$100,000</u> |
| c. General Liability -- | |
| 1) Each Occurrence (Bodily Injury and Property Damage): | <u>\$1,000,000</u> |
| 2) General Aggregate: | <u>\$2,000,000</u> |
| d. Excess or Umbrella Liability -- | |
| 1) Each Occurrence: | <u>\$2,000,000</u> |
| 2) General Aggregate: | <u>\$2,000,000</u> |
| e. Professional Liability -- | |
| 1) Each Claim Made | <u>\$1,000,000</u> |
| 2) Annual Aggregate | <u>\$2,000,000</u> |
| f. Other (specify): | \$ <u>N/A</u> |

2. ~~By Owner:~~

- a. ~~Workers' Compensation:~~ _____ Statutory

b. ~~Employer's Liability~~

- 1) ~~Each Accident~~ _____ \$ _____
- 2) ~~Disease, Policy Limit~~ _____ \$ _____
- 3) ~~Disease, Each Employee~~ _____ \$ _____

c. ~~General Liability~~

- 1) ~~General Aggregate:~~ _____ \$ _____
- 2) ~~Each Occurrence (Bodily Injury and Property Damage):~~ _____ \$ _____

d. ~~Excess Umbrella Liability~~

- 1) ~~Each Occurrence:~~ _____ \$ _____
- 2) ~~General Aggregate:~~ _____ \$ _____

e. ~~Automobile Liability - Combined Single Limit (Bodily Injury and Property Damage):~~

Each Accident: \$ _____

f. ~~Other (specify):~~ _____ \$ _____

B. *Additional Insureds:*

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

a. _____
Engineer

b. _____
Engineer's Consultant

c. _____
Engineer's Consultant

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

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

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

Dispute Resolution

Paragraph 6.08 of the Agreement is amended and supplemented to include the following agreement of the parties:

[NOTE TO USER: Select one of the two alternatives provided]

~~H6.08 Dispute Resolution~~

~~A. *Mediation:* Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof (“Disputes”) to mediation by insert name of mediator, or mediation service. Owner and Engineer agree to participate in the mediation process in good faith. The process shall be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to a dispute resolution of their choice, or (2) either party may seek to have the Dispute resolved by a court of competent jurisdiction.~~

[or]

~~A. *Arbitration:* All Disputes between Owner and Engineer shall be settled by arbitration in accordance with the here insert the name of a specified arbitration service or organization rules effective at the Effective Date, subject to the conditions stated below. This agreement to arbitrate and any other agreement or consent to arbitrate entered into in accordance with this Paragraph H6.08.A will be specifically enforceable under prevailing law of any court having jurisdiction:~~

- ~~1. Notice of the demand for arbitration must be filed in writing with the other party to the Agreement and with the specified arbitration service or organization. The demand must be made within a reasonable time after the Dispute has arisen. In no event may the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such Dispute would be barred by the applicable statute of limitations.~~
- ~~2. All demands for arbitration and all answering statements thereto which include any monetary claims must contain a statement that the total sum or value in controversy as alleged by the party making such demand or answering statement is not more than \$_____ (exclusive of interest and costs). The arbitrators will not have jurisdiction, power, or authority to consider, or make findings (except in denial of their own jurisdiction) concerning any Dispute if the amount in controversy in such Dispute is more than \$_____ (exclusive of interest and costs), or to render a monetary award in response thereto against any party which totals more than \$_____ (exclusive of interest and costs). Disputes that are~~

- ~~not subject to arbitration under this paragraph may be resolved in any court of competent jurisdiction.~~
- ~~3. The award rendered by the arbitrators shall be in writing, and shall include: (i) a precise breakdown of the award; and (ii) a written explanation of the award specifically citing the Agreement provisions deemed applicable and relied on in making the award.~~
 - ~~4. The award rendered by the arbitrators will be consistent with the Agreement of the parties and final, and judgment may be entered upon it in any court having jurisdiction thereof, and will not be subject to appeal or modification.~~
 - ~~5. If a Dispute in question between Owner and Engineer involves the work of a Contractor, Subcontractor, or consultants to the Owner or Engineer (each a "Joinable Party"), and such Joinable Party has agreed contractually or otherwise to participate in a consolidated arbitration concerning this Project, then either Owner or Engineer may join such Joinable Party as a party to the arbitration between Owner and Engineer hereunder. Nothing in this Paragraph H6.08.A.5 nor in the provision of such contract consenting to joinder shall create any claim, right, or cause of action in favor of the Joinable Party and against Owner or Engineer that does not otherwise exist.~~

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

Limitations of Liability

Paragraph 6.10 of the Agreement is supplemented to include the following agreement of the parties:

A. Limitation of Engineer's Liability

[NOTE TO USER: Select one of the three alternatives listed below for I6.10 A.1]

~~1. *Engineer's Liability Limited to Amount of Engineer's Compensation:* To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants, to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants shall not exceed the total compensation received by Engineer under this Agreement.~~

[or]

~~1. *Engineer's Liability Limited to Amount of Insurance Proceeds:* Engineer shall procure and maintain insurance as required by and set forth in Exhibit G to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Engineer by Engineer's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Engineer's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal). If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner's Claims shall not exceed \$ _____ [or]~~

1. ~~Engineer's Liability Limited to the Amount of \$ _____: Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants, to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants shall not exceed the total amount of \$ _____.~~
-

~~*[NOTE TO USER: If appropriate and desired, include I6.10.A.2 below as a supplement to Paragraph 6.10, which contains a mutual waiver of damages applicable to the benefit of both Owner and Engineer]*~~

2. ~~Exclusion of Special, Incidental, Indirect, and Consequential Damages: To the fullest extent permitted by law, and notwithstanding any other provision in the Agreement, consistent with the terms of Paragraph 6.10, the Engineer and Engineer's officers, directors, members, partners, agents, Consultants, and employees shall not be liable to Owner or anyone claiming by, through, or under Owner for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants, and including but not limited to:~~

~~*[NOTE TO USER: list here particular types of damages that may be of special concern because of the nature of the project or specific circumstances, e.g., cost of replacement power, loss of use of equipment or of the facility, loss of profits or revenue, loss of financing, regulatory fines, etc. If the parties prefer to leave the language general, then end the sentence after the word "employees"]*~~

~~*[NOTE TO USER: the above exclusion of consequential and other damages can be converted to a limitation on the amount of such damages, following the format of Paragraph I6.10.A.1 above, by providing that "Engineer's total liability for such damages shall not exceed \$ _____."]*~~

~~*[NOTE TO USER: If appropriate and desired, include I6.10.A.3 below]*~~

3. ~~Agreement Not to Claim for Cost of Certain Change Orders: Owner recognizes and expects that certain Change Orders may be required to be issued as the result in whole or~~

part of imprecision, incompleteness, errors, omissions, ambiguities, or inconsistencies in the Drawings, Specifications, and other design documentation furnished by Engineer or in the other professional services performed or furnished by Engineer under this Agreement ("Covered Change Orders"). Accordingly, Owner agrees not to sue or to make any claim directly or indirectly against Engineer on the basis of professional negligence, breach of contract, or otherwise with respect to the costs of approved Covered Change Orders unless the costs of such approved Covered Change Orders exceed _____% of Construction Cost, and then only for an amount in excess of such percentage. Any responsibility of Engineer for the costs of Covered Change Orders in excess of such percentage will be determined on the basis of applicable contractual obligations and professional liability standards. For purposes of this paragraph, the cost of Covered Change Orders will not include any costs that Owner would have incurred if the Covered Change Order work had been included originally without any imprecision, incompleteness, error, omission, ambiguity, or inconsistency in the Contract Documents and without any other error or omission of Engineer related thereto. Nothing in this provision creates a presumption that, or changes the professional liability standard for determining if, Engineer is liable for the cost of Covered Change Orders in excess of the percentage of Construction Cost stated above or for any other Change Order. Wherever used in this paragraph, the term Engineer includes Engineer's officers, directors, members, partners, agents, employees, and Consultants.

[NOTE TO USER: The parties may wish to consider the additional limitation contained in the following sentence.]

Owner further agrees not to sue or to make any claim directly or indirectly against Engineer with respect to any Covered Change Order not in excess of such percentage stated above, and Owner agrees to hold Engineer harmless from and against any suit or claim made by the Contractor relating to any such Covered Change Order.]

[NOTE TO USER: Many professional service agreements contain mutual indemnifications. If the parties elect to provide a mutual counterpart to the indemnification of Owner by Engineer in Paragraph 6.10.A, then supplement Paragraph 6.10.B by including the following indemnification of Engineer by Owner as Paragraph 16.10.B.]

- B. *Indemnification by Owner:* To the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use

~~resulting therefrom, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, members, partners, agents, employees, consultants, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.~~

Special Provisions

STATE OF NORTH CAROLINA

AFFIDAVIT

CITY OF GREENVILLE

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

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

This ____ day of _____, 20____.

Signature of Affiant
Print or Type Name: _____

State of North Carolina City of Greenville

Signed and sworn to (or affirmed) before me, this the ____
day of _____, 20____.

My Commission Expires:

Notary Public

(Affix Official/Notarial Seal)

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

AMENDMENT TO OWNER-ENGINEER AGREEMENT

Amendment No. _____

1. *Background Data:*

- a. Effective Date of Owner-Engineer Agreement: _____
- b. Owner: _____
- c. Engineer: _____
- d. Project: _____

2. *Description of Modifications:*

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

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

[List other Attachments, if any]

5. Agreement Summary (Reference only)

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

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

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

OWNER:

ENGINEER:

By: _____

By: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____

2021 On-Call Interview Rating Summary Sheet

2021 Engineering On-Call RFQ		Management Approach	Creativity & Cost Savings	Lessons Learned	Staff Recourses	Presentation	Total Score	Comments
Consultant Firm							50 pt max	
The East Group	Score	8.6	7.3	7.4	7.7	8.5	39.5	
Rivers and Associates	Score	5.4	6.3	6.1	7.2	7.5	32.5	
ARK Consulting Group	Score	6.6	7.2	6.5	6.8	7.4	34.5	
The Wooten Company	Score	6.8	7.7	8	7.6	8.4	38.5	

Scores based on a 10 point scale with 10 being the highest.

***Management Approach:** Firm or team demonstrates an understanding of the On-call Contract and proposes a reasonable approach to project and overall contract management.

***Creativity & Cost Savings:** Firm or team brings a fresh approach that will serve to engage staff in the design process and lead to innovative and cost effective solution for the City.

***Lessons Learned:** Firm or team demonstrates they have learned from previous experiences and can apply those lessons to this contract.

***Staff Resources:** Firm or team has adequate resources to complete task orders within a reasonable time frame and can meet the City's staffing needs.

***Presentation:** The firm or team members were professional, well prepared and responsive.



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Contract for Parking Management and Equipment Installation Services Agreement

Explanation: In 2019 the City began a comprehensive review of parking in Uptown Greenville. The review was based on an independent parking study that was completed in 2018 by Walker Parking Consultant Group. The City held various input sessions in late 2019 and early 2020 to provide detail of the proposed parking plan to the public and provide a schedule for implementation. Implementation of the proposed changes to the parking fee structure was put on hold due to the impact of COVID-19.

A component of both the parking study and the input sessions was the installation of a gating system in the Fourth Street Parking Garage. A gating system is necessary to control parking deck ingress and egress and to ensure security within the parking deck for patrons of Uptown businesses and those living Uptown. The gating system is also necessary for the development of the Evans Street Hilton Garden Inn that is scheduled to begin construction by the end of the calendar year. The development agreement between the City and Greenville Ventures includes the long-term lease of approximately 100 parking spaces to be used by hotel patrons at night and the general public during the day. The gating system will ensure the authorized use of the spaces by hotel patrons and the general public on a daily basis.

The proposed service agreement with DESIGNA Southern Times includes the installation of the parking deck gating equipment that will interface with the hotel software module as well as interface with the City's Upsafety parking management system. The project will include the installation of a gating system at both the Cotanche Street parking deck entrance and the 4th Street parking deck exit. The equipment will include a ticketed base system and a key card system. A parking access ticket will be provided to the general public upon entrance to the parking deck. Patrons of the hotel and those leasing spaces within the parking deck will utilize a key card system to gain access to parking.

The installation of the gating system does not impact the current fee structure for Uptown parking. Staff is currently in the process of reviewing the proposed parking plan that was presented to the community in late 2019 and early 2020 and will provide a timeline for revisiting the proposed plan with the community in the very near future.

Fiscal Note: The installation cost of project is \$130,675.00 which was included in the capital budget in Fiscal Year 2020-21.

Recommendation: Approval of parking management and equipment installation services agreement with DESIGNA Southern Time for the Fourth Street Parking Garage

ATTACHMENTS

 [Southern Time Equipment Co - Gate Arm Installation Services Agreement 1152127.pdf](#)

**STATE OF NORTH CAROLINA
COUNTY OF PITT**

**PARKING MANAGEMENT
EQUIPMENT REPLACEMENT &
INSTALLATION
SERVICES AGREEMENT**

THIS PARKING MANAGEMENT EQUIPMENT AND REPLACEMENT INSTALLATION SERVICES AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 2021, by and between Southern Time Equipment Co., Inc., a North Carolina corporation (“Company”) and the City of Greenville, a municipal corporation in the State of North Carolina (“the City”) (individually “Party” and collectively “the Parties”). References to Vendor, Seller or Contractor in RFP# 19-20-28 (referenced below) means Company.

WITNESSETH:

WHEREAS, the City owns and operates a four-level parking facility known as The Fourth Street Parking Garage, which is sometimes also known as The Fourth Street Parking Deck (“the Parking Deck”). The Parking deck is located at the corner of East Fourth Street and Cotanche Street, has a street address of 120 East Fourth Street, and is further referenced as North Carolina Parcel Identification No. 15715; and

WHEREAS, the Company, sometimes known and doing business as Designa Southern Time, is an integration partner of Designa Access Corporation (“Designa”), which is a world-wide leader in fully-automated parking management systems; and

WHEREAS, the Company is the exclusive distributor for all Designa products for both North and South Carolina; and

WHEREAS, the Parties desire to facilitate the installation of parking management equipment at the Parking Deck (“the Project”) which involves replacement of existing parking management equipment and adding new parking management equipment. The Project will more accurately and efficiently control parking in the Parking Deck and provide a public benefit for the citizens and City of Greenville;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual covenants and agreements contained herein below, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Scope, and Exhibits.** The Company is to perform the work on the Project as defined in the Request for Proposals and amendments, if any, said work being hereinafter referred to as “the Work.” The Project will be installed in the following off-street parking facility: The Fourth Street Parking Deck (“the Parking Deck”). The Project shall have capability of processing and tracking various parking users including transients, future hotel patrons, residential tenants, tenant guests, and persons who park daily and monthly in Parking Deck. The Project uses license plate recognition, automated vehicle identification (AVI) and Bluetooth technologies to process and/or track transactions, access and inventory of vehicles using the Parking Deck. The Request

for Proposals and amendments, if any, and Company's Proposal are hereby incorporated by reference herein and made a part hereof as fully as if herein set forth. Unless otherwise specified herein, the Company is to furnish all necessary labor, materials, tools, equipment, delivery, and perform all necessary services to complete the Work.

Exhibits.

A. Request for Proposals captioned Parking Management Equipment Replacement, RFP# 19-20-28 (hereafter "RFP").

B. Proposal by Company dated July 13, 2020 consisting of 26 pages.

C. Revised Proposal/ Quote: dated March 11, 2021, consisting of 2 pages

In case of a conflict between an exhibit and this agreement, this agreement shall control.

2. **Terms.**

A. **Initial Service Term and Warranty:** The Company shall commence services upon receipt of a Notice to Proceed from the City. The City will pay the Company for installation and acceptance of the Project (including parts and equipment) in accordance with Section 3 below. A three year Initial Service Term ("Initial Service Term") which includes a 2 year warranty shall commence upon the opening of the Project and City's acceptance date for the Project. The acceptance date shall be determined by the City in writing upon satisfactory operation and verification testing of the Project and associated software technologies ("Acceptance Date") as it is brought "on-line". The Initial Service Term and 2-year warranty shall cover all Project elements and shall be in accordance with the Exhibit A, RFP; Exhibit B Proposal by Company, and Exhibit C. Revised Proposal/ Quote.

B. **Extended Service Term** – At the option of the City, the Company shall also provide up to 3 additional years of extended warranty and long term maintenance (beyond the Initial Service Term) for the Project (including parts and equipment) ("Extended Service Term") with annual payments made by the City at the beginning of the term, starting with the 3rd year of this agreement pursuant to the terms of Section 3 below. The services and warranties provided under Extended Service Term shall be the same as those provided under the Initial Service Term.

3. **Company's Billings to City. Compensation.** The City shall issue an initial purchase order to the Company for the cost of the Project and associated equipment for the amounts identified in accordance with Exhibit C, Revised Proposal/Quote. The initial purchase order shall identify mutually agreed time and locations for delivery and installation of the Project at the

Parking Deck pursuant to Detailed Schedule. The purchase order for the Parking Deck shall list by detailed line item the equipment to be installed in the Parking Deck pursuant to the RFP and Company's Proposal and Revised Proposal/ Quote.

The Company shall invoice the City for 50% of the cost upon receipt of the initial purchase order. After the Company is given notice in writing by the City of the Acceptance Date for completion of the installation, the Company shall invoice the City for the remaining 50%. The Company shall invoice the City annually in advance for the Extended Service Term services beginning at the end of the Initial Service Term, unless terminated for convenience earlier by the City. Each invoice shall document, to the reasonable satisfaction of the City: such information as may be reasonably requested by the City. Within thirty days after the City receives an invoice, the City shall send the Company payment for all undisputed amounts contained in the invoice.

The City shall not be obligated to pay the Company any payments, fees, expenses, or compensation other than those authorized by this section. The total maximum contract price for the Project installation at the Parking Deck, including the Initial Service Term and warranties shall not exceed \$130,675.00. If the City exercises its option at year 3 for an extended warranty on all Parts and labor, then the amount annually for an extended warranty shall be as provided in Exhibit C, Revised Proposal/ quote and restated below:

- Year 3, \$10,732.; Year 4, \$12,073; and Year 5, \$13,414.

4. **Termination.** The City may terminate this Agreement at any time upon any of the following grounds:

- A. The Company fails to perform any of the services required in this Agreement.
- B. For the convenience of the City, in the City's discretion for any reason whatsoever. In the event that this Agreement is wrongfully terminated under any of the other grounds enumerated herein, termination shall be treated as a termination for convenience. If this Agreement is terminated for convenience or wrongfully terminated upon any of the other grounds enumerated herein, the Company's sole and exclusive remedy is to be compensated for services rendered up to the date of termination.
- C. Force majeure

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

5. **Company's Responsibility.**

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

6. **Insurance.** The Company agrees to secure, carry, and maintain at its expense, insurance coverage with an A.M. Best Rating of A-VII or better for all Work pursuant to this Agreement. The City shall be named as an additional insured. All insurance companies must be admitted to do business in North Carolina and be acceptable to the City's Risk Manager. If the insurance company(s) is/are a permitted surplus lines insurer, the insurance company name, and NAIC number must be submitted to the City's Risk Manager for approval before commencing work. The Company shall be required to provide the City no less than thirty (30) days' notice of cancellation, or any material change, to any insurance coverage required by this Agreement. A Certificate of Insurance (COI) must be issued by an authorized representative of the insurance carrier(s). Certificates of Insurance must have the Insurance Company name and NAIC number clearly identified.

The City's review or acceptance of Certificates of Insurance shall not relieve the Company of any requirement to provide the specific insurance coverages set forth in the Agreement nor shall the City's review or acceptance of Certificates of Insurance constitute a waiver of the specific insurance coverage requirements set forth in the Agreement or acknowledgement that all insurance coverage requirements set forth in the Agreement have been met.

The Company agrees to purchase at its own expense insurance coverages to satisfy the following minimum requirements—a certificate reflecting the following minimum coverages shall accompany this Agreement:

A. Commercial General Liability:

Limits:

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

The aggregate limit must apply per project. The form of coverage must be the ISO CG 00 01 policy as approved by the State of North Carolina Department of Insurance. If a form of coverage other than the CG 00 01 is used it must be approved by the Risk Manager for the City. Any endorsed exclusions or limitations from the standard policy must be clearly stated in writing and attached to the Certificate of Insurance. Completed Operations coverage must be maintained for the period of the applicable statute of limitations.

The City must be added as an Additional Insured to the Commercial General Liability policy.

B. Workers' Compensation Insurance:

Any Contract or Temporary Employee hired from a Staffing Agency by the City to perform any Work for the Company pursuant to this Agreement shall furnish a Certificate of Insurance for Workers' Compensation compliant with the North Carolina Workers' Compensation Act. Any Temporary or Contract Employee shall not be considered an employee of the City, but an employee of the Staffing Agency.

Limits:

<i>Workers' Compensation:</i>	Statutory for the State of North Carolina
<i>Employers Liability:</i>	
Bodily Injury by Accident	\$1,000,000 each accident.
Bodily Injury by Disease	\$1,000,000 policy limit.
Bodily Injury by Disease	\$1,000,000 each employee.

The Company shall furnish a Certificate of Insurance for Workers' Compensation for all The Company employees subject to the North Carolina Workers' Compensation statute.

Limits:

<i>Workers' Compensation:</i>	Statutory for the State of North Carolina
<i>Employers Liability:</i>	
Bodily Injury by Accident	\$1,000,000 each accident.
Bodily Injury by Disease	\$1,000,000 policy limit.
Bodily Injury by Disease	\$1,000,000 each employee.

Workers' Compensation must include all employees.

- C. **The Company's Personal Property:** The City will not be responsible for any of the Company's property provided, stored, destroyed, or damaged. The Company shall bear the risk of loss for all of its property, including but not limited to, furniture, computers, equipment, supply inventory, signs, marquees, and/or goods placed at or upon the Parking Deck. The Company shall establish and supply to the City within thirty (30) days from the execution of this Agreement a list of all equipment provided to the City insured by The Company.
- D. **Cargo Liability:** The Company shall bear the risk of loss covering Cargo.
- E. **Cyber:** The City will not be responsible for providing the Company any cyber security or related coverage.
- F. **Automobile Liability:** The Company shall take out and maintain during the life of this Agreement automobile liability insurance in an amount not less than \$1,000,000 combined single limit per accident for bodily injury and property damage from owned, non-owned, leased, hired, or borrowed automobiles. The City of Greenville must be added as an Additional Insured on the Commercial Auto Liability policy.
- G. **Crime:** The City will not be held responsible for any theft, embezzlement for acts of theft, dishonesty, robbery, disappearance, destruction, or losses related to the Company's performance of the Work. The Company shall obtain adequate commercial crime insurance coverage.
- H. **Fire or Other Casualty:** If a fire, casualty, or taking renders the Property or any part thereof unfit for use and occupancy as intended in this Agreement, The Company's obligations under this Agreement shall be reduced to only those that can safely be performed upon the Property in its then-existing condition. If a substantial portion of the Property is damaged by fire, casualty, or taking, the City and The Company shall each have the right to terminate this Agreement by notice given to the other Party at any time within sixty (60) days after the date of such damage, casualty, or taking.

7. **Indemnification/Hold Harmless.** To the fullest extent permitted by law, the Company shall indemnify and hold harmless the City, its employees, agents, and consultants against **any** liability arising out of or ***in connection with*** any of the operations or ***obligations*** of the 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/or 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 any act or omission of the Company or anyone directly or indirectly employed by it or anyone for whose acts the Company may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such 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.

The Company will promptly notify the City of any civil or criminal actions filed against the Company or of any notice of violation from any Federal or State Agency or of any claim as soon as practical as relates to the services provided. The City, upon receipt of such notice, shall have the right, at its election, to defend any and all actions or suits or join in defense.

Furthermore, the Company holds the City harmless and indemnifies the City from any breach, fines, or penalties, ransomware, or any other first or third-party claims that arise out of any breach to its gate arm operations system.

8. **Waiver of Subrogation.** The Company waives its right of recovery against the City for damage to real or personal property caused by any peril of loss.

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

10. **Time is of the Essence.** The Parties agree that time is of the essence in the completion of the Work to be performed pursuant to this Agreement. The Company agrees that all Work shall be executed regularly, diligently, and uninterrupted at such a rate of progress as will ensure full completion thereof within the time specified.

11. **Documents.** All documents including drawings, reports, and other graphical or textural material furnished by the Company pursuant to this Agreement shall become the property of the City.

12. **Notices.** Any notice, consent, or other communication required or contemplated by this Agreement shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by email, or by tele facsimile to the intended recipient at the address set forth below. Notice shall be effective upon the date of receipt by the intended recipient; provided that any notice which is sent by tele facsimile or email shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier. Each Party may change its address for notification purposes by giving the other Party written notice of the new address and the date upon which it

shall become effective. Communications that relate to any breach, default, termination, delay in performance, prevention of performance, modification, extension, amendment, or waiver of any provision of this Agreement shall be sent to:

For the Company:	For The City:
Devon Hayes, Director of Sales & Operations Southern Time Equipment Co., Inc.	City Manager or City Manager's Designee City of Greenville
<i>(Mailing Address)</i>	<i>(Mailing Address)</i>
2920 Horace Watson Road Wilson, North Carolina 27893	P.O. Box 7207 Greenville, NC 27835-7207
<i>(Physical Address)</i>	<i>(Physical Address)</i>
2920 Horace Watson Road Wilson, North Carolina 27893	200 West Fifth Street Greenville, NC 27834
Telephone: (800) 549-5654 Facsimile: Email:	Telephone: (252) 329-4432 Email: awall@greenvillenc.gov
With Copy To:	With Copy To:
Devon Hayes, Director of Sales & Operations Southern Time Equipment Co., Inc.	Ann Wall, City Manager City of Greenville
<i>(Mailing Address)</i>	<i>(Mailing Address)</i>
2920 Horace Watson Road Wilson, North Carolina 27893	P.O. Box 7207 Greenville, NC 27835-7207
<i>(Physical Address)</i>	<i>(Physical Address)</i>
2920 Horace Watson Road Wilson, North Carolina 27893	200 West Fifth Street Greenville, NC 27834
Telephone: (800) 549-5654 Facsimile: Email:	Telephone: (252) 329-4432 Facsimile: Email: awall@greenvillenc.gov

13. **Minority and/or Women Business Enterprise (M/WBE) Program.** It is the policy of the City to provide minorities and women equal opportunity for participating in all aspects of the City's contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchase, and professional and personal service contracts. In accordance with this policy, the City has adopted a Minority and Women Business Enterprise (M/WBE) Plan and subsequent program, outlining verifiable goals. The City has established a 2% Minority Business Enterprise (MBE) and 2% Women Business Enterprise (WBE) goal for the participation of M/WBE firms in supplying goods and services for the completion of this project. The Company agrees to utilize minority and women-owned suppliers and service providers whenever possible. Questions regarding the City's M/WBE Program should be directed to the M/WBE Office at (252) 329-4462.

14. **Iran Divestment Act Certification Required by Chapter 147, Article 6E of the North Carolina General Statutes.** As of the date listed below, the Parties are not listed on the Final Divestment List created by the State Treasurer pursuant to the applicable provisions of Chapter 147, Article 6E of the North Carolina General Statutes. The undersigned hereby certifies that he or she is authorized by the Vendor listed below and the City of Greenville to make the foregoing statement:

NOTE: Chapter 147, Article 6E of the North Carolina General Statutes requires this certification for bids or contracts with the various governmental entities of North Carolina, including Counties. The certification is required when a bid is submitted, when a contract is entered into, and when a contract is renewed or assigned. Neither the City nor any Vendor may utilize any subcontractor found on the State Treasurer's Final Divestment List. The List is updated every 180 days, and can be found at www.nctreasurer.com/iran.

15. **E-Verify.** As a condition for payment under this Contract, the Company shall: (i) comply with the E-Verify requirements set forth in Article 2 of Chapter 64 of the North Carolina General Statutes (the "E-Verify Requirements"); and (ii) cause each subcontractor under this Agreement to comply with such E-Verify Requirements as well. The Company will indemnify and save harmless the City from all losses, damages, costs, expenses (including reasonable attorneys' fees), obligations, duties, fines, penalties, interest charges, and other liabilities (including settlement amounts) incurred on account of any failure by the Company or any subcontractor to comply with the E-Verify Requirements.

16. **Binding Nature and Assignment.** This Agreement shall bind the Parties and their successors and permitted assigns. Neither Party may assign this Agreement without the prior written consent of the other. Any assignment attempted without the written consent of the other Party shall be void.

17. **Familiarity and Compliance with Laws and Ordinances.** The Company agrees to make itself aware of and comply with all federal, state, and local ordinances, statutes, laws, rules, and regulations applicable to the Work contemplated or covered by this Agreement. The Company further agrees that it will at all times during the term of this Agreement be in compliance with all applicable federal, state, and/or local laws regarding employment practices. Such laws will include, but shall not be limited to workers' compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA) and as amended (ADAAA), the Family and Medical Leave Act (FMLA), and all OSHA regulations applicable to the work.

18. **Entire Agreement.** This Agreement, including all printed and identified Attachments thereto, constitute the entire agreement between the Parties with respect to the subject matter herein. There are no other representations, understandings, or agreements between the Parties with respect to such subject matter. This Agreement supersedes all prior agreements, negotiations, representations, and proposals, written or oral. Notwithstanding the foregoing, the Parties agree that this Agreement is not only relevant, but is specifically controlling regarding and in resolving any ambiguities that may exist with respect to or otherwise regarding any other language, obligation, duty, covenant, provision, term, condition, or agreement of this Agreement.

19. **Amendment.** No amendment or change to this Agreement shall be valid unless in writing and signed by the Party against whom enforcement is sought. Amendments that involve or increase in the amounts payable by the City may require execution by a Department Director, the City Manager, or an Assistant City Manager; depending on the amount. Some increases may also require approval by City Council.

20. **Permits, Licenses, and Certificates.** The Company is to procure all permits, licenses, and certificates, or any such laws, ordinances, rules and regulations, for proper execution and completion of the Work under this Agreement.

21. **No Collusion or Fraud.** The undersigned hereby certifies that this Agreement is made without prior understanding, agreement, or connection with any corporation, firm, or person who submitted bids for the Work covered by this Agreement and is in all respects fair and without collusion or fraud.

22. **Authority.** As to the Company, the undersigned hereby warrants and certifies that he or she is authorized to enter into this Agreement and to execute same on behalf of the Company as the act of the said company.

23. **Authority to Terminate.** The City Manager or his or her designee is authorized to terminate this Contract on behalf of the City without City Council action.

24. **Governing Law and Venue.** This Agreement shall be deemed made in Pitt County, North Carolina law shall govern the interpretation and enforcement of this Agreement, and any other matters relating to this Agreement. The exclusive forum and venue for all actions arising out of this Agreement shall be the North Carolina General Court of Justice, in Pitt County, North Carolina. Such actions shall neither be commenced in nor removed to federal court. This subsection shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this subsection. By execution of this Agreement, the parties submit to the jurisdiction of such herein stated courts and hereby irrevocably waive any and all objections which they may have with respect to venue in any said court sitting in Pitt County, North Carolina.

25. **Service of Process.** Without excluding any other method of service authorized by law, the Company agrees that every Agent for Service of Process is designated as the Company's non-exclusive agent for service of process, summons, and complaint. The Company will instruct each Agent for Service of Process that after such agent receives the process, summons, or complaint, such agent shall promptly send it to the Company. This Section does not apply while the Company maintains a registered agent in North Carolina with the office of the North Carolina Secretary of State and such registered agent can be found with due diligence at the designated registered office.

26. **Severability.** The invalidity of one or more of the phrases, sentences, clauses, or sections contained in this Agreement shall not affect the validity of the remaining portions of this Agreement so long as the material purposes of this Agreement can be determined and effectuated. If any provision of this Agreement is held to be unenforceable, then both Parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the

extent necessary to make it enforceable while preserving its intent.

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

28. **Signatures.** As it is applicable to this Agreement, the Parties agree to and adopt the terms and conditions of the Uniform Electronic Transactions Act (the "Act"), as adopted in North Carolina General Statutes Chapter 66, including but not limited to the provisions governing electronic signatures. As such, this Agreement is "signed" if it includes a digital signature, symbol, and/or action that is adopted or performed by either Party or Party's Electronic Agent (as defined in the Act) with the present intent to authenticate or manifest assent to the Agreement.

29. **Arm's Length Negotiation.** The Parties further agree that this Agreement is to be deemed to have been prepared jointly by the Parties hereto, after arm's length negotiations, and that any ambiguity or uncertainty existing herein, if any, shall not be interpreted against the other Party. The Parties further agree to sign any and all instruments or documents necessary to carry out the full purpose and intent of this Agreement.

IN WITNESS WHEREOF, and in acknowledgment that the Parties hereto have read and understood each and every provision hereof, the Parties have caused this Agreement to be executed on the date first written above.

SOUTHERN TIME EQUIPMENT CO., INC.

By: _____ (Seal)
_____, Officer

STATE OF NORTH CAROLINA
COUNTY OF PITT

I certify that _____ personally appeared before me this day, acknowledging to me that he or she signed the foregoing document for the purpose(s) stated therein, in the capacity indicated therein:

Witness my hand and Notarial Seal, this the ___ day of _____, 20__.
My Commission expires: _____

Notary Public

Notary's printed or typed name

(Official Seal)

CITY OF GREENVILLE

P.J. Connelly, Mayor

Date: _____

ATTEST:

Valerie P. Shiuwegar, City Clerk

Date: _____

APPROVED AS TO FORM:

BY: _____

Emanuel D. McGirt, City Attorney

PRE-AUDIT CERTIFICATION:

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

Byron Hayes, Director of Financial Services

Account Number _____

Project Code (if applicable) _____

(END OF DOCUMENT)



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Reimbursement Resolution for Infrastructure Improvements to the City's Stormwater System

Explanation: This item is for Council to approve the reimbursement resolution for the proposed infrastructure improvements to the stormwater system, as identified in the Watershed Master Plan.

Spending for this project is scheduled to begin in September, with a budget to establish the capital projects for a culvert replacement at South Elm Street, streambank stabilization and drainage improvements at Cedar Lane, and additional drainage improvements near Greenbrier Drive included in the budget amendment to be presented at the September 9, 2021 City Council meeting.

Staff is requesting approval of the attached reimbursement resolution, which will allow the City to reimburse itself for costs expended prior to the actual installment purchase transaction for this project.

Fiscal Note: The reimbursement resolution is in the amount of \$12,000,000. Financing for the projects will be derived through a revenue bond issuance planned for February, 2022. The funding is part of the Comprehensive Stormwater Funding Plan adopted by Council in May, 2019 that includes a \$1.00 increase in the ERU rate each year over a four year period for a total increase of \$4.00 per ERU over that timeframe. The first \$1.00 increase in the ERU rate was included in the FY2021-22 Adopted City Budget. The remaining \$3.00 increase will be a component of the FY2023-25 Fiscal Year Budgets.

Recommendation: Approve the attached reimbursement resolution

ATTACHMENTS

 [Watershed MP Reimbursement Resolution.DOCX](#)

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF GREENVILLE, NORTH CAROLINA,
DECLARING ITS INTENTION TO REIMBURSE ITSELF FROM THE PROCEEDS OF
ONE OR MORE TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE
AND/OR TO BE MADE IN CONNECTION WITH STORMWATER SYSTEM
IMPROVEMENTS

WHEREAS, the City of Greenville, North Carolina (the “Issuer”) is a political subdivision organized and existing under the laws of the State of North Carolina; and

WHEREAS, the Issuer has paid, beginning no earlier than August 1, 2021, and will pay, on and after the date hereof, certain expenditures (the “Expenditures”) in connection with infrastructure improvements to the City’s stormwater system, as described in more detail in Exhibit A attached hereto (the “Project”); and

WHEREAS, the City Council of the Issuer (the “City Council”) has determined that those moneys previously advanced no more than 60 days prior to the date hereof and to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the Issuer for the Expenditures from the proceeds of one or more issues of tax-exempt obligations (the “Tax-Exempt Obligations”);

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

Section 1. The City Council hereby declares the Issuer’s intent to reimburse the Issuer with the proceeds of the Tax-Exempt Obligations for the Expenditures with respect to the Project made on and after August 1, 2021, which date is no more than 60 days prior to the date hereof. The Issuer reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Tax-Exempt Obligations.

Section 2. Each Expenditure was and will be either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to tax-exempt financings, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the Issuer so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Issuer.

Section 3. The maximum aggregate principal amount of the Tax-Exempt Obligations expected to be issued for the Project is \$12,000,000.

Section 4. The Issuer will make a reimbursement allocation, which is a written allocation by the Issuer that evidences the Issuer’s use of proceeds of tax-exempt financings to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid

or the respective Project with respect to which such Expenditure is paid is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Issuer recognizes that exceptions are available for certain “preliminary expenditures,” costs of issuance, certain de minimis amounts, expenditures by “small issuers” (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least five years.

Section 5. This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED this 9th day of September, 2021.

P.J. Connelly, Mayor

Attested to:

Valerie P. Shiuwegar, City Clerk

DESCRIPTION OF PROJECT

Stormwater System Improvements

Project Description

The City is planning a culvert replacement, streambank stabilization, and two drainage improvement projects as identified in the Watershed Master Plan. The South Elm Street Culvert Replacement includes re-routing, replacing and upsizing the existing storm drainage system from Fourth Street to the Tar River. The Cedar Lane Streambank Stabilization and Cedar Lane Drainage Improvements include streambank stabilization and replacing and upsizing the existing storm drainage system. The Greenbriar Drainage Improvements include re-routing, replacing and upsizing the existing storm drainage system from Fairlane Road, down Club Road to just north of the Greenbriar Drive right of way, with a portion of the piped system day lighted and restored to an open conveyance. Total project costs are estimated to be \$14,775,000, with \$12,000,000 of funding anticipated to come from Revenue Bonds.



CITY OF GREENVILLE
NORTH CAROLINA

CERTIFICATION OF THE CITY CLERK

I hereby certify that I am the duly appointed and acting City Clerk of the City of Greenville, North Carolina, and as such I am the legal custodian of the Official Minutes and Records of the City of Greenville, North Carolina. I further attest and certify that the foregoing is a true copy of Resolution No. _____, which was duly adopted by the Greenville City Council at their meeting held on September 9, 2021

In witness whereof, I have hereunto set my hand and the official seal of the City of Greenville, North Carolina, on this the 9th day of September, 2021.

Valerie P. Shiuwegar
City Clerk

SEAL



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Opioid Litigation Resolution and Memorandum of Agreement

Explanation: Attached is the Resolution and Memorandum of Agreement prepared by the North Carolina Association of County Commissioners regarding distribution of settlement proceeds in pending opioid litigation. Pitt County administration has informed City staff that in order for Pitt County to be eligible for a bonus fund and maximize settlement proceeds, the City of Greenville, as a municipality with population over 30,000, will need to sign the Memorandum of Agreement by October 1, 2021.

The County represents that failure of the City to sign by October 1, 2021 reduces the City and County award of settlement proceeds by 5%.

Fiscal Note: There is no fiscal impact.

Recommendation: Authorize the Mayor to sign the Resolution and execute the Memorandum of Agreement.

ATTACHMENTS

- 📄 [Final Opioid MOA_8 26 21.pdf](#)
- 📄 [signature page Opioid Settlement.pdf](#)
- 📄 [PDF version PEAK COG-#1151873-v1-OPIOID_SETTLEMENT_AGREEMENT.pdf](#)

**MEMORANDUM OF AGREEMENT
 BETWEEN THE STATE OF NORTH CAROLINA AND LOCAL GOVERNMENTS
 ON PROCEEDS RELATING TO THE SETTLEMENT OF OPIOID LITIGATION**

Contents

Background Statement3

Statement of Agreement4

 A. Definitions.....4

 B. Allocation of Settlement Proceeds

 1. Method of distribution5

 2. Overall allocation of funds.....5

 3. Allocation of funds between Local Governments5

 4. Municipal allocations

 a. Local Governments receiving payments.....6

 b. Municipality may direct payments to county.....6

 5. Use of funds for opioid remediation activities.....6

 6. Relationship of this MOA to other agreements and resolutions6

 C. Payment of Litigating and Non-Litigating Parties.....6

 D. Special Revenue Fund

 1. Creation of special revenue fund6

 2. Procedures for special revenue fund6

 3. Interest earned on special revenue fund.....7

 E. Opioid Remediation Activities

 1. Limitation on use of funds7

 2. Opportunity to cure inconsistent expenditures7

 3. Consequences of failure to cure inconsistent expenditures7

 4. Annual meeting of counties and municipalities within each county7

 5. Use of settlement funds under Option A and Option B

 a. Option A.....8

 b. Option B.....8

 6. Process for drawing from special revenue funds

 a. Budget item or resolution required9

 b. Budget item or resolution details9

 7. Coordination group9

 F. Auditing, Compliance, Reporting, and Accountability

 1. Audits under Local Government Budget and Fiscal Control Act.....9

 2. Audits under other acts and requirements.....9

 3. Audit costs9

4. Access to persons and records	9
5. Preservation of records	10
6. Reporting	
a. Annual financial report required.....	10
b. Annual financial report timing and contents.....	10
c. Reporting to statewide opioid settlement dashboard	10
d. Copy to NCDOJ of any additional reporting	11
e. Compliance and non-compliance.....	11
7. Collaboration.....	11
G. County Incentive Fund.....	11
H. Effectiveness	
1. When MOA takes effect	12
2. Amendments to MOA	
a. Amendments to conform to final national documents.....	12
b. Coordination group	12
c. No amendments to allocation between local governments.....	12
d. General amendment power	12
3. Acknowledgement	12
4. When MOA is no longer in effect.....	12
5. Application of MOA to settlements and bankruptcy resolutions.....	12
6. Applicable law and venue.....	13
7. Scope of MOA	13
8. No third party beneficiaries	13
9. No effect on authority of parties	13
10. Signing and execution of MOA	13

Signature Pages

Exhibits

A. High-Impact Opioid Abatement Strategies Under Option A.....	1
B. Additional Opioid Remediation Activities Under Option B	3
C. Collaborative Strategic Planning Process Under Option B	14
D. Coordination Group	16
E. Annual Financial Report.....	19
F. Impact Information	20
G. Local Government Allocation Proportions.....	22

Background Statement

Capitalized terms not defined below have the meanings set forth in the Definitions section of the Statement of Agreement.

WHEREAS, the State of North Carolina (the “State”), North Carolina counties and municipalities, and their people have been harmed by misconduct committed by certain entities that engage in or have engaged in the manufacture, marketing, promotion, distribution, or dispensing of an opioid analgesic (“Pharmaceutical Supply Chain Participants”); and

WHEREAS, certain North Carolina counties and municipalities, through their counsel, and the State, through its Attorney General, are separately engaged in ongoing investigations, litigation and settlement discussions seeking to hold Pharmaceutical Supply Chain Participants accountable for the damage caused by their misconduct; and

WHEREAS, the State and the Local Governments share a common desire to abate and alleviate the impacts of the misconduct described above throughout North Carolina and in its local communities; and

WHEREAS, while the Local Governments and the State recognize the sums which may be available from the aforementioned litigation will likely be insufficient to fully abate the public health crisis caused by the opioid epidemic, they share a common interest in dedicating the most resources possible to the abatement effort; and

WHEREAS, settlements resulting from the investigations and litigation with Johnson & Johnson, AmerisourceBergen, Cardinal Health, and McKesson are anticipated to take the form of a National Settlement Agreement; and

WHEREAS, this Memorandum of Agreement (“MOA”) is intended to facilitate compliance by the State and by the Local Governments with the terms of the National Settlement Agreement and, to the extent appropriate, in other settlements related to the opioid epidemic reached by the state of North Carolina; and

WHEREAS, North Carolina’s share of settlement funds from the National Settlement Agreement will be maximized only if all North Carolina counties, and municipalities of a certain size, participate in the settlement; and

WHEREAS, the National Settlement Agreement will set a default allocation between each state and its political subdivisions unless they enter into a state-specific agreement regarding the distribution and use of settlement amounts (a “State-Subdivision Agreement”); and

WHEREAS, this MOA is intended to serve as such a State-Subdivision Agreement under the National Settlement Agreement; and

WHEREAS, the aforementioned investigations and litigation have caused some Pharmaceutical Supply Chain Participants to declare bankruptcy, and it may cause additional entities to declare bankruptcy in the future; and

WHEREAS, this MOA is also intended to serve as a State-Subdivision Agreement under resolutions of claims concerning alleged misconduct in manufacture, marketing, promotion, distribution, or dispensing of an opioid analgesic entered in bankruptcy court that provide for payments (including payments through a trust) to both the State and North Carolina counties and municipalities and allow for the allocation between a state and its political subdivisions to be set through a state-specific agreement (“Bankruptcy Resolutions”); and

WHEREAS, specifically, this MOA is intended to serve under the Bankruptcy Resolution concerning Purdue Pharma L.P. as a statewide abatement agreement, and under this MOA, a statewide abatement agreement is a type of State-Subdivision Agreement.

Statement of Agreement

The parties hereto agree as follows:

A. Definitions

As used in this MOA:

The terms “Bankruptcy Resolution,” “MOA,” “Pharmaceutical Supply Chain Participant,” “State,” and “State-Subdivision Agreement” are defined in the recitals to this MOA.

“Coordination group” refers to the group described in **Section E.7** below.

“County Incentive Fund” is defined in **Section G** below.

“Governing Body” means (1) for a county, the county commissioners of the county, and (2) for a municipality, the elected city council, town council, board of commissioners, or board of aldermen for the municipality.

“Incentive Eligible Local Government” is defined in **Section G** below.

“Local Abatement Funds” are defined in **Section B.2** below.

“Local Government” means all counties and municipalities located within the geographic boundaries of the State of North Carolina that have chosen to sign on to this MOA.

“MDL Matter” means the matter captioned *In re: National Prescription Opiate Litigation*, MDL 2804 pending in the United States District Court for the Northern District of Ohio.

“MDL Parties” means all parties who participated in the matter captioned *In re: National Prescription Opiate Litigation*, MDL 2804 pending in the United States District Court for the Northern District of Ohio as Plaintiffs.

“National Settlement Agreement” means a national opioid settlement agreement with the Parties and one or all of the Settling Defendants concerning alleged misconduct in manufacture, marketing, promotion, distribution, or dispensing of an opioid analgesic.

“Opioid Settlement Funds” shall mean all funds allocated by the National Settlement Agreement and any Bankruptcy Resolutions to the State or Local Governments for purposes of opioid remediation activities or restitution, as well as any repayment of those funds and any interest or investment earnings that may accrue as those funds are temporarily held before being expended on opioid remediation strategies. Not included are funds made available in the National Settlement Agreement or any Bankruptcy Resolutions for the payment of the Parties’ litigation expenses or the reimbursement of the United States Government.

“Parties” means the State of North Carolina and the Local Governments.

“Settling Defendants” means Johnson & Johnson, AmerisourceBergen, Cardinal Health, and McKesson, as well as their subsidiaries, affiliates, officers, and directors named in a National Settlement Agreement.

“State Abatement Fund” is defined in **Section B.2** below.

B. Allocation of Settlement Proceeds

1. Method of distribution. Pursuant to the National Settlement Agreement and any Bankruptcy Resolutions, Opioid Settlement Funds shall be distributed directly to the State and to Local Governments in such proportions and for such uses as set forth in this MOA, provided Opioid Settlement Funds shall not be considered funds of the State or any Local Government unless and until such time as each annual distribution is made.
2. Overall allocation of funds. Opioid Settlement Funds shall be allocated as follows: (i) 15% directly to the State (“State Abatement Fund”), (ii) 80% to abatement funds established by Local Governments (“Local Abatement Funds”), and (iii) 5% to a County Incentive Fund described in **Section G** below.
3. Allocation of funds between Local Governments. The Local Abatement Funds shall be allocated to counties and municipalities in such proportions as set forth in **Exhibit G**, attached hereto and incorporated herein by reference, which is based upon the MDL Matter’s Opioid Negotiation Class Model. The proportions shall not change based on population changes during the term of the MOA. However, to the extent required by the terms of the National Settlement Agreement, the proportions set forth in **Exhibit G** shall be adjusted: (i) to provide no payment from the National Settlement Agreement to any listed county or municipality that does not participate in the National Settlement Agreement; and (ii) to provide a reduced payment from the National Settlement Agreement to any listed county or municipality that signs onto the National Settlement Agreement after the initial participation deadline.
4. Municipal allocations. Within counties and municipalities:

- a. Local Governments receiving payments. The proportions set forth in **Exhibit G** provide for payments directly to (i) all North Carolina counties, (ii) North Carolina municipalities with populations over 75,000 based on the United States Census Bureau's Vintage 2019 population totals, and (iii) North Carolina municipalities who are also MDL Parties as of January 1, 2021.
 - b. Municipality may direct payments to county. Any municipality allocated a share in **Exhibit G** may elect to have its share of current or future annual distributions of Local Abatement Funds instead directed to the county or counties in which it is located. Such an election may be made by January 1 each year to apply to the following fiscal year. If a municipality is located in more than one county, the municipality's funds will be directed based on the MDL Matter's Opioid Negotiation Class Model.
5. Use of funds for opioid remediation activities. This MOA requires that except as related to the payment of the Parties' litigation expenses and the reimbursement of the United States Government, all Opioid Settlement Funds, regardless of allocation, shall be utilized only for opioid remediation activities.
 6. Relationship of this MOA to other agreements and resolutions. All Parties acknowledge and agree the National Settlement Agreement will require a Local Government to release all its claims against the Settling Defendants to receive Opioid Settlement Funds. All Parties further acknowledge and agree based on the terms of the National Settlement Agreement, a Local Government may receive funds through this MOA only after complying with all requirements set forth in the National Settlement Agreement to release its claims. This MOA is not a promise from any Party that any National Settlement Agreement or Bankruptcy Resolution will be finalized or executed.

C. Payment of Litigating and Non-Litigating Parties

No Party engaged in litigating the MDL Matter shall receive a smaller payment than a similarly situated non-litigating Party, other than as based on the Allocation Proportions in **Exhibit G** or based on the eligibility criteria for payments from the County Incentive Fund as provided by **Section G** below.

D. Special Revenue Fund

1. Creation of special revenue fund. Every Local Government receiving Opioid Settlement Funds shall create a separate special revenue fund, as described below, that is designated for the receipt and expenditure of the Opioid Settlement Funds.
2. Procedures for special revenue fund. Funds in this special revenue fund shall not be commingled with any other money or funds of the Local Government. The funds in the

special revenue fund shall not be used for any loans or pledge of assets, unless the loan or pledge is for an opioid remediation purpose consistent with the terms of this MOA and adopted under the process described in **Section E.6** below. Although counties or municipalities may make contracts with or grants to a nonprofit, charity, or other entity, counties or municipalities may not assign to another entity their rights to receive payments from the national settlement or their responsibilities for funding decisions.

3. Interest earned on special revenue fund. The funds in the special revenue fund may be invested, consistent with the investment limitations for local governments, and may be placed in an interest-bearing bank account. Any interest earned on the special revenue fund must be used in a way that is consistent with this MOA.

E. Opioid Remediation Activities.

1. Limitation on use of funds. Local Governments shall expend Opioid Settlement Funds only for opioid-related expenditures consistent with the terms of this MOA and incurred after the date of the Local Government's execution of this MOA, unless execution of the National Settlement Agreement requires a later date.
2. Opportunity to cure inconsistent expenditures. If a Local Government spends any Opioid Settlement Funds on an expenditure inconsistent with the terms of this MOA, the Local Government shall have 60 days after discovery of the expenditure to cure the inconsistent expenditure through payment of such amount for opioid remediation activities through budget amendment or repayment.
3. Consequences of failure to cure inconsistent expenditures. If a Local Government does not make the cure required by **Section E.2** above within 60 days, (i) future Opioid Fund payments to that Local Government shall be reduced by an amount equal to the inconsistent expenditure, and (ii) to the extent the inconsistent expenditure is greater than the expected future stream of payments to the Local Government, the Attorney General may initiate a process up to and including litigation to recover and redistribute the overage among all eligible Local Governments. The Attorney General may recover any litigation expenses incurred to recover the funds. Any recovery or redistribution shall be distributed consistent with **Sections B.3 and B.4** above.
4. Annual meeting of counties and municipalities within each county. Each county receiving Opioid Settlement Funds shall hold at least one annual meeting with all municipalities in the Local Government's county invited in order to receive input as to proposed uses of the Opioid Settlement Funds and to encourage collaboration between local governments both within and beyond the county. These meetings shall be open to the public.
5. Use of settlement funds under Option A and Option B. Local Governments shall spend Opioid Settlement Funds from the Local Abatement Funds on opioid remediation activities using either or both of the processes described as Option A and Option B below, unless the relevant National Settlement Agreement or Bankruptcy Resolution further limit the spending.

- a. Option A.
 - i. Without any additional strategic planning beyond the meeting described in **Section E.4** above, Local Governments may spend Opioid Settlement Funds from the list of High-Impact Opioid Abatement Strategies attached as **Exhibit A**. This list is a subset of the initial opioid remediation strategies listed in the National Settlement Agreement.
 - ii. **Exhibit A** may be modified as set forth in Exhibit D below; provided, however, that any strategy listed on **Exhibit A** must be within the list of opioid remediation activities for the then-current National Settlement Agreement. Opioid remediation activities undertaken under a previously authorized strategy list may continue if they were authorized at the time of the Local Government's commitment to spend funds on that activity.

- b. Option B.
 - i. A Local Government that chooses to participate in additional voluntary, collaborative, strategic planning may spend Opioid Settlement Funds from the broader list of categories found in **Exhibit B**. This list contains all the initial opioid remediation strategies listed in the National Settlement Agreement.
 - ii. Before spending any funds on any activity listed in **Exhibit B**, but not listed on **Exhibit A**, a Local Government must first engage in the collaborative strategic planning process described in **Exhibit C**. This process shall result in a report and non-binding recommendations to the Local Government's Governing Body described in **Exhibit C** (right-hand column).
 - iii. A Local Government that has previously undertaken the collaborative strategic planning process described in **Exhibit C** and wishes to continue implementing a strategy listed in **Exhibit B**, but not listed in **Exhibit A**, shall undertake a new collaborative strategic planning process every four years (or more often if desired).
 - iv. A Local Government that has previously undertaken the collaborative strategic planning process described in **Exhibit C** that wishes to implement a new strategy listed in **Exhibit B** but not listed in **Exhibit A**, shall undertake a new collaborative strategic planning process.
 - v. Two or more Local Governments may undertake a single collaborative strategic planning process resulting in a report and recommendations to all of the Local Governments involved.

6. Process for drawing from special revenue funds.
 - a. Budget item or resolution required. Opioid Settlement Funds can be used for a purpose when the Governing Body includes in its budget or passes a separate resolution authorizing the expenditure of a stated amount of Opioid Settlement Funds for that purpose or those purposes during a specified period of time.
 - b. Budget item or resolution details. The budget or resolution should (i) indicate that it is an authorization for expenditure of opioid settlement funds; (ii) state the specific strategy or strategies the county or municipality intends to fund pursuant to Option A or Option B, using the item letter and/or number in **Exhibit A** or **Exhibit B** to identify each funded strategy, and (iii) state the amount dedicated to each strategy for a stated period of time.
7. Coordination group. A coordination group with the composition and responsibilities described in **Exhibit D** shall meet at least once a year during the first three years that this MOA is in effect. Thereafter, the coordination group shall meet at least once every three years until such time as Opioid Settlement Funds are no longer being spent by Local Governments.

F. Auditing, Compliance, Reporting, and Accountability

1. Audits under Local Government Budget and Fiscal Control Act. Local Governments' Opioid Settlement Funds are subject to financial audit by an independent certified public accountant in a manner no less than what is required under G.S. 159-34. Each Local Government must file an annual financial audit of the Opioid Settlement Funds with the Local Government Commission. If any such audit reveals an expenditure inconsistent with the terms of this MOA, the Local Government shall immediately report the finding to the Attorney General.
2. Audits under other acts and requirements. The expenditure of Opioid Settlement Funds is subject to the requirements of the Local Government Budget and Fiscal Control Act, Chapter 159 of the North Carolina General Statutes; Local Government Commission rules; the Federal Single Audit Act of 1984 (as if the Opioid Settlement Funds were federal funds); the State Single Audit Implementation Act; Generally Accepted Government Auditing Standards; and all other applicable laws, rules, and accounting standards. For expenditures for which no compliance audit is required under the Federal Single Audit Act of 1984, a compliance audit shall be required under a compliance supplement approved by the coordination group.
3. Audit costs. Reasonable audit costs that would not be required except for this Section F may be paid by the Local Government from Opioid Settlement Funds..
4. Access to persons and records. During and after the term of this MOA, the State Auditor and Department of Justice shall have access to persons and records related to this MOA and expenditures of Opioid Settlement Funds to verify accounts and data affecting fees or

performance. The Local Government manager/administrator is the point of contact for questions that arise under this MOA.

5. Preservation of records. The Local Government must maintain, for a period of at least five years, records of Opioid Settlement Fund expenditures and documents underlying those expenditures, so that it can be verified that funds are being or have been utilized in a manner consistent with the National Settlement Agreement, any Bankruptcy Resolutions, and this MOA.
6. Reporting.
 - a. Annual financial report required. In order to ensure compliance with the opioid remediation provisions of the National Settlement Agreement, any Bankruptcy Resolutions, and this MOA, for every fiscal year in which a Local Government receives, holds, or spends Opioid Settlement Funds, the county or municipality must submit an annual financial report specifying the activities and amounts it has funded.
 - b. Annual financial report timing and contents. The annual financial report shall be provided to the North Carolina Attorney General by emailing the report to opioiddocs@ncdoj.gov, within 90 days of the last day of the state fiscal year covered by the report. Each annual financial report must include the information described on **Exhibit E**.
 - c. Reporting to statewide opioid settlement dashboard. Each Local Government must provide the following information to the statewide opioid settlement dashboard within the stated timeframes:
 - i. The budget or resolution authorizing the expenditure of a stated amount of Opioid Settlement Funds for a specific purpose or purposes during a specified period of time as described in **Section E.6.b** above (within 90 days of the passage of any such budget or resolution);
 - ii. If the Local Government is using Option B, the report(s) and non-binding recommendations from collaborative strategic planning described in **Section E.5.b.ii** above and **Exhibit C** (right hand column) (within 90 days of the date the report and recommendations are submitted to the local governing body for consideration);
 - iii. The annual financial reports described in Section F.6.a and **Exhibit E** (within 90 days of the end of the fiscal year covered by the report); and
 - iv. The impact information described in **Exhibit F** (within 90 days of the end of the fiscal year covered by the report).

The State will create an online portal with instructions for Local Governments to report or upload each of these four items by electronic means.

- d. Copy to NCDOJ of any additional reporting. If the National Settlement Agreement or any Bankruptcy Resolutions require that a Local Government file, post, or provide a report or other document beyond those described in this MOA, or if any Local Government communicates in writing with any national administrator or other entity created or authorized by the National Settlement Agreement or any Bankruptcy Resolutions regarding the Local Government's compliance with the National Settlement Agreement or Bankruptcy Resolutions, the Local Government shall email a copy of any such report, document, or communication to the North Carolina Department of Justice at opioiddocs@ncdoj.gov.
 - e. Compliance and non-compliance.
 - i. Every Local Government shall make a good faith effort to comply with all of its reporting obligations under this MOA, including the obligations described in **Section F.6.c** above.
 - ii. A Local Government that engages in a good faith effort to comply with its reporting obligations under **Section F.6.c** but fails in some way to report information in an accurate, timely, or complete manner shall be given an opportunity to remedy this failure within a reasonable time.
 - iii. A Local Government that does not engage in a good faith effort to comply with its reporting obligations under this MOA, or that fails to remedy reporting issues within a reasonable time, may be subject to action for breach of contract.
 - iv. Notwithstanding anything to the contrary herein, a Local Government that is in substantial compliance with the reporting obligations in this MOA shall not be considered in breach of this MOA or in breach of contract.
7. Collaboration. The State and Local Governments must collaborate to promote effective use of Opioid Settlement Funds, including through the sharing of expertise, training, technical assistance. They will also coordinate with trusted partners to collect and share information about successful regional and other high-impact strategies and opioid treatment programs.

G. County Incentive Fund

A Local Government receiving Settlement Proceeds pursuant to **Section B.4.a** shall be an Incentive Eligible Local Government if every municipality in the Local Government's county with population of at least 30,000 has executed this MOA by October 1, 2021, but no later than any such deadline set in the National Settlement Agreement for the highest possible participation in incentive structures for North Carolina. Each Incentive Eligible Local Government shall receive a share of the 5% County Incentive Fund set forth in **Section B.2.iii**, distributed pro rata among only Incentive Eligible Local Governments as set forth in **Exhibit G**. For purposes of the calculations required by this Section, populations will be based on United States Census Bureau's Vintage 2019 population totals, and a municipality with populations in multiple counties will be counted only toward the county which has the largest share of that municipality's population.

H. Effectiveness

1. When MOA takes effect. This MOA shall become effective at the time a sufficient number of Local Governments have joined the MOA to qualify this MOA as a State-Subdivision Agreement under the National Settlement Agreement or any Bankruptcy Resolution. If this MOA does not thereby qualify as a State-Subdivision Agreement, this MOA will have no effect.
2. Amendments to MOA.
 - a. Amendments to conform to final national documents. The Attorney General, with the consent of a majority vote from a group of Local Government attorneys appointed by the Association of County Commissioners, may initiate a process to amend this MOA to make any changes required by the final provisions of the National Settlement Agreement or any Bankruptcy Resolution. The Attorney General's Office will provide written notice of the necessary amendments to all the previously joining parties. Any previously joining party will have a two-week opportunity to withdraw from the MOA. The amendments will be effective to any party that does not withdraw.
 - b. Coordination group. The coordination group may make the changes authorized in **Exhibit D**.
 - c. No amendments to allocation between Local Governments. Notwithstanding any other provision of this MOA, the allocation proportions set forth in **Exhibit G** may not be amended.
 - d. General amendment power. After execution, the coordination group may propose other amendments to the MOA, subject to the limitation in **Section H.2.c** above. Such amendments will take effect only if approved in writing by the Attorney General and at least two-thirds of the Local Governments who are Parties to this MOA. In the vote, each Local Government Party will have a number of votes measured by the allocation proportions set forth in **Exhibit G**.
3. Acknowledgement. The Parties acknowledge that this MOA is an effective and fair way to address the needs arising from the public health crisis due to the misconduct committed by the Pharmaceutical Supply Chain Participants.
4. When MOA is no longer in effect. This MOA is effective until one year after the last date on which any Opioid Settlement Funds are being spent by Local Governments pursuant to the National Settlement Agreement and any Bankruptcy Resolution.
5. Application of MOA to settlements and bankruptcy resolutions. This MOA applies to all settlements under the National Settlement Agreement with the Settling Defendants and any Bankruptcy Resolutions. The Parties agree to discuss the use, as the Parties may deem appropriate in the future, of the settlement terms set out herein (after any necessary

amendments) for resolutions with Pharmaceutical Supply Chain Participants not covered by the National Settlement Agreement or a Bankruptcy Resolution.

6. Applicable law and venue. Unless required otherwise by the National Settlement Agreement or a Bankruptcy Resolution, this MOA shall be interpreted using North Carolina law and any action related to the provisions of this MOA must be adjudicated by the Superior Court of Wake County. If any provision of this MOA is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision which can be given effect without the invalid provision.
7. Scope of MOA. The Parties acknowledge that this MOA does not excuse any requirements placed upon them by the terms of the National Settlement Agreement or any Bankruptcy Resolution, except to the extent those terms allow for a State-Subdivision Agreement to do so.
8. No third party beneficiaries. No person or entity is intended to be a third party beneficiary of this MOA.
9. No effect on authority of parties. Nothing in this MOA shall be construed to affect or constrain the authority of the Parties under law.
10. Signing and execution of MOA. This MOA may be signed and executed simultaneously in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. A signature transmitted by facsimile or electronic image shall be deemed an original signature for purposes of executing this MOA. Each person signing this MOA represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this MOA, and that all necessary approvals and conditions precedent to his or her execution have been satisfied.

(Signature pages follow.)

Signature pages will be structured as one page for the State of North Carolina,
followed by separate signature pages for each county.

These signature pages will also include blanks for the county's municipalities.

To avoid having 101 signature pages in the middle of this file,
the signature pages are in a separate document.

**EXHIBIT A TO NC MOA:
HIGH-IMPACT OPIOID ABATEMENT STRATEGIES (“OPTION A” List)**

In keeping with the National Settlement Agreement, opioid settlement funds may support programs or services listed below that serve persons with Opioid Use Disorder (OUD) or any co-occurring Substance Use Disorder (SUD) or mental health condition.

As used in this list, the words “fund” and “support” are used interchangeably and mean to create, expand, or sustain a program, service, or activity.

1. **Collaborative strategic planning.** Support collaborative strategic planning to address opioid misuse, addiction, overdose, or related issues, including staff support, facilitation services, or any activity or combination of activities listed in Exhibit C to the MOA (collaborative strategic planning).
2. **Evidence-based addiction treatment.** Support evidence-based addiction treatment consistent with the American Society of Addiction Medicine’s national practice guidelines for the treatment of opioid use disorder – including Medication-Assisted Treatment (MAT) with any medication approved for this purpose by the U.S. Food and Drug Administration – through Opioid Treatment Programs, qualified providers of Office-Based Opioid Treatment, Federally Qualified Health Centers, treatment offered in conjunction with justice system programs, or other community-based programs offering evidence-based addiction treatment. This may include capital expenditures for facilities that offer evidence-based treatment for OUD. (If only a portion of a facility offers such treatment, then only that portion qualifies for funding, on a pro rata basis.)
3. **Recovery support services.** Fund evidence-based recovery support services, including peer support specialists or care navigators based in local health departments, social service offices, detention facilities, community-based organizations, or other settings that support people in treatment or recovery, or people who use drugs, in accessing addiction treatment, recovery support, harm reduction services, primary healthcare, or other services or supports they need to improve their health or well-being.
4. **Recovery housing support.** Fund programs offering recovery housing support to people in treatment or recovery, or people who use drugs, such as assistance with rent, move-in deposits, or utilities; or fund recovery housing programs that provide housing to individuals receiving Medication-Assisted Treatment for opioid use disorder.
5. **Employment-related services.** Fund programs offering employment support services to people in treatment or recovery, or people who use drugs, such as job training, job skills, job placement, interview coaching, resume review, professional attire, relevant courses at community colleges or vocational schools, transportation services or transportation vouchers to facilitate any of these activities, or similar services or supports.
6. **Early intervention.** Fund programs, services, or training to encourage early identification and intervention for children or adolescents who may be struggling with problematic use of drugs or mental health conditions, including Youth Mental Health

First Aid, peer-based programs, or similar approaches. Training programs may target parents, family members, caregivers, teachers, school staff, peers, neighbors, health or human services professionals, or others in contact with children or adolescents.

7. **Naloxone distribution.** Support programs or organizations that distribute naloxone to persons at risk of overdose or their social networks, such as Syringe Service Programs, post-overdose response teams, programs that provide naloxone to persons upon release from jail or prison, emergency medical service providers or hospital emergency departments that provide naloxone to persons at risk of overdose, or community-based organizations that provide services to people who use drugs. Programs or organizations involved in community distribution of naloxone may, in addition, provide naloxone to first responders.
8. **Post-overdose response team.** Support post-overdose response teams that connect persons who have experienced non-fatal drug overdoses to addiction treatment, recovery support, harm reduction services, primary healthcare, or other services or supports they need to improve their health or well-being.
9. **Syringe Service Program.** Support Syringe Service Programs operated by any governmental or nongovernmental organization authorized by section 90-113.27 of the North Carolina General Statutes that provide syringes, naloxone, or other harm reduction supplies; that dispose of used syringes; that connect clients to prevention, treatment, recovery support, behavioral healthcare, primary healthcare, or other services or supports they need; or that provide any of these services or supports.
10. **Criminal justice diversion programs.** Support pre-arrest or post-arrest diversion programs, or pre-trial service programs, that connect individuals involved or at risk of becoming involved in the criminal justice system to addiction treatment, recovery support, harm reduction services, primary healthcare, prevention, or other services or supports they need, or that provide any of these services or supports.
11. **Addiction treatment for incarcerated persons.** Support evidence-based addiction treatment, including Medication-Assisted Treatment with at least one FDA-approved opioid agonist, to persons who are incarcerated in jail or prison.
12. **Reentry Programs.** Support programs that connect incarcerated persons to addiction treatment, recovery support, harm reduction services, primary healthcare, or other services or supports they need upon release from jail or prison, or that provide any of these services or supports.

EXHIBIT B TO NC MOA:

Additional Opioid Remediation Activities (“OPTION B” List)

This list shall be automatically updated to match the list of approved strategies in the most recent National Settlement Agreement.

PART ONE: TREATMENT

A. TREAT OPIOID USE DISORDER (OUD)

Support treatment of Opioid Use Disorder (OUD) and any co-occurring Substance Use Disorder or Mental Health (SUD/MH) conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:¹

1. Expand availability of treatment for OUD and any co-occurring SUD/MH conditions, including all forms of Medication-Assisted Treatment (MAT) approved by the U.S. Food and Drug Administration.
2. Support and reimburse evidence-based services that adhere to the American Society of Addiction Medicine (ASAM) continuum of care for OUD and any co-occurring SUD/MH conditions.
3. Expand telehealth to increase access to treatment for OUD and any co-occurring SUD/MH conditions, including MAT, as well as counseling, psychiatric support, and other treatment and recovery support services.
4. Improve oversight of Opioid Treatment Programs (OTPs) to assure evidence-based or evidence-informed practices such as adequate methadone dosing and low threshold approaches to treatment.
5. Support mobile intervention, treatment, and recovery services, offered by qualified professionals and service providers, such as peer recovery coaches, for persons with OUD and any co-occurring SUD/MH conditions and for persons who have experienced an opioid overdose.
6. Treatment of trauma for individuals with OUD (e.g., violence, sexual assault, human trafficking, or adverse childhood experiences) and family members (e.g., surviving family members after an overdose or overdose fatality), and training of health care personnel to identify and address such trauma.
7. Support evidence-based withdrawal management services for people with OUD and any co-occurring mental health conditions.

¹ As used in this Exhibit B, words like “expand,” “fund,” “provide” or the like shall not indicate a preference for new or existing programs.

8. Training on MAT for health care providers, first responders, students, or other supporting professionals, such as peer recovery coaches or recovery outreach specialists, including telementoring to assist community-based providers in rural or underserved areas.
9. Support workforce development for addiction professionals who work with persons with OUD and any co-occurring SUD/MH conditions.
10. Fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.
11. Scholarships and supports for behavioral health practitioners or workers involved in addressing OUD and any co-occurring SUD or mental health conditions, including but not limited to training, scholarships, fellowships, loan repayment programs, or other incentives for providers to work in rural or underserved areas.
12. Provide funding and training for clinicians to obtain a waiver under the federal Drug Addiction Treatment Act of 2000 (DATA 2000) to prescribe MAT for OUD, and provide technical assistance and professional support to clinicians who have obtained a DATA 2000 waiver.
13. Dissemination of web-based training curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service-Opioids web-based training curriculum and motivational interviewing.
14. Development and dissemination of new curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service for Medication-Assisted Treatment.

B. SUPPORT PEOPLE IN TREATMENT AND RECOVERY

Support people in treatment for or recovery from OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Provide comprehensive wrap-around services to individuals with OUD and any co-occurring SUD/MH conditions, including housing, transportation, education, job placement, job training, or childcare.
2. Provide the full continuum of care of treatment and recovery services for OUD and any co-occurring SUD/MH conditions, including supportive housing, peer support services and counseling, community navigators, case management, and connections to community-based services.
3. Provide counseling, peer-support, recovery case management and residential treatment with access to medications for those who need it to persons with OUD and any co-occurring SUD/MH conditions.
4. Provide access to housing for people with OUD and any co-occurring SUD/MH conditions, including supportive housing, recovery housing, housing assistance programs, training for housing providers, or recovery housing programs that allow or integrate FDA-approved medication with other support services.

5. Provide community support services, including social and legal services, to assist in deinstitutionalizing persons with OUD and any co-occurring SUD/MH conditions.
6. Support or expand peer-recovery centers, which may include support groups, social events, computer access, or other services for persons with OUD and any co-occurring SUD/MH conditions.
7. Provide or support transportation to treatment or recovery programs or services for persons with OUD and any co-occurring SUD/MH conditions.
8. Provide employment training or educational services for persons in treatment for or recovery from OUD and any co-occurring SUD/MH conditions.
9. Identify successful recovery programs such as physician, pilot, and college recovery programs, and provide support and technical assistance to increase the number and capacity of high-quality programs to help those in recovery.
10. Engage non-profits, faith-based communities, and community coalitions to support people in treatment and recovery and to support family members in their efforts to support the person with OUD in the family.
11. Training and development of procedures for government staff to appropriately interact and provide social and other services to individuals with or in recovery from OUD, including reducing stigma.
12. Support stigma reduction efforts regarding treatment and support for persons with OUD, including reducing the stigma on effective treatment.
13. Create or support culturally appropriate services and programs for persons with OUD and any co-occurring SUD/MH conditions, including new Americans.
14. Create and/or support recovery high schools.
15. Hire or train behavioral health workers to provide or expand any of the services or supports listed above.

**C. CONNECT PEOPLE WHO NEED HELP TO THE HELP THEY NEED
(CONNECTIONS TO CARE)**

Provide connections to care for people who have – or at risk of developing – OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Ensure that health care providers are screening for OUD and other risk factors and know how to appropriately counsel and treat (or refer if necessary) a patient for OUD treatment.
2. Fund Screening, Brief Intervention and Referral to Treatment (SBIRT) programs to reduce the transition from use to disorders, including SBIRT services to pregnant women who are uninsured or not eligible for Medicaid.

3. Provide training and long-term implementation of SBIRT in key systems (health, schools, colleges, criminal justice, and probation), with a focus on youth and young adults when transition from misuse to opioid disorder is common.
4. Purchase automated versions of SBIRT and support ongoing costs of the technology.
5. Expand services such as navigators and on-call teams to begin MAT in hospital emergency departments.
6. Training for emergency room personnel treating opioid overdose patients on post-discharge planning, including community referrals for MAT, recovery case management or support services.
7. Support hospital programs that transition persons with OUD and any co-occurring SUD/MH conditions, or persons who have experienced an opioid overdose, into clinically-appropriate follow-up care through a bridge clinic or similar approach.
8. Support crisis stabilization centers that serve as an alternative to hospital emergency departments for persons with OUD and any co-occurring SUD/MH conditions or persons that have experienced an opioid overdose.
9. Support the work of Emergency Medical Systems, including peer support specialists, to connect individuals to treatment or other appropriate services following an opioid overdose or other opioid-related adverse event.
10. Provide funding for peer support specialists or recovery coaches in emergency departments, detox facilities, recovery centers, recovery housing, or similar settings; offer services, supports, or connections to care to persons with OUD and any co-occurring SUD/MH conditions or to persons who have experienced an opioid overdose.
11. Expand warm hand-off services to transition to recovery services.
12. Create or support school-based contacts that parents can engage with to seek immediate treatment services for their child; and support prevention, intervention, treatment, and recovery programs focused on young people.
13. Develop and support best practices on addressing OUD in the workplace.
14. Support assistance programs for health care providers with OUD.
15. Engage non-profits and the faith community as a system to support outreach for treatment.
16. Support centralized call centers that provide information and connections to appropriate services and supports for persons with OUD and any co-occurring SUD/MH conditions.

D. ADDRESS THE NEEDS OF CRIMINAL-JUSTICE-INVOLVED PERSONS

Address the needs of persons with OUD and any co-occurring SUD/MH conditions who are involved in, are at risk of becoming involved in, or are transitioning out of the criminal justice

system through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Support pre-arrest or pre-arraignment diversion and deflection strategies for persons with OUD and any co-occurring SUD/MH conditions, including established strategies such as:
 - a. Self-referral strategies such as the Angel Programs or the Police Assisted Addiction Recovery Initiative (PAARI);
 - b. Active outreach strategies such as the Drug Abuse Response Team (DART) model;
 - c. “Naloxone Plus” strategies, which work to ensure that individuals who have received naloxone to reverse the effects of an overdose are then linked to treatment programs or other appropriate services;
 - d. Officer prevention strategies, such as the Law Enforcement Assisted Diversion (LEAD) model;
 - e. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network or the Chicago Westside Narcotics Diversion to Treatment Initiative; or
 - f. Co-responder and/or alternative responder models to address OUD-related 911 calls with greater SUD expertise.
2. Support pre-trial services that connect individuals with OUD and any co-occurring SUD/MH conditions to evidence-informed treatment, including MAT, and related services.
3. Support treatment and recovery courts that provide evidence-based options for persons with OUD and any co-occurring SUD/MH conditions.
4. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are incarcerated in jail or prison.
5. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are leaving jail or prison, have recently left jail or prison, are on probation or parole, are under community corrections supervision, or are in re-entry programs or facilities.
6. Support critical time interventions (CTI), particularly for individuals living with dual-diagnosis OUD/serious mental illness, and services for individuals who face immediate risks and service needs and risks upon release from correctional settings.
7. Provide training on best practices for addressing the needs of criminal-justice-involved persons with OUD and any co-occurring SUD/MH conditions to law enforcement, correctional, or judicial personnel or to providers of treatment, recovery, harm reduction, case management, or other services offered in connection with any of the strategies described in this section.

E. ADDRESS THE NEEDS OF PREGNANT OR PARENTING WOMEN AND THEIR FAMILIES, INCLUDING BABIES WITH NEONATAL ABSTINENCE SYNDROME

Address the needs of pregnant or parenting women with OUD and any co-occurring SUD/MH conditions, and the needs of their families, including babies with neonatal abstinence syndrome (NAS), through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Support evidence-based or evidence-informed treatment, including MAT, recovery services and supports, and prevention services for pregnant women – or women who could become pregnant – who have OUD and any co-occurring SUD/MH conditions, and other measures to educate and provide support to families affected by Neonatal Abstinence Syndrome.
2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for uninsured women with OUD and any co-occurring SUD/MH conditions for up to 12 months postpartum.
3. Training for obstetricians or other healthcare personnel that work with pregnant women and their families regarding treatment of OUD and any co-occurring SUD/MH conditions.
4. Expand comprehensive evidence-based treatment and recovery support for NAS babies; expand services for better continuum of care with infant-need dyad; expand long-term treatment and services for medical monitoring of NAS babies and their families.
5. Provide training to health care providers who work with pregnant or parenting women on best practices for compliance with federal requirements that children born with Neonatal Abstinence Syndrome get referred to appropriate services and receive a plan of safe care.
6. Child and family supports for parenting women with OUD and any co-occurring SUD/MH conditions.
7. Enhanced family supports and child care services for parents with OUD and any co-occurring SUD/MH conditions.
8. Provide enhanced support for children and family members suffering trauma as a result of addiction in the family; and offer trauma-informed behavioral health treatment for adverse childhood events.
9. Offer home-based wrap-around services to persons with OUD and any co-occurring SUD/MH conditions, including but not limited to parent skills training.
10. Support for Children's Services – Fund additional positions and services, including supportive housing and other residential services, relating to children being removed from the home and/or placed in foster care due to custodial opioid use.

PART TWO: PREVENTION

F. PREVENT OVER-PRESCRIBING AND ENSURE APPROPRIATE PRESCRIBING AND DISPENSING OF OPIOIDS

Support efforts to prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Fund medical provider education and outreach regarding best prescribing practices for opioids consistent with Guidelines for Prescribing Opioids for Chronic Pain from the U.S. Centers for Disease Control and Prevention, including providers at hospitals (academic detailing).
2. Training for health care providers regarding safe and responsible opioid prescribing, dosing, and tapering patients off opioids.
3. Continuing Medical Education (CME) on appropriate prescribing of opioids.
4. Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.
5. Support enhancements or improvements to Prescription Drug Monitoring Programs (PDMPs), including but not limited to improvements that:
 - a. Increase the number of prescribers using PDMPs;
 - b. Improve point-of-care decision-making by increasing the quantity, quality, or format of data available to prescribers using PDMPs, by improving the interface that prescribers use to access PDMP data, or both; or
 - c. Enable states to use PDMP data in support of surveillance or intervention strategies, including MAT referrals and follow-up for individuals identified within PDMP data as likely to experience OUD in a manner that complies with all relevant privacy and security laws and rules.
6. Ensuring PDMPs incorporate available overdose/naloxone deployment data, including the United States Department of Transportation's Emergency Medical Technician overdose database in a manner that complies with all relevant privacy and security laws and rules.
7. Increase electronic prescribing to prevent diversion or forgery.
8. Educate Dispensers on appropriate opioid dispensing.

G. PREVENT MISUSE OF OPIOIDS

Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Fund media campaigns to prevent opioid misuse.
2. Corrective advertising or affirmative public education campaigns based on evidence.
3. Public education relating to drug disposal.
4. Drug take-back disposal or destruction programs.
5. Fund community anti-drug coalitions that engage in drug prevention efforts.
6. Support community coalitions in implementing evidence-informed prevention, such as reduced social access and physical access, stigma reduction – including staffing, educational campaigns, support for people in treatment or recovery, or training of coalitions in evidence-informed implementation, including the Strategic Prevention Framework developed by the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA).
7. Engage non-profits and faith-based communities as systems to support prevention.
8. Fund evidence-based prevention programs in schools or evidence-informed school and community education programs and campaigns for students, families, school employees, school athletic programs, parent-teacher and student associations, and others.
9. School-based or youth-focused programs or strategies that have demonstrated effectiveness in preventing drug misuse and seem likely to be effective in preventing the uptake and use of opioids.
10. Create or support community-based education or intervention services for families, youth, and adolescents at risk for OUD and any co-occurring SUD/MH conditions.
11. Support evidence-informed programs or curricula to address mental health needs of young people who may be at risk of misusing opioids or other drugs, including emotional modulation and resilience skills.
12. Support greater access to mental health services and supports for young people, including services and supports provided by school nurses, behavioral health workers or other school staff, to address mental health needs in young people that (when not properly addressed) increase the risk of opioid or other drug misuse.

H. PREVENT OVERDOSE DEATHS AND OTHER HARMS (HARM REDUCTION)

Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Increase availability and distribution of naloxone and other drugs that treat overdoses for first responders, overdose patients, individuals with OUD and their friends and family members, individuals at high risk of overdose, schools, community navigators and outreach workers, persons being released from jail or prison, or other members of the general public.
2. Public health entities that provide free naloxone to anyone in the community.

3. Training and education regarding naloxone and other drugs that treat overdoses for first responders, overdose patients, patients taking opioids, families, schools, community support groups, and other members of the general public.
4. Enable school nurses and other school staff to respond to opioid overdoses, and provide them with naloxone, training, and support.
5. Expand, improve, or develop data tracking software and applications for overdoses/naloxone revivals.
6. Public education relating to emergency responses to overdoses.
7. Public education relating to immunity and Good Samaritan laws.
8. Educate first responders regarding the existence and operation of immunity and Good Samaritan laws.
9. Syringe service programs and other evidence-informed programs to reduce harms associated with intravenous drug use, including supplies, staffing, space, peer support services, referrals to treatment, fentanyl checking, connections to care, and the full range of harm reduction and treatment services provided by these programs.
10. Expand access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.
11. Support mobile units that offer or provide referrals to harm reduction services, treatment, recovery supports, health care, or other appropriate services to persons that use opioids or persons with OUD and any co-occurring SUD/MH conditions.
12. Provide training in harm reduction strategies to health care providers, students, peer recovery coaches, recovery outreach specialists, or other professionals that provide care to persons who use opioids or persons with OUD and any co-occurring SUD/MH conditions.
13. Support screening for fentanyl in routine clinical toxicology testing.

PART THREE: OTHER STRATEGIES

I. FIRST RESPONDERS

In addition to items in sections C, D, and H of this Exhibit relating to first responders, support the following:

1. Educate law enforcement or other first responders regarding appropriate practices and precautions when dealing with fentanyl or other drugs.
2. Provision of wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events.

J. LEADERSHIP, PLANNING AND COORDINATION

Support efforts to provide leadership, planning, coordination, facilitation, training and technical assistance to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following:

1. Statewide, regional, local, or community regional planning to identify root causes of addiction and overdose, goals for reducing harms related to the opioid epidemic, and areas and populations with the greatest needs for treatment intervention services; to support training and technical assistance; or to support other strategies to abate the opioid epidemic described in this opioid abatement strategy list.
2. A dashboard to share reports, recommendations, or plans to spend Opioid Settlement Funds; to show how Opioid Settlement Funds have been spent; to report program or strategy outcomes; or to track, share, or visualize key opioid-related or health-related indicators and supports as identified through collaborative statewide, regional, local, or community processes.
3. Invest in infrastructure or staffing at government or not-for-profit agencies to support collaborative, cross-system coordination with the purpose of preventing overprescribing, opioid misuse, or opioid overdoses, treating those with OUD and any co-occurring SUD/MH conditions, supporting them in treatment or recovery, connecting them to care, or implementing other strategies to abate the opioid epidemic described in this opioid abatement strategy list.
4. Provide resources to staff government oversight and management of opioid abatement programs.

K. TRAINING

In addition to the training referred to throughout this document, support training to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following:

1. Provide funding for staff training or networking programs and services to improve the capability of government, community, and not-for-profit entities to abate the opioid crisis.
2. Support infrastructure and staffing for collaborative cross-system coordination to prevent opioid misuse, prevent overdoses, and treat those with OUD and any co-occurring SUD/MH conditions, or implement other strategies to abate the opioid epidemic described in this opioid abatement strategy list (e.g., health care, primary care, pharmacies, PDMPs, etc.).

L. RESEARCH

Support opioid abatement research that may include, but is not limited to, the following:

1. Monitoring, surveillance, data collection, and evaluation of programs and strategies described in this opioid abatement strategy list.
2. Research non-opioid treatment of chronic pain.

3. Research on improved service delivery for modalities such as SBIRT that demonstrate promising but mixed results in populations vulnerable to opioid use disorders.
4. Research on novel harm reduction and prevention efforts such as the provision of fentanyl test strips.
5. Research on innovative supply-side enforcement efforts such as improved detection of mail-based delivery of synthetic opioids.
6. Expanded research on swift/certain/fair models to reduce and deter opioid misuse within criminal justice populations that build upon promising approaches used to address other substances (e.g. Hawaii HOPE and Dakota 24/7).
7. Epidemiological surveillance of OUD-related behaviors in critical populations including individuals entering the criminal justice system, including but not limited to approaches modeled on the Arrestee Drug Abuse Monitoring (ADAM) system.
8. Qualitative and quantitative research regarding public health risks and harm reduction opportunities within illicit drug markets, including surveys of market participants who sell or distribute illicit opioids.
9. Geospatial analysis of access barriers to MAT and their association with treatment engagement and treatment outcomes.

**EXHIBIT C to NC MOA:
COLLABORATIVE STRATEGIC PLANNING PROCESS UNDER OPTION B**

	ACTIVITY NAME	ACTIVITY DETAIL	CONTENT OF REPORT & RECOMMENDATIONS
A	Engage diverse stakeholders	Engage diverse stakeholders, per "ITEM A DETAIL" below, throughout the collaborative strategic planning process	Report on stakeholder engagement per "ITEM A DETAIL" below
B	Designate facilitator	Designate a person or entity to facilitate the strategic collaborative planning process. Consider a trained, neutral facilitator.	Identify the facilitator
C	Build upon any related planning	Build upon or coordinate with prior or concurrent planning efforts that address addiction, drug misuse, overdose, or related issues, including but not limited to community health assessments.	Report any related planning efforts you will build upon or coordinate with
D	Agree on shared vision	Agree on a shared vision for positive community change, considering how strategic investments of Opioid Settlement Funds have the potential to improve community health and well-being and address root causes of addiction, drug misuse, overdose, and related issues	Report on shared vision for positive community change
E	Identify key indicator(s)	Identify one or more population-level measures to monitor in order to gauge progress towards the shared vision. (The NC Opioid Action Plan Data Dashboard contains several such measures.)	Report on the key indicators selected
F	Identify and explore root causes	Explore root causes of addiction, drug misuse, overdose, and related issues in the community, using quantitative data as well as stakeholder narratives, community voices, the stories of those with lived experience, or similar qualitative information	Report on root causes as described
G	Identify and evaluate potential strategies	Identify potential strategies to address root causes or other aspects of the opioid epidemic; identify these strategies (by letter or number) on EXHIBIT A or EXHIBIT B, and consider the effectiveness of each strategy based on available evidence	Identify and evaluate potential strategies
H	Identify gaps in existing efforts	For each potential strategy identified (or for favored strategies), survey existing programs, services, or supports that address the same or similar issues; and identify gaps or shortcomings	Report on survey of and gaps in existing efforts
I	Prioritize strategies	Prioritize strategies, taking into account your shared vision, analysis of root causes, evaluation of each strategy, and analysis of gaps in existing efforts	Report on prioritization of strategies
J	Identify goals, measures, and evaluation plan	For each strategy (or favored strategy), develop goals and an evaluation plan that includes at least one process measure (How much did you do?), at least one quality measure (How well did you do it?), and at least one outcome measure (Is anyone better off?)	Report on goals, measures, and evaluation plan for each chosen strategy
K	Consider ways to align strategies	For each potential strategy identified (or for favored strategies), consider opportunities to braid Opioid Settlement Funds with other funding streams; develop regional solutions; form strategic partnerships; or to pursue other creative solutions	Report on opportunities to align strategies as described
L	Identify organizations	Identify organizations and agencies with responsibility to implement each strategy; and identify the human, material, and capital resources to implement each strategy	Identify organizations and needs to implement each strategy

M	Develop budgets and timelines	Develop a detailed global budget for each strategy with anticipated expenditures, along with timelines for completing components of each strategy	Report budgets and timelines for each strategy
N	Offer recommendations	Offer recommendations to local governing body (e.g., the county board, city council, or other local governing body)	Report recommendations to governing body

ITEM A DETAIL: STAKEHOLDER INVOLVEMENT

	STAKE-HOLDERS	DESCRIPTION	CONTENT OF REPORT & RECOMMENDATIONS
A-1	Local officials	County and municipal officials, such as those with responsibility over public health, social services, and emergency services	Report stakeholder involvement (who and how involved in process)
A-2	Healthcare providers	Hospitals and health systems, addiction professionals and other providers of behavioral health services, medical professionals, pharmacists, community health centers, medical safety net providers, and other healthcare providers	same as above
A-3	Social service providers	Providers of human services, social services, housing services, and community health services such as harm reduction, peer support, and recovery support services	same
A-4	Education and employment service providers	Educators, such as representatives of K-12 schools, community colleges, and universities; and those providing vocational education, job skills training, or related employment services	same
A-5	Payers and funders	Health care payers and funders, such as managed care organizations, prepaid health plans, LME-MCOs, private insurers, and foundations	same
A-6	Law enforcement	Law enforcement and corrections officials	same
A-7	Employers	Employers and business leaders	same
A-8	Community groups	Community groups, such as faith communities, community coalitions that address drug misuse, groups supporting people in recovery, youth leadership organizations, and grassroots community organizations	same
A-9	Stakeholders with "lived experience"	Stakeholders with "lived experience," such as people with addiction, people who use drugs, people in medication-assisted or other treatment, people in recovery, people with criminal justice involvement, and family members or loved ones of the individuals just listed	same
A-10	Stakeholders reflecting diversity of community	Stakeholders who represent the racial, ethnic, economic, and cultural diversity of the community, such as people of color, Native Americans, members of the LGBTQ community, and members of traditionally unrepresented or underrepresented groups	same

EXHIBIT D TO NC MOA: COORDINATION GROUP

COMPOSITION

The Coordination Group shall consist of the following twelve members:

Five Local Government Representatives

- Four appointed by the North Carolina Association of County Commissioners including:
 - One county commissioner
 - One county manager
 - One county attorney
 - One county local health director or consolidated human services director
- One municipal manager appointed by the North Carolina League of Municipalities

Four Experts Appointed by the Department of Health and Human Services

- Four appointed by the Secretary of the Department of Health and Human Services, having relevant experience or expertise with programs or policies to address the opioid epidemic, or with behavioral health, public health, health care, harm reduction, social services, or emergency services.

One Expert Appointed by the Attorney General

- One appointed by the Attorney General of North Carolina from the North Carolina Department of Justice or another state agency, having drug policy or behavioral health experience or expertise.

Two Experts Appointed by Legislative Leaders

- One representative from the University of North Carolina School of Government with relevant expertise appointed by the Speaker of the North Carolina House of Representatives.
- One representative from the board or staff of the North Carolina Institute of Medicine with relevant expertise appointed by the President Pro Tem of the North Carolina Senate.

The coordination group may appoint a non-voting administrator to convene meetings and facilitate the work of the coordination group. The administrator will not be paid from the Opioid Settlement Funds distributed under this MOA.

Appointees shall have relevant experience or expertise with programs or policies to address the opioid epidemic, behavioral health, public health, health care, social services, emergency services, harm reduction, management of local government, or other relevant areas.

Those responsible for making appointments to the coordination group are encouraged to appoint individuals who reflect the diversity of North Carolina, taking into consideration the need for geographic diversity; urban and rural perspectives; representation of people of color and

traditionally underrepresented groups; and the experience and perspective of persons with “lived experience.” Those responsible for making appointments may appoint a successor or replace a member at any time. Members of the coordination group serve until they resign or are replaced by the appointer. Eight members of the coordination group constitutes a quorum.

RESPONSIBILITIES

- a. As provided in **Section F.2** of the MOA, where no compliance audit would be required under the Federal Single Audit Act of 1984 for expenditures of Opioid Settlement Funds, a compliance audit shall be required under a compliance supplement established by a vote of at least 8 members of the coordination group. The compliance supplement shall address, at least, procedures for determining:
 - i. Whether the Local Government followed the procedural requirements of the MOA in ordering the expenditures.
 - ii. Whether the Local Government’s expenditures matched one of the types of opioid-related expenditures listed in **Exhibit A** of the MOA (if the Local Government selected Option A) or **Exhibit B** of the MOA (if the Local Government selected Option B).
 - iii. Whether the Local Government followed the reporting requirements in the MOA.
 - iv. Whether the Local Government (or sub-recipient of any grant or loan, if applicable) utilized the awarded funds for their stated purpose, consistent with this MOA and other relevant standards.
 - v. Which processes (such as sampling) shall be used:
 - i. To keep the costs of the audit at reasonable levels; and
 - ii. Tailor audit requirements for differing levels of expenditures among different counties.
- b. The coordination group may, by a vote of at least 8 members, propose amendments to the MOA as discussed in **Section H** of the MOA or modify any of the following:
 - i. The high-impact strategies discussed in **Section E.5** of the MOA and described in **Exhibit A** to the MOA;
 - ii. The collaborative strategic planning process discussed in **Section E.5** of the MOA and described in **Exhibit C** to the MOA;
 - iii. The annual financial report discussed in **Section F.4** of the MOA and described in **Exhibit E** to the MOA;
 - iv. The impact information discussed in **Section F.4** of the MOA and described in **Exhibit F** to the MOA; or
 - v. Other information reported to the statewide opioid dashboard.

- c. The coordination group may, by consensus or by vote of a majority of members present and voting, work with the parties to this MOA, the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, other associations, foundations, non-profits, and other government or nongovernment entities to provide support to Local Governments in their efforts to effectuate the goals and implement the terms of this MOA. Among other activities, the coordination group may coordinate, facilitate, support, or participate in any of the following activities:
- i. Providing assistance to Local Governments in identifying, locating, collecting, analyzing, or reporting data used to help address the opioid epidemic or related challenges, including data referred to in **Exhibit F**;
 - ii. Developing resources or providing training or technical assistance to support Local Governments in addressing the opioid epidemic and carrying out the terms of this MOA;
 - iii. Developing pilot programs, trained facilitators, or other resources to support the collaborative strategic planning process described in this MOA;
 - iv. Developing and implementing a voluntary learning collaborative among Local Governments and others to share best practices in carrying out the terms of this MOA and addressing the opioid epidemic, including in-person or virtual convenings or connections;
 - v. Developing voluntary leadership training programs for local officials on strategies to address the opioid epidemic, opportunities for Local Governments to harness the ongoing transition to value-based healthcare, and other relevant topics;
 - vi. Taking other actions that support Local Governments in their efforts to effectuate the goals and implement the terms of this MOA but do not in any way change the terms of this MOA or the rights or obligations of parties to this MOA.

**EXHIBIT E TO NC MOA:
ANNUAL FINANCIAL REPORT**

Each annual financial report must include the following financial information:

1. The amount of Opioid Settlement Funds in the special revenue fund at the beginning of the fiscal year (July 1).
2. The amount of Opioid Settlement Funds received during the fiscal year.
3. The amount of Opioid Settlement Funds disbursed or applied during the fiscal year, broken down by funded strategy (with any permissible common costs prorated among strategies).
4. The amount of Opioid Settlement Funds used to cover audit costs as provided in Section F.3 of this MOA.
5. The amount of Opioid Settlement Funds in the special revenue fund at the end of the fiscal year (June 30).

All Local Governments that receive two-tenths of one percent (0.2 percent) or more of the total Local Government Allocation as listed in **Exhibit G** shall provide the following additional information:

6. For all Opioid Settlement Funds disbursed or applied during the fiscal year as reported in item 3 above, a single breakdown of the total amount disbursed or applied for all funded strategies during the fiscal year into the following categories:
 - a. Human resource expenditures.
 - b. Subcontracts, grants, or other payments to sub-recipients involved in implementing of the funded strategies listed item 4 above.
 - c. Operational expenditures.
 - d. Capital expenditures.
 - e. Other expenditures.
7. With respect to item 6.b above, the Local Government shall provide the following information for any sub-recipient that receives ten percent or more of the total amount that the Local Government disbursed or applied during the fiscal year:
 - a. The name of the sub-recipient.
 - b. The amount received by the sub-recipient during the fiscal year.
 - c. A very brief description of the goods, services, or other value provided by the sub-recipient (for example, “addiction treatment services” or “peer-support services” or “syringe service program” or “naloxone purchase”).

The coordination group may clarify or modify specifications for this annual financial report as provided in Exhibit D.

EXHIBIT F TO NC MOA: IMPACT INFORMATION

Within 90 days of the end of any fiscal year in which a Local Government expends Opioid Settlement Funds, the Local Government shall report impact information for each strategy that it funded with Opioid Settlement Funds during that fiscal year (“funded strategy”), using the STANDARD FORM or the SHORT FORM for each funded strategy.

The STANDARD FORM is recommended to all Local Governments for all funded strategies. However, Local Governments may use the SHORT FORM as follows:

- All Local Governments that receive less than 0.2 percent (two-tenths of one percent) of the total Local Government Allocation as shown on **Exhibit G** may use the SHORT FORM for all funded strategies.
- All Local Governments that receive 0.2 percent (two-tenths of one percent) or more but less than 0.3 percent (three-tenths of one percent) of the total Local Government Allocation as shown on **Exhibit G** must use the STANDARD FORM for the funded strategy that received the largest amount of settlement funds during the fiscal year and may use the SHORT FORM for all other funded strategies.
- All Local Governments that receive 0.3 percent (three-tenths of one percent) or more but less than 0.4 percent (four-tenths of one percent) of the total Local Government Allocation as shown on **Exhibit G** must use the STANDARD FORM for the two funded strategies that received the largest amount of settlement funds during the fiscal year and may use the SHORT FORM for all other funded strategies.

STANDARD FORM

1. County or municipality and fiscal year covered by this report.
2. Name, title, and organization of person completing this report.
3. Name of funded strategy, letter and/or number of funded strategy on **Exhibit A** or **Exhibit B** to the MOA, and number and date of resolution(s) authorizing expenditure of settlement funds on funded strategy.
4. **Brief progress report** describing the funded strategy and progress made during the fiscal year. Recommended length: approximately one page (250 words).
5. **Brief success story** from a person who has benefitted from the strategy (de-identified unless the person has agreed in writing to be identified). Recommended length: approximately one page (250 words).
6. **One or more process measures**, addressing the question, “How much did you do?”
Examples: number of persons enrolled, treated, or served; number of participants trained; units of naloxone or number of syringes distributed.
7. **One or more quality measures**, addressing the question, “How well did you do it?”
Examples: percentage of clients referred to care or engaged in care; percentage of staff with

certification, qualification, or lived experience; level of client or participant satisfaction shown in survey data.

8. **One or more outcome measures**, addressing the question, “Is anyone better off?”
Examples: number or percentage of clients with stable housing or employment; self-reported measures of client recovery capital, such as overall well-being, healthy relationships, or ability to manage affairs; number or percentage of formerly incarcerated clients receiving community services or supports within X days of leaving jail or prison.
9. In connection with items 6, 7, and 8 above, **demographic information** on the participation or performance of people of color and other historically marginalized groups.

The State will provide counties and municipalities with recommended measures and sources of data for common opioid remediation strategies such as those listed in **Exhibit A**.

Counties or municipalities that have engaged in collaborative strategic planning are encouraged to use the measures for items 6 through 8 above identified through that process.

SHORT FORM

1. County or municipality and fiscal year covered by this report.
2. Name, title, and organization of person completing this report.
3. Name of funded strategy, letter and/or number of funded strategy on **Exhibit A** or **Exhibit B** to the MOA, and number and date of resolution(s) authorizing expenditure of settlement funds on strategy.
4. **Brief progress report** describing the funded strategy and progress made on the funded strategy during the fiscal year. Recommended length: approximately one-half to one page (125-250 words).

**EXHIBIT G TO NC MOA:
LOCAL GOVERNMENT ALLOCATION PROPORTIONS**

Counties:

Alamance	1.378028967612490%
Alexander	0.510007879580514%
Alleghany	0.149090598929352%
Anson	0.182192960366522%
Ashe	0.338639188321974%
Avery	0.265996766935006%
Beaufort	0.477888434887858%
Bertie	0.139468575095652%
Bladen	0.429217809476617%
Brunswick	2.113238507591200%
Buncombe	2.511587857322730%
Burke	2.090196827047270%
Cabarrus	1.669573446626000%
Caldwell	1.276301146194650%
Camden	0.073036400412663%
Carteret	1.128465593852300%
Caswell	0.172920237524674%
Catawba	2.072695222699690%
Chatham	0.449814383077585%
Cherokee	0.782759152904478%
Chowan	0.113705596126821%
Clay	0.224429948904576%
Cleveland	1.119928027749120%
Columbus	1.220936938986050%
Craven	1.336860190247190%
Cumberland	2.637299659634610%
Currituck	0.186778551294444%
Dare	0.533126731273811%
Davidson	1.940269530393250%
Davie	0.513147526867745%
Duplin	0.382785147396895%
Durham	1.797994362444460%
Edgecombe	0.417101939026669%
Forsyth	3.068450809484740%
Franklin	0.500503643290578%
Gaston	3.098173886907710%
Gates	0.079567516632414%
Graham	0.183484561708488%
Granville	0.590103409340146%

Greene	0.123274818647799%
Guilford	3.375015231147900%
Halifax	0.453161173976264%
Harnett	0.988980772198890%
Haywood	0.803315110111045%
Henderson	1.381595087040930%
Hertford	0.206843050128754%
Hoke	0.332485804570157%
Hyde	0.027237354085603%
Iredell	2.115931374540020%
Jackson	0.507757731330674%
Johnston	1.250887468217670%
Jones	0.087966986994631%
Lee	0.653115683614534%
Lenoir	0.604282592625687%
Lincoln	0.926833627125253%
Macon	0.466767666100745%
Madison	0.237776496104888%
Martin	0.232882220579515%
McDowell	0.587544576492856%
Mecklenburg	5.038301259920550%
Mitchell	0.309314151564137%
Montgomery	0.226050543041193%
Moore	0.971739112775481%
Nash	0.845653639635102%
New Hanover	2.897264892001010%
Northampton	0.120996238921878%
Onslow	1.644001364710850%
Orange	1.055839419023090%
Pamlico	0.119936151028001%
Pasquotank	0.374816210815334%
Pender	0.585749331860312%
Perquimans	0.111833180344914%
Person	0.403024296727131%
Pitt	1.369008066415930%
Polk	0.266142985954851%
Randolph	1.525433986174180%
Richmond	0.749132839979529%
Robeson	1.359735343574080%
Rockingham	1.365368837477560%
Rowan	2.335219287913370%
Rutherford	0.928941617994687%
Sampson	0.619513740526226%
Scotland	0.449148274209402%

Stanly	0.724974208589555%
Stokes	0.623953112434303%
Surry	1.410826706091650%
Swain	0.281162928604502%
Transylvania	0.497595509451435%
Tyrrell	0.041440907207785%
Union	1.466702679869700%
Vance	0.536258255282162%
Wake	4.902455667205510%
Warren	0.106390583495122%
Washington	0.074770720453604%
Watauga	0.469675799939888%
Wayne	0.970699333078804%
Wilkes	1.997177160589100%
Wilson	0.646470841490459%
Yadkin	0.562147145073638%
Yancey	0.382114976889272%

Municipalities:

Asheville	0.235814724255298%
Canton	0.011453823221205%
Cary	0.144151645370137%
Charlotte	1.247483814366830%
Concord	0.227455870287483%
Durham	0.380405026684971%
Fayetteville	0.309769055181433%
Gastonia	0.257763823789835%
Greensboro	0.527391696384329%
Greenville	0.162656474659432%
Henderson	0.032253478794181%
Hickory	0.094875835682315%
High Point	0.206428762905859%
Jacksonville	0.095009869783840%
Raleigh	0.566724612722679%
Wilmington	0.119497493968465%
Winston-Salem	0.494459923803644%

**MEMORANDUM OF AGREEMENT
BETWEEN THE STATE OF NORTH CAROLINA AND LOCAL GOVERNMENTS
ON PROCEEDS RELATING TO THE SETTLEMENT OF OPIOID LITIGATION**

IN WITNESS WHEREOF, the parties, through their duly authorized officers, have executed this Memorandum of Agreement under seal as of the date hereof.

SIGNATURE PAGE FOR PITT COUNTY AND ITS MUNICIPALITIES

County Government

PITT COUNTY

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

Municipal Governments with Populations Over 30,000

CITY OF GREENVILLE

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

Other Municipal Governments

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

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

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF GREENVILLE
APPROVING THE MEMORANDUM OF AGREEMENT (MOA) BETWEEN THE
STATE OF NORTH CAROLINA AND LOCAL GOVERNMENTS ON PROCEEDS
RELATING TO THE SETTLEMENT OF OPIOID LITIGATION**

WHEREAS, as of 2019, the opioid epidemic had taken the lives of more than 16,500 North Carolinians, torn families apart, and ravaged communities from the mountains to the coast; and

WHEREAS, the COVID-19 pandemic has compounded the opioid crisis, increasing levels of drug misuse, addiction, and overdose death; and

WHEREAS, the Centers for Disease Control and Prevention estimates the total "economic burden" of prescription opioid misuse alone in the United States is \$78.5 billion a year, including the costs of healthcare, lost productivity, addiction treatment, and criminal justice involvement; and

WHEREAS, certain counties and municipalities in North Carolina joined with thousands of local governments across the country to file lawsuit against opioid manufacturers and pharmaceutical distribution companies and hold those companies accountable for their misconduct; and

WHEREAS, representatives of local North Carolina governments, the North Carolina Association of County Commissioners, and the North Carolina Department of Justice have negotiated and prepared a Memorandum of Agreement (MOA) to provide for the equitable distribution of any proceeds from a settlement of national opioid litigation to the State of North Carolina and to individual local governments; and

WHEREAS, Local Governments and the State of North Carolina anticipate a settlement in the national opioid litigation to be forthcoming; and

WHEREAS, by signing onto the MOA, the state and local governments maximize North Carolina's share of opioid settlement funds to ensure the needed resources reach communities, once a negotiation is finalized, as quickly, effectively, and directly as possible; and

WHEREAS, it is advantageous to all North Carolinians for local governments, including the City of Greenville and its citizens, to sign onto the MOA and demonstrate solidarity in response to the opioid epidemic, and to maximize the share of opioid settlement funds received both in the state and local governments to help abate the harm; and

WHEREAS, the MOA directs substantial resources over multiple years to local governments on the front lines of the opioid epidemic while ensuring that these resources are used in an effective way to address the crisis.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Greenville (“City Council”) hereby approves the Memorandum of Agreement between the State of North Carolina and Local Governments on Proceeds Relating to the Settlement of Opioid Litigation, and any subsequent settlement funds that may come into North Carolina as a result of the opioid crisis. Furthermore, the City Council authorizes the City Manager (or City Attorney) to take such measures as necessary to comply with the terms of the MOA and receive any settlement funds, including executing any documents related to the allocation of opioid settlement funds and settlement of lawsuits related to this matter. Be it further resolved that copies of this resolution and the signed MOA be sent to opioiddocs@ncdoj.gov as well as forwarded to the N.C. League of Municipalities to tcarruthers@nclm.org.

Adopted this the _____ day of _____, 2021.

P.J. Connelly, Mayor
Greenville City Council

ATTEST:

Valerie Shiugewar

Clerk

(SEAL)



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Various tax refunds greater than \$100

Explanation: Pursuant to North Carolina General Statute 105-381, refunds are being reported to City Council. These are refunds created by a change or release of value for City of Greenville taxes by the Pitt County Tax Assessor. Pitt County Commissioners have previously approved these refunds; they are before City Council for their approval as well. These refunds will be reported as they occur when they exceed \$100.

The Director of Financial Services reports refunds of the following taxes:

Payee	Adjustment Refunds	Amount
Betty Keel Whitaker	Individual Personal Property	133.00
Doris Barrow	Individual Personal Property	106.12
Edward Barrett	Individual Personal Property	103.33
The Derek K. Brown Law Firm PC	Registered Motor Vehicle	673.76
David Kenneth Loomis	Registered Motor Vehicle	541.43
Wesley Robert Melvin	Registered Motor Vehicle	496.51
Bryant Terrell Battle	Registered Motor Vehicle	452.35
Tanner Langley Pate	Registered Motor Vehicle	418.80
Richard Justin Cox	Registered Motor Vehicle	411.39
Ronald Leo Stephenson	Registered Motor Vehicle	333.12
George Edward Ayers, Jr.	Registered Motor Vehicle	329.49
Christopher Allen Shadrick	Registered Motor Vehicle	322.22
Donghyeon Roh	Registered Motor Vehicle	299.99
Beryl Harper Dixon	Registered Motor Vehicle	292.88
Caleb Hinton James Sanders	Registered Motor Vehicle	291.61
Donnie Strickland	Registered Motor Vehicle	249.99
Andrea Britt Aldridge	Registered Motor Vehicle	235.86
Jay Shree Khodiyar LLC	Registered Motor Vehicle	215.99
Scott Bradley Smith	Registered Motor Vehicle	208.17
Garry Curtis Whitley II	Registered Motor Vehicle	200.82

Nittin Dahyabhai Mooney	Registered Motor Vehicle	197.90
Blanie Allen Moye Jr	Registered Motor Vehicle	189.62
Tracy Laverne Cole	Registered Motor Vehicle	186.00
Brenda Faye Holden	Registered Motor Vehicle	156.12
Thomas Joseph Spence	Registered Motor Vehicle	153.55
George Allen Smith	Registered Motor Vehicle	150.38
Keisha Ann Valentine	Registered Motor Vehicle	133.14
Joseph Quentin Martin	Registered Motor Vehicle	122.50
Frankie Wright Brunson	Registered Motor Vehicle	110.60
Edward Owen Hobby, Jr.	Registered Motor Vehicle	109.58
Megan Tennille Moore	Registered Motor Vehicle	100.25

Fiscal Note: The total refunded is \$7,926.47

Recommendation: Approval of taxes refunded by City Council



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Ordinance to annex Big Rock Powersports involving 2.03 acres located at the northeastern corner of the intersection of Martin Luther King, Jr. Highway and Diamond Drive

Explanation: A. SCHEDULE

1. Advertising date: August 30, 2021
2. City Council public hearing date: September 9, 2021
3. Effective date: September 9, 2021

B. CHARACTERISTICS

1. Relation to primary city limits: Non-contiguous
2. Relation to recognized industrial area: Outside
3. Acres: 2.03
4. Voting District: 1
5. Township: Pactolus
6. Zoning: CH (Heavy Commercial)
7. Existing land use: Vacant
8. Anticipated land use: 16,000 sq. ft. recreational vehicle dealership
9. Population estimate

	Formula	Number of people
Total current:	0	0
Estimated at full development	0	0
Current minority	0	0
Estimated minority at full development	0	0
Current white	0	0
Estimated white at full development	0	0

* average household size in Greenville (Source: Census.gov)

10. Rural fire tax district: Staton House
11. Greenville fire district: Station 4 (4.0 miles)
12. Present tax value: \$124,600
13. Estimated tax value: \$1,600,000

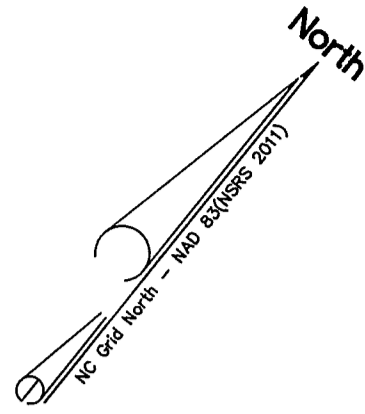
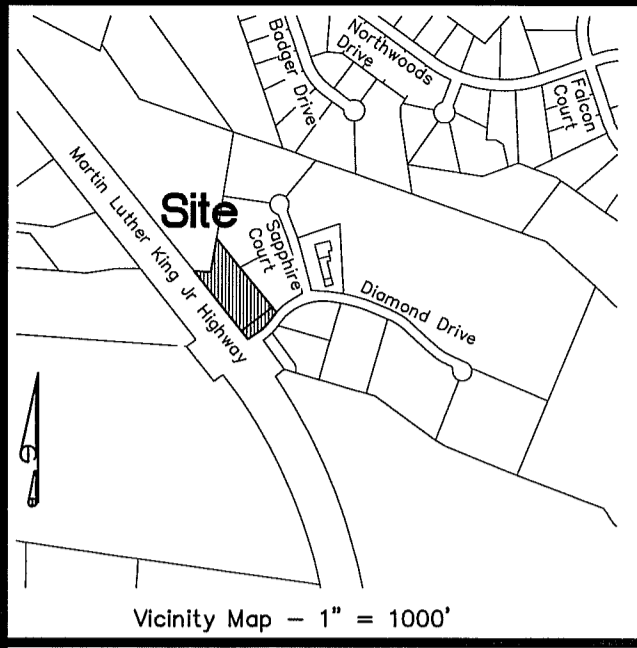
Fiscal Note: The total estimated tax value at full development is \$1,600,000.

Recommendation: Approve the attached ordinance to annex Big Rock Powersports

ATTACHMENTS

 [Big Rock survey.pdf](#)

 [Ordinance_-_Big_Rock_annex.pdf](#)

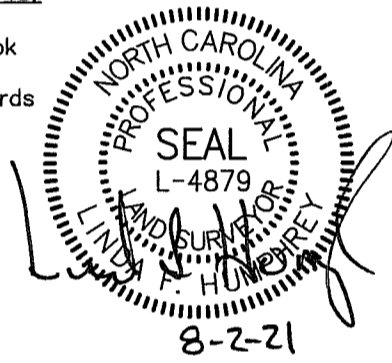


Curve Table				Line Table			
CURVE BEARING	CHORD	RADIUS/ARC LENGTH	LINE BEARING	DISTANCE	CURVE BEARING	CHORD	RADIUS/ARC LENGTH
C1 S 45°07'28" W	87.14	285.00/87.49	L1 N 38°49'02" W	60.01	L1 N 38°49'02" W	60.01	
C2 S 38°41'20" W	29.33	325.00/29.34	L2 S 52°14'41" W	59.93	L2 S 52°14'41" W	59.93	
C3 S 50°11'35" W	100.76	325.00/101.17	L3 S 52°14'41" W	6.55	L3 S 52°14'41" W	6.55	
			L4 S 36°09'49" W	118.85	L4 S 36°09'49" W	118.85	
			L5 S 56°55'17" W	69.95	L5 S 56°55'17" W	69.95	
			L6 S 38°48'01" E	137.11	L6 S 38°48'01" E	137.11	

I, Linda F. Humphrey, Professional Land Surveyor, certify that this map was drawn under my supervision from an actual field survey made under my supervision (from Deed Description recorded in Book 2814, Page 648, Book 4131, Page 32, Book 4131, Page 38.) That the boundaries not surveyed are clearly indicated as drawn from information found in Book as, Page shown: That the ratio of precision as calculated is 1:10,000+; and that this map meets the requirements of The Standards of Practice for Land Surveying in North Carolina (21 NCAC 56.1600). This 2nd day of August, 2021.

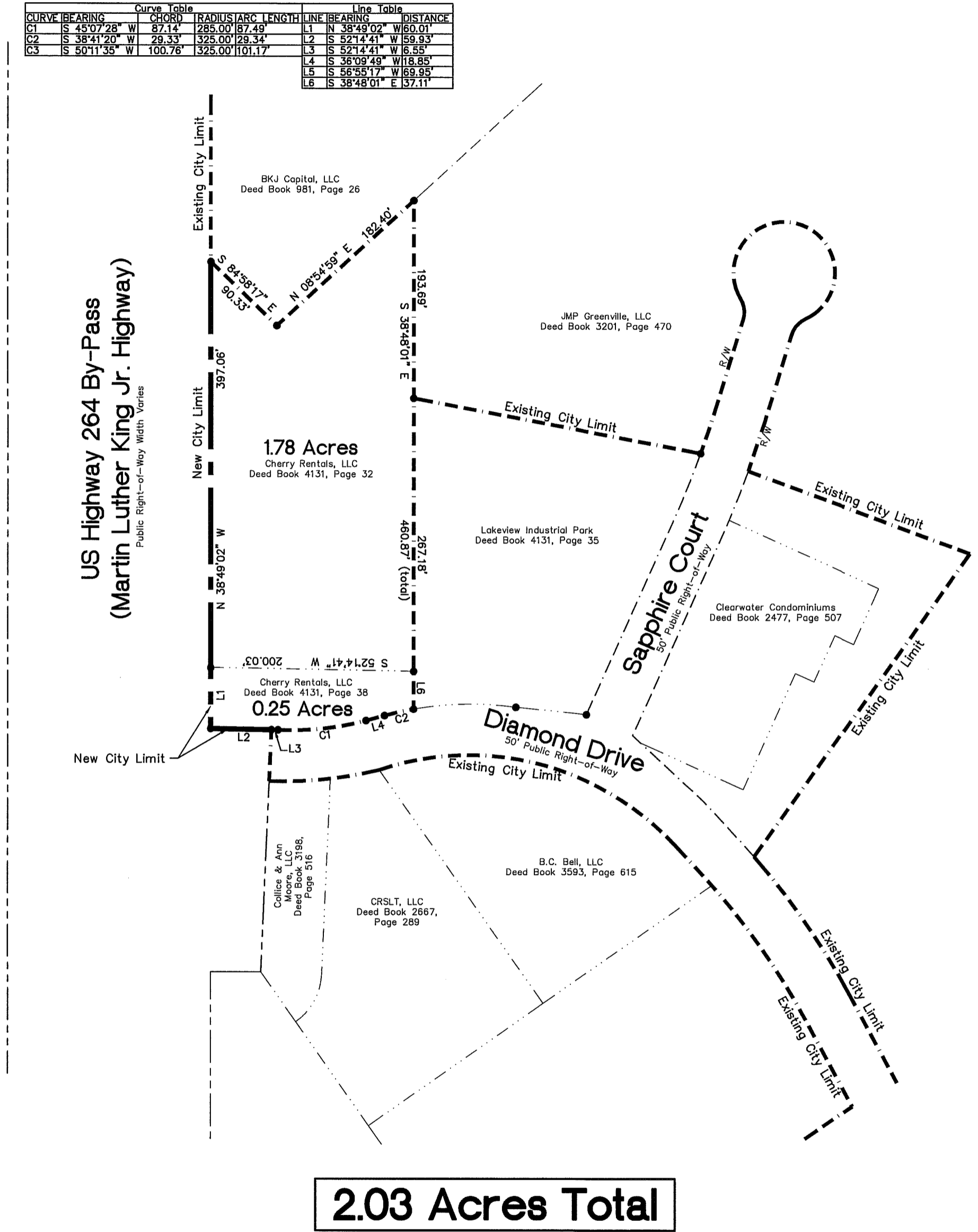
I, Linda F. Humphrey, Professional Land Surveyor No. L-4879, certify that this plat is of a survey of an existing parcel or parcels of land.

Linda F. Humphrey, Professional Land Surveyor No. L-4879



Legend

- New City Limit = ————
- Existing City Limit = - - - - -



Annexation Map For
BIG ROCK POWERSPORTS
 Diamond Drive, Greenville, Pactolus Township,
 Pitt County, North Carolina

SCALE: 1" = 100'
 DATE: August 2, 2021
 REVISIONS:
 FILE: P210055 | CAD: LFH

**MAP SHOWING AREA ANNEXED BY
 THE CITY OF GREENVILLE, N.C.**
 Date: _____; Ordinance Number: _____; Area: 2.03 Acres
 Pactolus Township, Pitt County, North Carolina

MGA
Mack Gay Associates, P.A.
 Engineering ♦ Surveying ♦ Planning
 1667 Thomas A. Betts Pkwy., Rocky Mount, NC 27804 - Firm License: C-0569
 Phone: 252-446-3017 - Fax: 252-446-7715 - www.mackgaypa.com

ORDINANCE NO. 21-
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville has been petitioned under G.S. 160A-31, as amended, to annex the area described herein; and

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

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at 6:00 p.m. on the 9th day of September, 2021, after due notice by publication in The Daily Reflector on the 30th day of August, 2021; 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 non-contiguous territory is annexed:

TO WIT: Being all of that certain property as shown on the annexation map entitled "Big Rock Powersports" involving 2.03 acres prepared by Mack Gay Associates, PA.

LOCATION: Situate in Pactolus Township, Pitt County, North Carolina, located at the northeastern corner of the intersection of Martin Luther King, Jr. Highway and Diamond Drive.

GENERAL DESCRIPTION:

Commencing at a point on the northernmost right-of-way of Martin Luther King Jr. Highway, a common corner with BKJ Capital, LLC, Deed Book 981, page 26 and being the TRUE POINT OF BEGINNING; thence leaving the right-of-way of Martin Luther King Jr. Highway S 84°58'17" E 90.33' to a point; thence N 08°54'59" E 182.40' to a point; thence S 38°48'01" E 460.87' to a point; thence S 38°48'01" E 37.11' to a point; thence S 38°41'20" W 29.33' to a point; thence S 36°09'49" W 18.85' to a point; thence S 45°07'28" W 87.14' to a point; thence S 52°14'41" W 6.55' to a point; thence S 52°14'41" W 59.93' to a point along the northernmost right-of-way of Martin Luther King Jr. Highway; thence continuing with the right-of-way N 38°49'02" W 60.01' to a point; thence N 38°49'02" W 397.06' to the point and place of beginning

containing 2.03 Acres according to a map titled, "Annexation Map For: Big Rock Powersports, prepared by Mack Gay Associates, P.A. dated August 2, 2021."

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 one. 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 one.

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

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

Section 5. This annexation shall take effect from and after the 9th day of September, 2021.

ADOPTED this 9th day of September, 2021.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

NORTH CAROLINA
PITT COUNTY

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

WITNESS my hand and official seal this ____th day of _____, 2021.

Notary Public

My Commission Expires: _____

1151655



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Ordinance to annex Davenport Farms at Emerald Park, Phase 6 involving 4.1112 acres located at the current terminus of Rhinestone Drive

Explanation: A. SCHEDULE

1. Advertising date: August 30, 2021
2. City Council public hearing date: September 9, 2021
3. Effective date: September 9, 2021

B. CHARACTERISTICS

1. Relation to primary city limits: Contiguous
2. Relation to recognized industrial area: Outside
3. Acres: 4.1112
4. Voting District: 2
5. Township: Winterville
6. Zoning: R9S (Residential)
7. Existing land use: Vacant
8. Anticipated land use: 18 single-family lots
9. Population estimate

	Formula	Number of people
Total current:	0	0
Estimated at full development	18 x 2.18*	39
Current minority	0	0
Estimated minority at full development	39 x 43.4%	17
Current white	0	0
Estimated white at full development	39 - 17	22



* average household size in Greenville (Source: Census.gov)

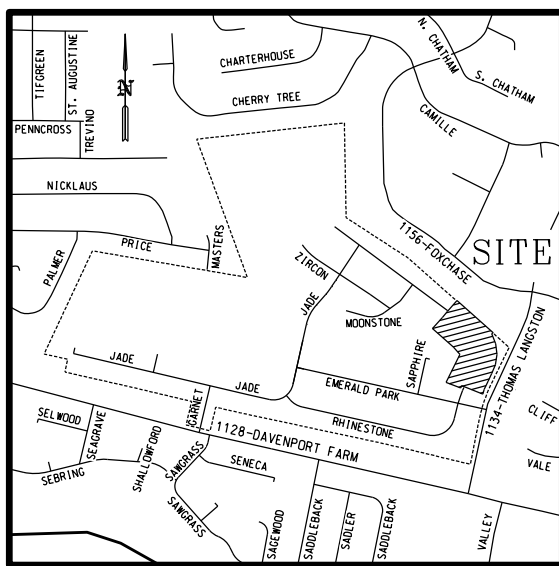
10. Rural fire tax district: Red Oak
11. Greenville fire district: Station 5 (5.0 miles)
12. Present tax value: \$60,150
13. Estimated tax value: \$3,413,020

Fiscal Note: The total estimated tax value at full development is \$3,413,020.

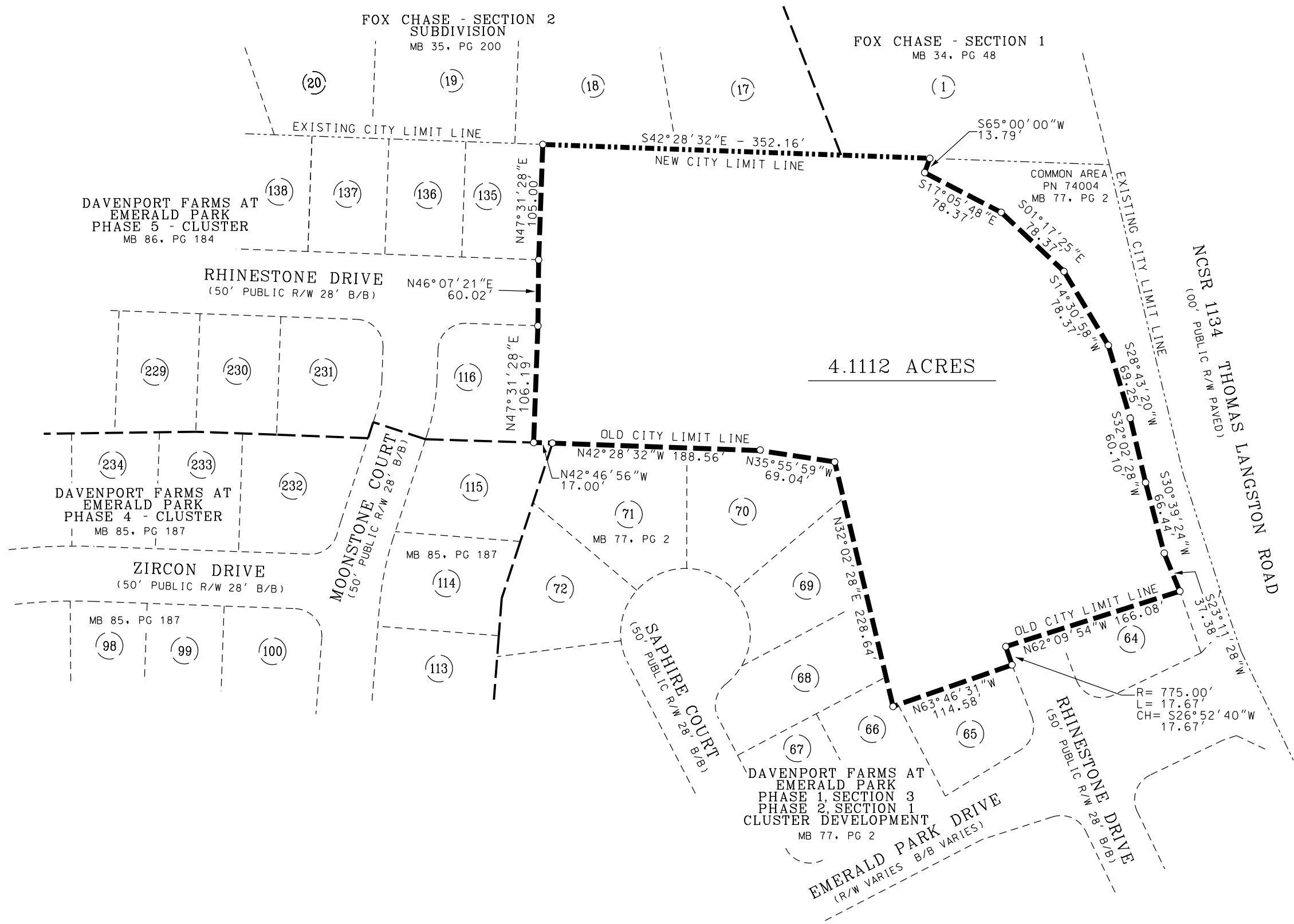
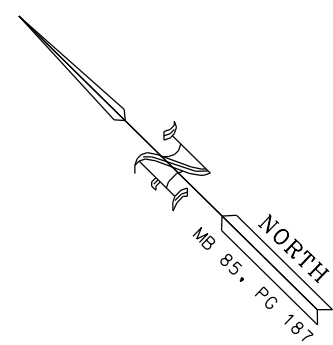
Recommendation: Approve the attached ordinance to annex Davenport Farms at Emerald Park,
Phase 6

ATTACHMENTS

-  [Davenport Farm survey.pdf](#)
-  [Ordinance_-_Davenport_Farms_annex.pdf](#)



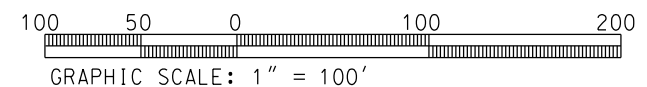
VICINITY MAP



THIS MAP IS EXEMPT FROM GS 47-30 REQUIREMENTS PER GS 47-30 (j) WHICH STATES: "THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO BOUNDARY PLATS OF STATE LINES, COUNTY LINES, AREAS ANNEXED BY MUNICIPALITIES, NOR TO PLATS OF MUNICIPAL BOUNDARIES, WHETHER OR NOT REQUIRED BY LAW TO BE RECORDED".

LEGEND:

- NEW CITY LIMIT LINE
- OLD CITY LIMIT LINE
- EXISTING CITY LIMIT LINE



PARCEL NO. 87176
 REFERENCE: A PORTION OF DEED BOOK 3509, PAGE 705 OF THE PITT COUNTY REGISTRY

DAVENPORT FARMS AT EMERALD PARK, PHASE 6 WINTERVILLE TWP., PITT COUNTY, NORTH CAROLINA	
BILL CLARK HOMES OF GREENVILLE, LLC 200 E. ARLINGTON BLVD. GREENVILLE, NC 27858 (252) 355-5805	
STROUD ENGINEERING, P.A. LICENSE NO. C-0647 107 1/2 COMMERCE ST. GREENVILLE, NC 27858 (252) 756-9352	SURVEYED: N/A APPROVED: DTB DRAWN: DM DTB DATE: 07/26/21 CHECKED: DTB SCALE: 1" = 100'

MAP NO.	MAPS RECORDED	BOOK	PAGE

MAP SHOWING AREA ANNEXED BY		
THE CITY OF GREENVILLE		
DATE	ORDINANCE NO.	4.1112 ACRES AREA

I, DEBORAH T. BOYETTE, CERTIFY THAT THIS MAP WAS DRAWN BY DEE MULLALLY UNDER MY SUPERVISION FROM AN ACTUAL SURVEY BY JUSTIN DAVIS; THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION FOUND IN DEEDS AND MAPS REFERENCED HEREON.

WITNESS MY HAND AND SEAL THIS _____ DAY OF _____, _____.

SIGNED _____
 PROFESSIONAL LAND SURVEYOR L-4146

NORTH CAROLINA, PITT COUNTY
 I, _____, NOTARY PUBLIC OF THE COUNTY AND STATE AFORESAID, CERTIFY THAT DEBORAH T. BOYETTE, A PROFESSIONAL LAND SURVEYOR, PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT. WITNESS MY HAND AND OFFICIAL STAMP OR SEAL THIS THE _____ DAY OF _____, 20____.

NOTARY PUBLIC _____
 MY COMMISSION EXPIRES _____

ORDINANCE NO. 21-
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville has been petitioned under G.S. 160A-31, as amended, to annex the area described herein; and

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

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at 6:00 p.m. on the 9th day of September, 2021, after due notice by publication in The Daily Reflector on the 30th day of August, 2021; and

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

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

Section 1. That by virtue of the authority vested in the City Council of the City of Greenville, North Carolina, under G. S. 160A-31, as amended, the following described contiguous territory is annexed:

TO WIT: Being all of that certain property as shown on the annexation map entitled “Davenport Farms at Emerald Park, Phase 6” involving 4.1112 acres prepared by Stroud Engineering.

LOCATION: Situate in Winterville Township, Pitt County, North Carolina, located at the current terminus of Rhinestone Drive.

GENERAL DESCRIPTION:

Lying and being in Winterville Township, Pitt County, North Carolina, lying north of NCSR 1128 Davenport Farm Road and west of NCSR 1134 Thomas Langston Road and being bounded on the northeast by Fox Chase Section 2 (Map Book 35, Page 200) and Fox Chase Section 1 (Map Book 34, Page 48), on the east, south and west by Davenport Farms at Emerald Park Phase 1 Section 3 and Phase 2 Section 1 (Map Book 77, Page 2), by Davenport Farms at Emerald Park Phase 4 (Map Book 85, Page 187), and by Davenport Farms at Emerald Park Phase 5 (Map Book 86, Page 184) all of the Pitt County Registry.

Beginning at the northeast corner of Lot 135, Davenport Farms at Emerald Park Phase 5 (Map Book 86, Page 184), the True Point of Beginning.

Thence from the True Point of Beginning, leaving Lot 135 and following the southern boundary of Fox Chase Section 2 (Map Book 35, Page 200) and Fox Chase Section 1 (Map Book 34, Page 48) S42°28'32"E – 352.16' to a point in the southern line of Lot 1, Fox Chase Section 1, thence leaving the Fox Chase boundary and following the outline of Common Area #2 (Map Book 77, Page 2) the following calls: S65°00'00"W – 13.79', thence S17°05'48"E – 78.37', thence S01°17'25"E – 78.37', thence S14°30'58"W – 78.37', thence S28°43'20"W – 69.25', thence S32°02'28"W – 60.10', thence S30°39'24"W – 66.44', thence S23°11'28"W – 37.38' to the northeast corner of Lot 64, Davenport Farms at Emerald Park (Map Book 77, Page 2), thence along the exterior boundary of Davenport Farms at Emerald Park as shown in Map Book 77, Page 2 the following calls: N62°09'54"W – 166.08', thence with a curve to the left having a radius of 775.00' and a chord bearing of S26°52'40"W – 17.67' to the northeast corner of Lot 65, Davenport Farms at Emerald Park (Map Book 77, Page 2), thence continuing along the exterior boundary N63°46'31"W – 114.58', thence N32°02'28"E – 228.64' to the northeast corner of Lot 70, Davenport Farms at Emerald Park (Map Book 77, Page 2), thence N35°55'59"W – 69.04', thence N42°28'32"W – 188.56' to a common corner of Lot 71, Davenport Farms at Emerald Park (Map Book 77, Page 2) and Lot 115, Davenport Farms at Emerald Park Phase 4 (Map Book 85, Page 187), thence N42°46'56"W – 17.00' to the southeast corner of Lot 116, Davenport Farms at Emerald Park Phase 5 (Map Book 86, Page 184), thence along the Phase 5 boundary N47°31'28"E – 106.19', thence N46°07'21"E – 60.02', thence N47°31'28"E – 105.00' to the True Point of Beginning, containing 4.1112 Acres and being all of Parcel Number 87176 as filed with the Pitt County Tax Assessor's Office.

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

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

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

Section 5. This annexation shall take effect from and after the 9th day of September, 2021.

ADOPTED this 9th day of September, 2021.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

NORTH CAROLINA
PITT COUNTY

I, Camillia P. Smith, a Notary Public for said County and State, certify that Valerie Shiuwegar personally came before me this day and acknowledged that she is the City Clerk of the City of Greenville, a municipality, and that by authority duly given and as the act of the municipality,

the foregoing instrument was signed in its name by its Mayor, sealed with the corporate seal, and attested by herself as its City Clerk.

WITNESS my hand and official seal this ____th day of _____, 2021.

Notary Public

My Commission Expires: _____

1151714



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Ordinance to annex The Dickinson involving 24.328 acres located between Dickinson Avenue and Greenville Boulevard and adjacent to Manning Forest Townhomes

Explanation: A. SCHEDULE

1. Advertising date: August 30, 2021
2. City Council public hearing date: September 9, 2021
3. Effective date: September 9, 2021

B. CHARACTERISTICS

1. Relation to primary city limits: Contiguous
2. Relation to recognized industrial area: Outside
3. Acres: 24.328
4. Voting District: 2
5. Township: Greenville
6. Zoning: R6 (Residential)
7. Existing land use: Farmland and two single-family residences
8. Anticipated land use: 324 multi-family units
9. Population estimate

	Formula	Number of people
Total current:	4 x 2.18*	4
Estimated at full development	324 x 2.18*	706
Current minority	4 x 43.4%	2
Estimated minority at full development	706 x 43.4%	306
Current white	4 - 2	2
Estimated white at full development	706 - 306	400

* average household size in Greenville (Source: Census.gov)

10. Rural fire tax district: Red Oak
11. Greenville fire district: Station 5 (3.0 miles)
12. Present tax value: \$1,088,950
13. Estimated tax value: \$64,000,000

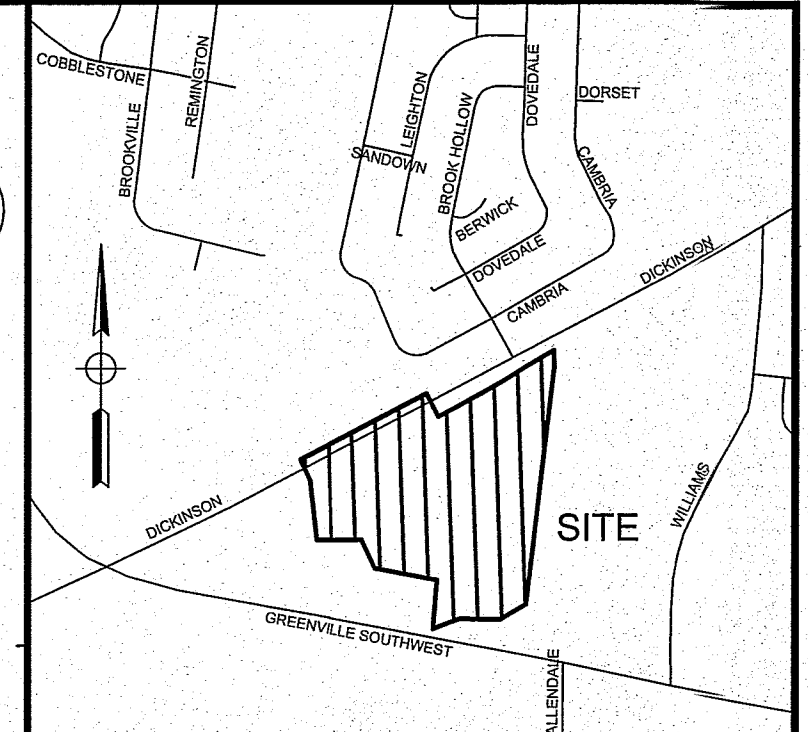
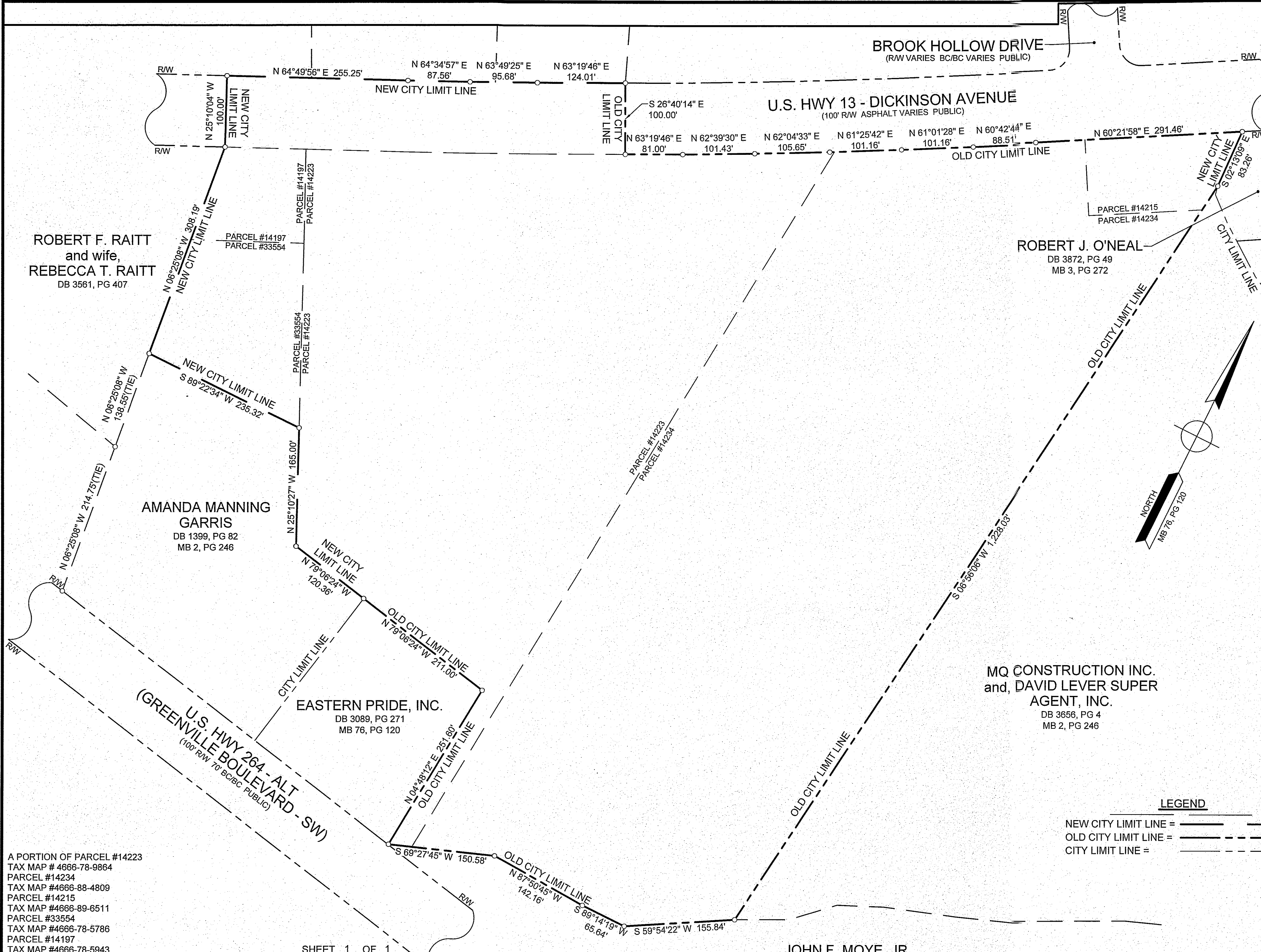
Fiscal Note: The total estimated tax value at full development is \$64,000,000.

Recommendation: Approve the attached ordinance to annex The Dickinson

ATTACHMENTS

-  [The Dickinson Survey.pdf](#)
-  [Ordinance_-_The_Dickinson_annex.pdf](#)

Y:\DRAWINGS\21-026 ELKS DEVELOPMENT LLC\DISKINSON AVENUE\ANNEXATION MAP.dwg Mon, Aug 02, 2021 8:55am RWELLS



SCALE: 1"=3000'±
VICINITY MAP

- LEGEND**
- EIP = EXISTING IRON PIPE
 - RW = RIGHT-OF-WAY
 - BC = BACK OF CURB
 - PC = POINT OF CURVATURE
 - PT = POINT OF TANGENCY

OWNER LIST

- OWNER: DIANNE MANNING**
(PARCEL #14197)
ADDRESS: 512 HOLDING OAKS COURT
WAKE FOREST, NC 27587
PHONE: (919) 269-1607
- OWNER: AMANDA MANNING GARRIS**
(PARCEL #33554 & PARCEL #14223)
ADDRESS: 1802 SW GREENVILLE BLVD.
GREENVILLE, NC 27834
PHONE: (252) 830-5442
- OWNER: KARL BROWN MANNING, ETAL.**
(PARCEL #33554 & PARCEL #14223)
ADDRESS: 3731 DICKINSON AVENUE
GREENVILLE, NC 27834
PHONE: (252) 229-2276

- LEGEND**
- NEW CITY LIMIT LINE =
 - OLD CITY LIMIT LINE =
 - CITY LIMIT LINE =

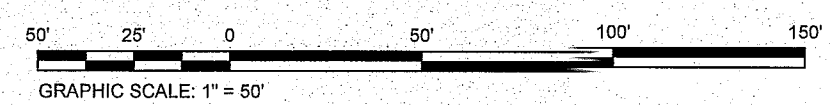
A PORTION OF PARCEL #14223
TAX MAP # 4666-78-9864
PARCEL #14234
TAX MAP #4666-88-4809
PARCEL #14215
TAX MAP #4666-89-6511
PARCEL #33554
TAX MAP #4666-78-5786
PARCEL #14197
TAX MAP #4666-78-5943

SHEET 1 OF 1

NOTES

- THIS IS A SURVEY OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXEMPTION OR EXCEPTION TO THE DEFINITION OF SUBDIVISION.
- ALL AREAS CALCULATED BY COORDINATE GEOMETRY.
- REFERENCE: BEING A PORTION OF THE PROPERTY DESCRIBED IN DEED BOOK 1399, PAGE 82; DEED BOOK 3284, PAGE 60; DEED BOOK V-53, PAGE 263; DEED BOOK B-29, PAGE 495 OF THE PITT COUNTY REGISTER OF DEEDS

JOHN F. MOYE, JR.
ESTATE FILE 2018-1026
MB 28, PG 112



CLOSURE CHECK BOUNDARY	
CHECKED: NRW	DATE: 07/30/2021

ANNEXATION MAP FOR
THE DICKINSON

REFERENCE: BEING A PORTION OF THE PROPERTY DESCRIBED IN DEED BOOK 1399, PAGE 82; DEED BOOK 3284, PAGE 60; DEED BOOK V-53, PAGE 263; DEED BOOK B-29, PAGE 495 OF THE PITT COUNTY REGISTER OF DEEDS
GREENVILLE TOWNSHIP, PITT COUNTY, N.C.

OWNER: SEE OWNER LIST

ADDRESS:

PHONE:

Baldwin Design Consultants, PA
LICENSE # C-3498
ENGINEERING - LAND PLANNING - SURVEYING
1700-D EAST ARLINGTON BOULEVARD
GREENVILLE, NC 27858 252.756.1390

SURVEYED: BM	APPROVED: MWB
DRAWN: NRW	DATE: 07/30/2021
CHECKED: MWB	SCALE: 1" = 100'

MAP NO.	PLATS RECORDED	MAP BOOK	PAGE
	MANNING SQUARE LOT 1	76	120

MAP SHOWING AREA ANNEXED BY
THE CITY OF GREENVILLE, N.C
(EFFECTIVE DATE _____ ORDINANCE # _____ AREA 24.328 AC.)
GREENVILLE TOWNSHIP, PITT COUNTY, N.C.

CERTIFICATION

I, MICHAEL W. BALDWIN CERTIFY THAT UNDER MY DIRECT SUPERVISION FROM AN ACTUAL FIELD SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK SEE , PAGE REFERENCE ETC.) (OTHER), THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK NA, PAGE NA. THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:10,000; THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH GS 47-30 AS AMENDED.

WITNESS MY HAND AND SEAL THIS 30th DAY OF JULY 2021

SIGNED:

REGISTRATION NO. L-8082

ORDINANCE NO. 21-
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville has been petitioned under G.S. 160A-31, as amended, to annex the area described herein; and

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

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at 6:00 p.m. on the 9th day of September, 2021, after due notice by publication in The Daily Reflector on the 30th day of August, 2021; and

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

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

Section 1. That by virtue of the authority vested in the City Council of the City of Greenville, North Carolina, under G. S. 160A-31, as amended, the following described contiguous territory is annexed:

TO WIT: Being all of that certain property as shown on the annexation map entitled "The Dickinson", involving 24.328 acres prepared by Baldwin Design Consultants, PA.

LOCATION: Situate in Greenville Township, Pitt County, North Carolina, located between Dickinson Avenue and Greenville Boulevard and adjacent to Manning Forest Townhomes.

GENERAL DESCRIPTION:

Beginning at a point on the southern right-of-way of US Hwy 13 – Dickinson Avenue, said point being the northeastern corner of the Robert F. Raitt and wife, Rebecca T. Raitt Property as described in Deed Book 3561, Page 407 of the Pitt County Register of Deeds. From the above-described beginning, so located, running thence as follows:

Crossing the right-of-way of US Hwy 13 – Dickinson Avenue, N 25°10'04" W 100.00' to a point on the northern right-of-way of US Hwy 13 – Dickinson Avenue, thence with the northern right-of-way of US Hwy 13 – Dickinson Avenue, N 64°49'56" E 255.25', N 64°34'57" E 87.56', N 63°49' 25" E 95.68' and N 63°19'46" E 124.01', thence crossing the right-of-way of US Hwy 13 – Dickinson Avenue, S 26°40'14" E 100.00' to a point on the southern right-of-way of US

Hwy 13 – Dickinson Avenue, thence with the southern right-of-way of US Hwy 13 – Dickinson Avenue, N 63°19'46" E 81.00', N 62°39'30" E 101.43', N 62°04'33" E 105.65', N 61°25'42" E 101.16', N 61°01'28" E 101.16', N 60°42'44" E 88.51', and N 60°21'58" E 291.46', thence leaving the southern right-of-way of US Hwy 13 – Dickinson Avenue, S 02°13'09" E 83.26', thence S 06°56'06" W 1,228.03', thence S 59°54'22" W 155.84', thence S 89°14'19" W 65.64', thence N 87°50'45" W 142.16', thence S 69°27'45" W 150.58', thence N 04°48'12" E 251.60', thence N 79°06'24" W 211.00', thence N 79°06'24" W 120.36', thence N 25°10'27" W 165.00', thence S 89°22'34" W 235.32', thence N 06°25'08" W 308.19' to the point of beginning containing 24.328 acres.

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

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

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

Section 5. This annexation shall take effect from and after the 9th day of September, 2021.

ADOPTED this 9th day of September, 2021.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

NORTH CAROLINA
PITT COUNTY

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

WITNESS my hand and official seal this ____th day of _____, 2021.

Notary Public

My Commission Expires: _____

1151575



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Ordinance to annex Cypress Pointe involving 113.5902 acres located along the northern right-of-way of Highway 33 East and adjacent to Rolling Meadows Subdivision

Explanation: ** This annexation is in conjunction with the Bill Clark Homes of Greenville rezoning request.

A. SCHEDULE

1. Advertising date: August 30, 2021
2. City Council public hearing date: September 9, 2021
3. Effective date: September 9, 2021

B. CHARACTERISTICS

1. Relation to primary city limits: Contiguous
2. Relation to recognized industrial area: Outside
3. Acres: 113.5902
4. Voting District: 4
5. Township: Simpson
6. Zoning: CG (General Commercial) and R6S (Residential-Single-family)
7. Existing land use: Farmland
8. Anticipated land use: 430 single-family lots and 58,000 sq. ft. of commercial space
9. Population estimate

	Formula	Number of people
Total current:	0	0
Estimated at full development	430 x 2.18*	937
Current minority	0	0
Estimated minority at full development	937 x 43.4%	407
Current white	0	0
Estimated white at full development	937 - 407	530

* average household size in Greenville (Source: Census.gov)




10. Rural fire tax district: Eastern Pines
11. Greenville fire district: Station 6 (3.0 miles)

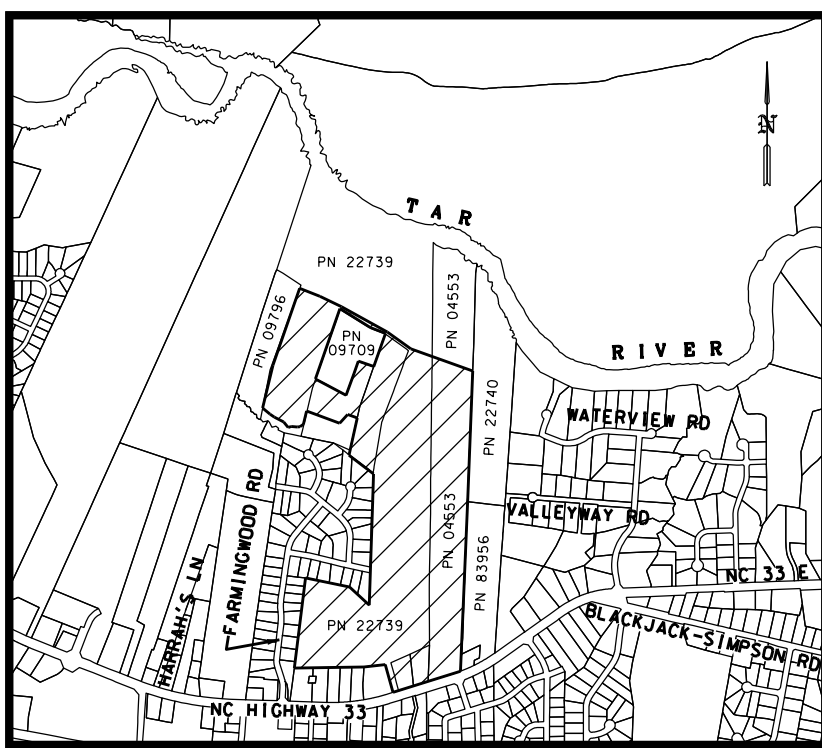
12. Present tax value: \$1,020,393
13. Estimated tax value: \$90,000,000

Fiscal Note: The total estimated tax value at full development is \$90,000,000.

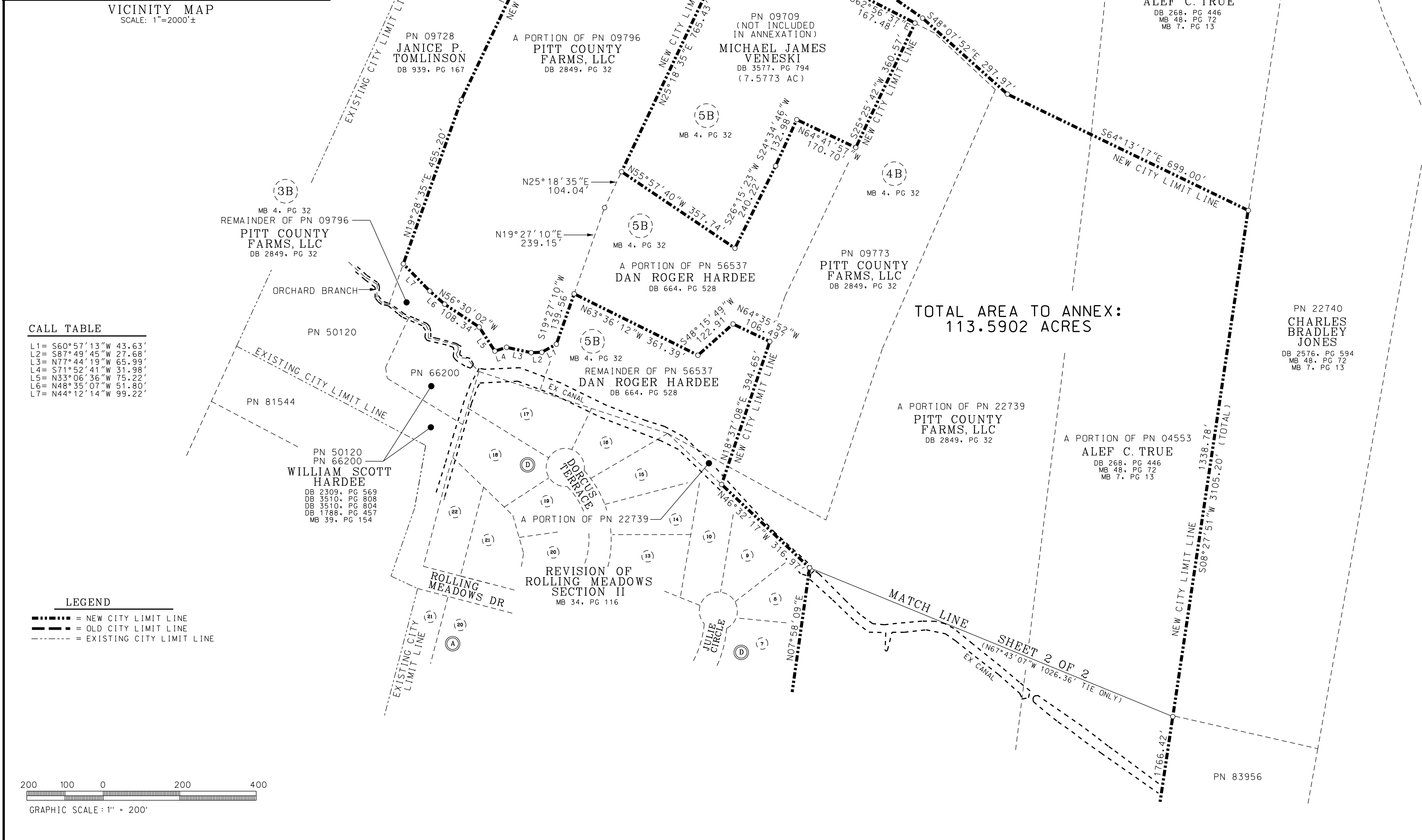
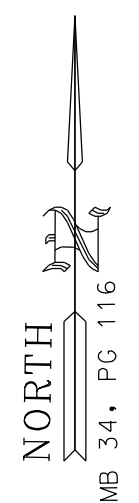
Recommendation: Approve the attached ordinance to annex Cypress Pointe

ATTACHMENTS

-  [Cypress survey 1 of 2.pdf](#)
-  [Cypress survey 2 of 2.pdf](#)
-  [Ordinance_-_Cypress_Pointe_annex.pdf](#)



VICINITY MAP
SCALE: 1"=2000'

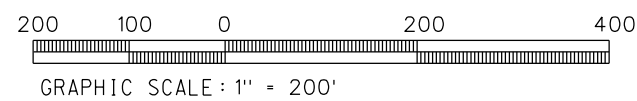


CALL TABLE

- L1= S60°57'13"W 43.63'
- L2= S87°49'45"W 27.68'
- L3= N77°44'19"W 65.99'
- L4= S71°52'41"W 31.98'
- L5= N33°06'36"W 75.22'
- L6= N48°35'07"W 51.80'
- L7= N44°12'14"W 99.22'

LEGEND

- NEW CITY LIMIT LINE
- OLD CITY LIMIT LINE
- EXISTING CITY LIMIT LINE



SHEET 1 OF 2

AREA PAGE 1: 54.8964 AC

CYPRESS POINTE		
GRIMESLAND TOWNSHIP	PITT COUNTY NORTH CAROLINA	
CLIENT: BILL CLARK HOMES OF GREENVILLE, LLC 200 E. ARLINGTON BLVD., SUITE A GREENVILLE, NC 27858 (252) 395-5805		
STROUD ENGINEERING, P.A. LICENSE NO. C-0647 107-B COMMERCE ST. GREENVILLE, NC 27858 (252) 756-9352	SURVEYED: DE/JD	APPROVED: DTB
	DRAWN: LHJ/DTB	DATE: 7/14/21
	CHECKED: DTB	SCALE: 1" = 200'

MAP NO.	MAPS RECORDED	BOOK	PAGE

MAP SHOWING AREA ANNEXED BY		
THE CITY OF GREENVILLE		
DATE	ORDINANCE NO.	113.5902 AC AREA

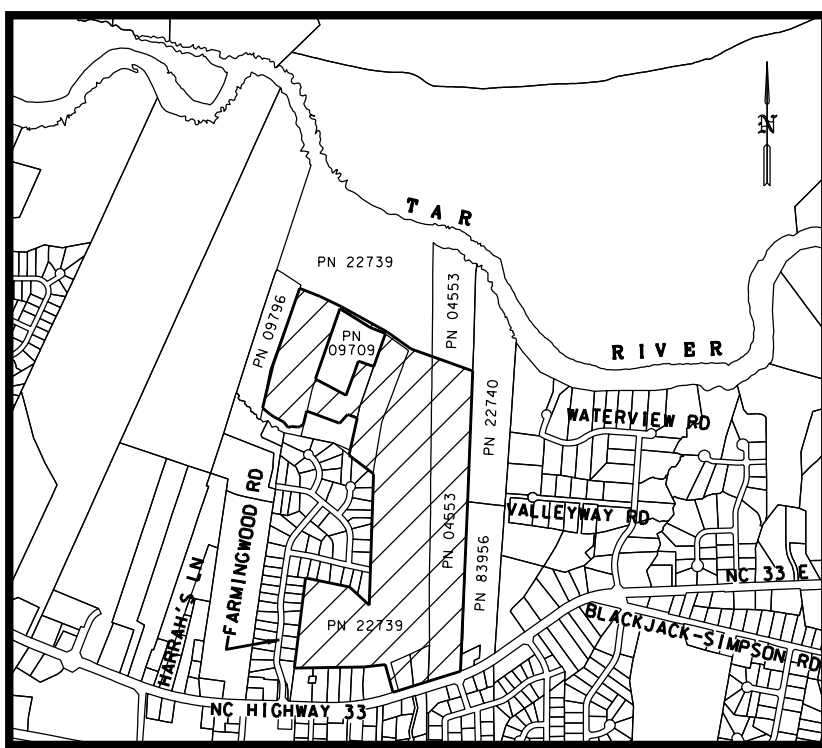
I, DEBORAH T. BOYETTE, CERTIFY THAT THIS MAP WAS DRAWN BY LISA H. JONES UNDER MY SUPERVISION FROM AN ACTUAL SURVEY BY D. ENGBRETSSEN; THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION FOUND IN DEEDS AND MAPS REFERENCED HEREON.

WITNESS MY HAND AND SEAL THIS _____ DAY OF _____, _____.

SIGNED _____
PROFESSIONAL LAND SURVEYOR L-_____

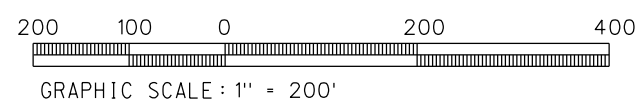
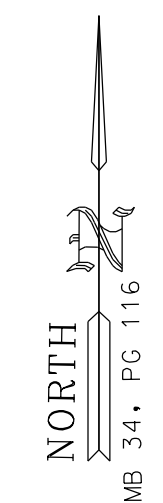
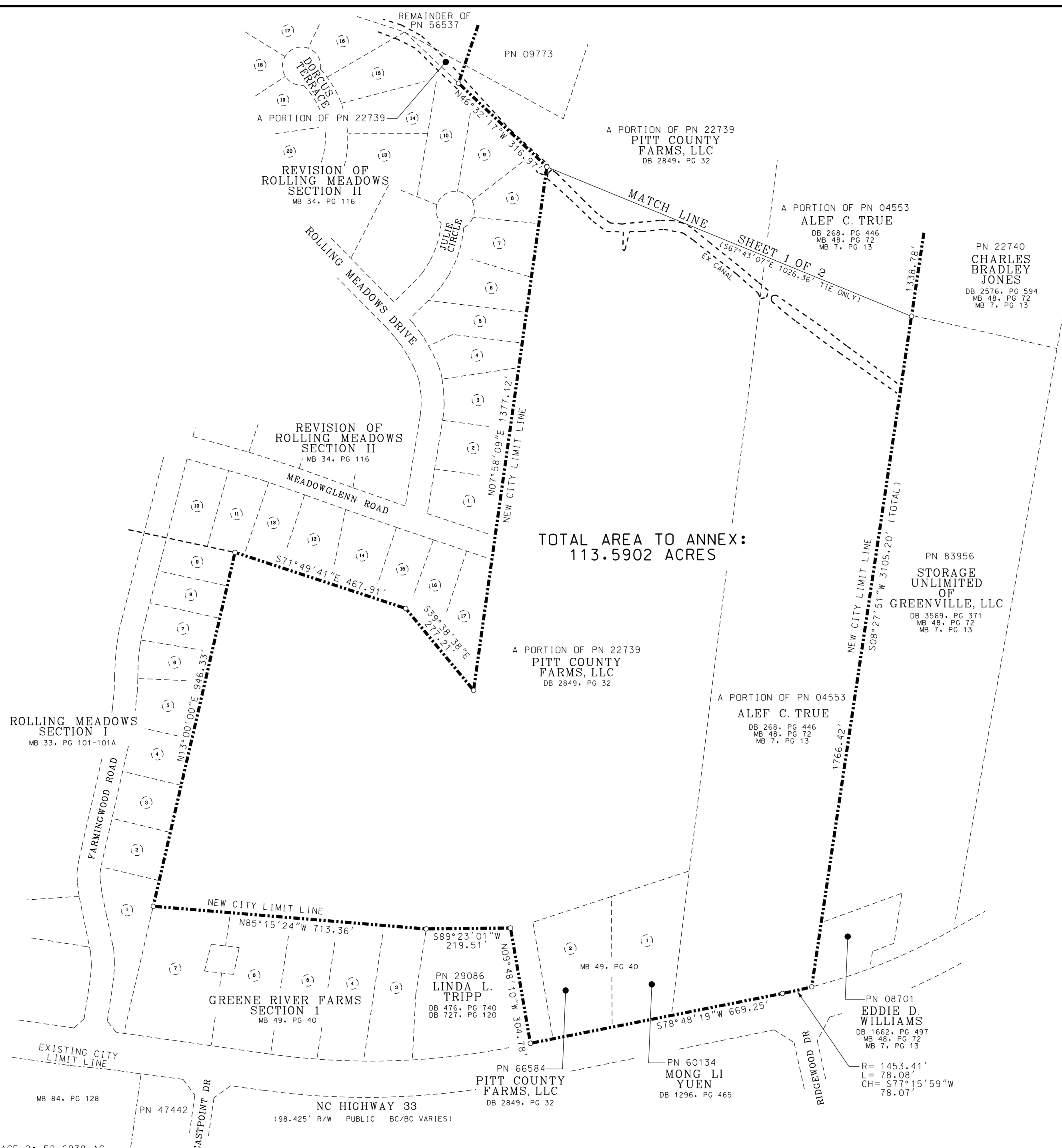
NORTH CAROLINA, _____ COUNTY
I, _____, NOTARY PUBLIC OF THE COUNTY AND STATE AFORESAID, CERTIFY THAT _____, A PROFESSIONAL LAND SURVEYOR, PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT. WITNESS MY HAND AND OFFICIAL STAMP OR SEAL THIS THE _____ DAY OF _____, 20____.

NOTARY PUBLIC _____
MY COMMISSION EXPIRES _____



VICINITY MAP
SCALE: 1"=2000'

LEGEND
 - - - - - = NEW CITY LIMIT LINE
 - - - - - = OLD CITY LIMIT LINE
 - - - - - = EXISTING CITY LIMIT LINE



SHEET 2 OF 2

AREA PAGE 2: 58.6938 AC

CYPRESS POINTE		
GRIMESLAND TOWNSHIP	PITT COUNTY NORTH CAROLINA	
CLIENT: BILL CLARK HOMES OF GREENVILLE, LLC 200 E. ARLINGTON BLVD., SUITE A GREENVILLE, NC 27858 (252) 395-5805		
STROUD ENGINEERING, P.A. LICENSE NO. C-0647 107-B COMMERCE ST. GREENVILLE, NC 27858 (252) 756-9352	SURVEYED: DE/JD DRAWN: LHJ/DTB CHECKED: DTB	APPROVED: DTB DATE: 7/14/21 SCALE: 1" = 200'

MAP NO.	MAPS RECORDED	BOOK	PAGE

MAP SHOWING AREA ANNEXED BY	
THE CITY OF GREENVILLE	
DATE	ORDINANCE NO.
113.5902 AC AREA	

I, DEBORAH T. BOYETTE, CERTIFY THAT THIS MAP WAS DRAWN BY LISA H. JONES UNDER MY SUPERVISION FROM AN ACTUAL SURVEY BY D. ENGBRETSSEN; THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION FOUND IN DEEDS AND MAPS REFERENCED HEREON.

WITNESS MY HAND AND SEAL THIS _____ DAY OF _____, _____.

SIGNED _____
PROFESSIONAL LAND SURVEYOR L-_____

NORTH CAROLINA, _____ COUNTY
I, _____, NOTARY PUBLIC OF THE COUNTY AND STATE AFORESAID, CERTIFY THAT _____, A PROFESSIONAL LAND SURVEYOR, PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT. WITNESS MY HAND AND OFFICIAL STAMP OR SEAL THIS THE _____ DAY OF _____, 20____.

NOTARY PUBLIC _____
MY COMMISSION EXPIRES _____

ORDINANCE NO. 21-
AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF
THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville has been petitioned under G.S. 160A-31, as amended, to annex the area described herein; and

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

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at 6:00 p.m. on the 9th day of September, 2021, after due notice by publication in The Daily Reflector on the 30th day of August, 2021; and

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

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

Section 1. That by virtue of the authority vested in the City Council of the City of Greenville, North Carolina, under G. S. 160A-31, as amended, the following described contiguous territory is annexed:

TO WIT: Being all of that certain property as shown on the annexation map entitled "Cypress Pointe" involving 113.5902 acres prepared by Stroud Engineering.

LOCATION: Situate in Simpson Township, Pitt County, North Carolina, located along the northern right-of-way of Highway 33 East and adjacent to Rolling Meadows Subdivision.

GENERAL DESCRIPTION:

Lying and being in Simpson Township, Pitt County, North Carolina, lying south of the Tar River, east of Farmingwood Road and north of NC Highway 33 and being more particularly described as follows:

Beginning at a point in the eastern line of Lot 1, Block B, Rolling Meadows, Section I as recorded in Map Book 33, Pages 101-101A, said point being the northwest corner of Lot 7, Greene River Farms, Section 1 as recorded in Map Book 49, Page 40 of the Pitt County Registry, the True Point of Beginning.

Thence from the True Point of Beginning, leaving Lot 7, Greene River Farms, Section 1 and following the eastern boundary of Rolling Meadows, Section I N13-00-00E – 946.33’ to the northeast corner of Lot 9, Block B, Rolling Meadows, Section I, thence leaving Lot 9 and following the boundary of Revision of Rolling Meadows, Section II as recorded in Map Book 34, Page 116 of the Pitt County Registry the following calls: S71-49-41E – 467.91’, thence S39-38-38E – 277.21’, thence N07-58-09E – 1377.12’ to the northeast corner of Lot 8, Block D, Revision of Rolling Meadows, Section II, thence N46-32-17W – 316.97’ to a point in the northern line of Lot 10, Block D, Rolling Meadows, Section II, thence leaving the Rolling Meadows boundary, crossing a small portion of PN 22739 and then following the eastern line of the Dan Roger Hardee property as recorded in Deed Book 664, Page 528 (PN 56537), N18-37-08E – 394.65’, thence through the lands of Dan Roger Hardee the following calls: N64-35-52W – 106.49’, thence S48-15-49W – 122.91’, thence N63-36-12W – 361.39’ to the common line of Dan Roger Hardee and Pitt County Farms, LLC (Deed Book 2849, Page 32, PN 09796), thence along their common line S19-27-10W – 139.56’, thence with a line through the lands of Pitt County Farms, LLC and along an existing path the following calls: S60-57-13W – 43.63’, thence S87-49-45W – 27.68’, thence N77-44-19W – 65.99’, thence S71-52-41W – 31.98’, thence N33-06-36W – 75.22’, thence N56-30-02W – 108.34’, thence N48-35-07W – 51.80’, thence N44-12-14W – 99.22’ to the eastern line of Janice P. Tomlinson (Deed Book 939, Page 167, PN 09728), thence along the eastern line of Tomlinson N19-28-35E – 455.20’, thence N25-18-35E – 835.89’ to a point in the southern line of Pitt County Farms, LLC (Deed Book 2849, Page 32, Map Book 48, Page 72, PN 22739), thence along the boundary of Pitt County Farms, LLC S62-31-33E – 224.06’, thence S57-51-32E – 245.76’, thence S55-08-08E – 538.39’, thence S48-07-52E – 297.97’, thence S64-13-17E – 699.00’ crossing Pitt County Farms, LLC property and crossing the property of Alef C. True (Deed Book 268, Page 446, Map Book 7, Page 13, PN 04553) to the western boundary of Charles Bradley Jones (Deed Book 2576, Page 594, Map Book 48, Page 72, PN 22740), thence along the western line of Jones, the western line of Storage Unlimited of Greenville, LLC (Deed Book 3569, Page 371, PN 83956) and Eddie D. Williams (Deed Book 1662, Page 497, PN 08701) S08-27-51W – 3105.20’ to the northern right-of-way of NC Highway 33 (98.425’ right-of-way), thence along the right-of-way of NC Highway 33 with a curve to the right having a radius of 1,453.41’ and a chord bearing of S77-15-59W – 78.07’, thence S78-48-19W – 669.25’ to the southeast corner of the Linda L. Tripp property (Deed Book 476, Page 740, Deed Book 727, Page 120, PN 29086), thence leaving the northern right-of-way of NC Highway 33 and following the Tripp line N09-48-10W – 304.78’, thence S89-23-01W – 219.51’ to the northeast corner of Lot 3, Greene River Farms, Section 1 (Map Book 49, Page 40), thence along the northern line of Greene River Farms, Section 1 N85-15-24W – 713.36’ to the northwest corner of Lot 7, Greene River Farms, Section 1, the True Point of Beginning, containing 113.5902 Acres.

Less and except the property of Michael James Veneski as recorded in Deed Book 3577, Page 794 and listed as PN 09709. The Veneski property is described as follows: Beginning at a point in the northern line of Lot 10, Block D, Revision of Rolling Meadows, Section II (Map Book 34, Page 116), thence from said point, crossing a small portion of PN 22739 and then following the eastern line of the Dan Roger Hardee property as described in Deed Book 664, Page 528 N18-37-08e – 394.65’, thence through the lands of Dan Roger Hardee N64-35-52W – 106.49’, thence S48-15-49W – 122.91’, thence N63-36-12W – 361.39’, thence along the western line of Hardee as described in Deed Book 664, Page 528 N19-27-10E – 239.15’, thence N25-18-35E – 104.04’ to the westernmost corner of the Michael James Veneski property, the True Point of Beginning. Thence from the True Point of Beginning, following the boundary of the Veneski property the following calls: N25-18-35E – 765.43’, thence S52-01-36E – 368.89’, thence S62-56-37E – 167.48’, thence S25-25-42W – 360.57’, thence N64-41-57W – 170.70’, thence S24-34-46W – 132.98’, thence S26-15-23W – 240.22’, thence N55-57-40W – 357.74’ to the True Point of Beginning, containing 7.5773 Acres and being all of Parcel Number 09709.

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

Section 3. The territory annexed and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Greenville and shall be entitled to the

same privileges and benefits as other territory now within the City of Greenville. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

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

Section 5. This annexation shall take effect from and after the 9th day of September, 2021.

ADOPTED this 9th day of September, 2021.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

NORTH CAROLINA
PITT COUNTY

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

WITNESS my hand and official seal this ____th day of _____, 2021.

Notary Public

My Commission Expires: _____

1151418



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item:

Ordinance requested by Bill Clark Homes of Greenville to rezone a total of 113.5902 acres located along the northern right-of-way of Highway 33 East and adjacent to Rolling Meadows Subdivision from RR (Rural-Residential) Pitt County's Jurisdiction and AR (Agricultural-Residential) - Simpson's Jurisdiction to R6S (Residential-Single [Medium Density] for 107.0381 acres (Tract 1) and from GB (General Business) – Simpson's Jurisdiction to GC (General Commercial) – Greenville's Jurisdiction for 6.5521 acres (Tract 2)

Explanation:**Required Notices:**

Planning and Zoning meeting notice (property owner and adjoining property owner letter) mailed on August 3, 2021.

On-site sign(s) posted on August 3, 2021.

City Council public hearing notice (property owner and adjoining property owner letter) mailed on August 24, 2021.

Public hearing legal advertisement published on August 30, 2021 and September 6, 2021.

Comprehensive Plan:

The Future Land Use and Character Map recommends traditional neighborhood, medium-high density (TNMH) north of the intersection of Highway 33 East and L. T. Hardee Road transitioning to the residential, low-medium density (LMDR) and traditional neighborhood, low-medium density (TNLM) and commercial (C) along the northern right-of-way of Highway 33 East. Further, potential conservation/open space (PCOS) is shown along the Tar River.

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)

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 the possible uses permitted in the requested zoning, the proposed rezoning classification could generate 6,525 trips to and from the site on Highway 33 East, which is a net increase of 2,260 additional trips per day along Dickinson Avenue. A traffic impact analysis will be required to determine what measures are needed to mitigate traffic.

History/Background:

This request is in conjunction with a Future Land Use Map Amendment that was recommended for approval by the Planning and Zoning Commission on July 22, 2021 and was approved by City Council on August 12, 2021.

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 is located in the Tar River Watershed. If stormwater rules apply, it would require 10-year detention, nitrogen and phosphorus reduction.

A portion of the property is located in the Special Flood Hazard Area and Floodway. A Floodplain Development Permit and Erosion Control Plan will be required for impact in the floodplain. Jurisdictional wetlands, streams and riparian buffers may exist on the property.

Surrounding Land Uses and Zoning:

North: RR and AR: Farmland and woodlands

South: GB - Two (2) commercial strip centers, Newbold Construction, 33 East Auto Sales, Greenville Awning and Canopy and Custom Doors and Gate

East: AR - Farmland, one (1) single-family residence and Storage Unlimited (mini-storage)

West: RR- Farmland and Rolling Meadows Subdivision

Density Estimates:

Total acreage: 113.5902

Tract 1: 107.0381 acres

Current Zoning: RR (Rural Residential)

Proposed Zoning: R6S (Residential – Single-family)

Under the current zoning, the site could accommodate 198 single-family lots.

Under the proposed zoning, the site could accommodate 433 single-family lots.

Tract 2: 6.5521 acres

Current Zoning: GB (General Business)

Proposed Zoning: CG (General Commercial)

Under the current zoning, the site could accommodate 54,000+/- square feet of commercial space consisting of one (1) freestanding convenience store - 1,500 sq. ft. and a strip center containing: retail - 6,000 sq. ft., sit down restaurant 2,000 sq. ft., fast food [no drive-thru] - 1,500 sq. ft., office - 2,000 sq. ft., and mini-storage – 41,000 sq. ft.

Under the proposed zoning, the site could accommodate 58,000+/- square feet of commercial space consisting of one (1) freestanding convenience store - 1,500 sq. ft. and a strip center containing: retail - 6,000 sq. ft., sit down restaurant 2,000 sq. ft., fast food [no drive-thru] - 1,500 sq. ft., office - 2,000 sq. ft., and mini-storage – 45,000 sq. ft.

The anticipated build-out is within 5-7 years.

Fiscal Note:

No cost to the City.

Recommendation:

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

"In compliance with the comprehensive plan" should be construed as meaning the requested zoning is (i) either specifically recommended in the text of the Horizons Plan (or addendum to the plan) or is predominantly or completely surrounded by the same or compatible and desirable zoning and (ii) promotes the

desired urban form. The requested district is considered desirable and in the public interest, and staff recommends approval of the requested rezoning.

The Planning and Zoning Commission voted unanimously to approve the request at its August 17, 2021 meeting.









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

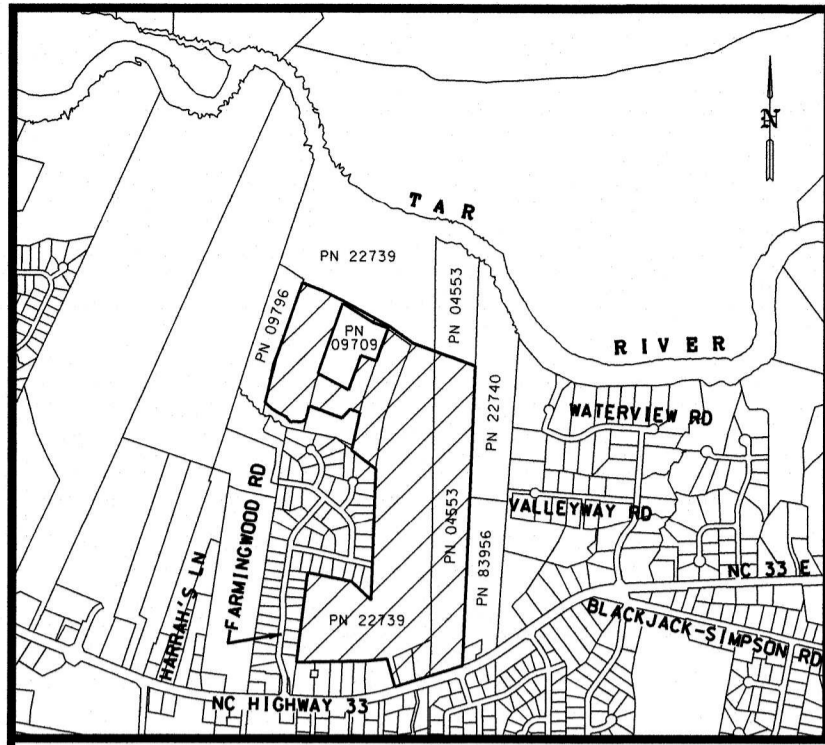
If City Council determines to deny the rezoning request, in order to comply with this statutory requirement, it is recommended that the motion be as follows:

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

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

ATTACHMENTS

-  [Bill Clark apo map.pdf](#)
-  [Bill Clark Homes survey.pdf](#)
-  [Ordinance_-_Bill_Clark_Home_rezoning.pdf](#)
-  [Minutes_Bill_Clark_Homes_RZ.pdf](#)
-  [Bill Clark traffic.pdf](#)
-  [Existing Rezoning List of Uses.pdf](#)
-  [R6, CG.pdf](#)
-  [Density and Veg Charts.pdf](#)



VICINITY MAP
SCALE: 1"=2000'±

CALL TABLE

- L1= S60°57'13"W 43.63'
- L2= S87°49'45"W 27.68'
- L3= N77°44'19"W 65.99'
- L4= S71°52'41"W 31.98'
- L5= N33°06'36"W 75.22'
- L6= N48°35'07"W 51.80'
- L7= N44°12'14"W 99.22'

PN 09728
JANICE P. TOMLINSON
DB 939, PG 167

REMAINDER OF PN 09796
PITT COUNTY FARMS, LLC
DB 2849, PG 32

PN 66200
WILLIAM SCOTT HARDEE
DB 2309, PG 569
DB 3510, PG 808
DB 3510, PG 804
DB 1788, PG 457
MB 39, PG 154

REVISION OF ROLLING MEADOWS SECTION II
MB 34, PG 116

PN 09709 (NOT INCLUDED IN REZONING)
MICHAEL JAMES VENESKI
DB 3577, PG 794
(7.5773 AC)

A PORTION OF PN 56537
DAN ROGER HARDEE
DB 664, PG 528

PN 09773
PITT COUNTY FARMS, LLC
DB 2849, PG 32

A PORTION OF PN 22739
PITT COUNTY FARMS, LLC
DB 2849, PG 32
MB 48, PG 72

A PORTION OF PN 04553
ALEF C. TRUE
DB 268, PG 446
MB 48, PG 72
MB 7, PG 13

PN 22740
CHARLES BRADLEY JONES
DB 2576, PG 594
MB 48, PG 72
MB 7, PG 13

REMAINDER OF PN 22739
PITT COUNTY FARMS, LLC
DB 2849, PG 32
MB 48, PG 72

REMAINDER OF PN 04553
ALEF C. TRUE
DB 268, PG 446
MB 48, PG 72
MB 7, PG 13



I, DEBORAH T. BOYETTE, CERTIFY THAT THIS MAP WAS DRAWN BY LISA H. JONES UNDER MY SUPERVISION FROM AN ACTUAL SURVEY BY D. ENGBRETTSEN; THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION FOUND IN DEEDS AND MAPS REFERENCED HEREON.

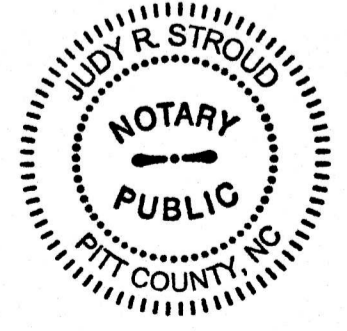
WITNESS MY HAND AND SEAL THIS 26th DAY OF JULY, 2021.

SIGNED *Deborah T. Boyette*
PROFESSIONAL LAND SURVEYOR L-4146

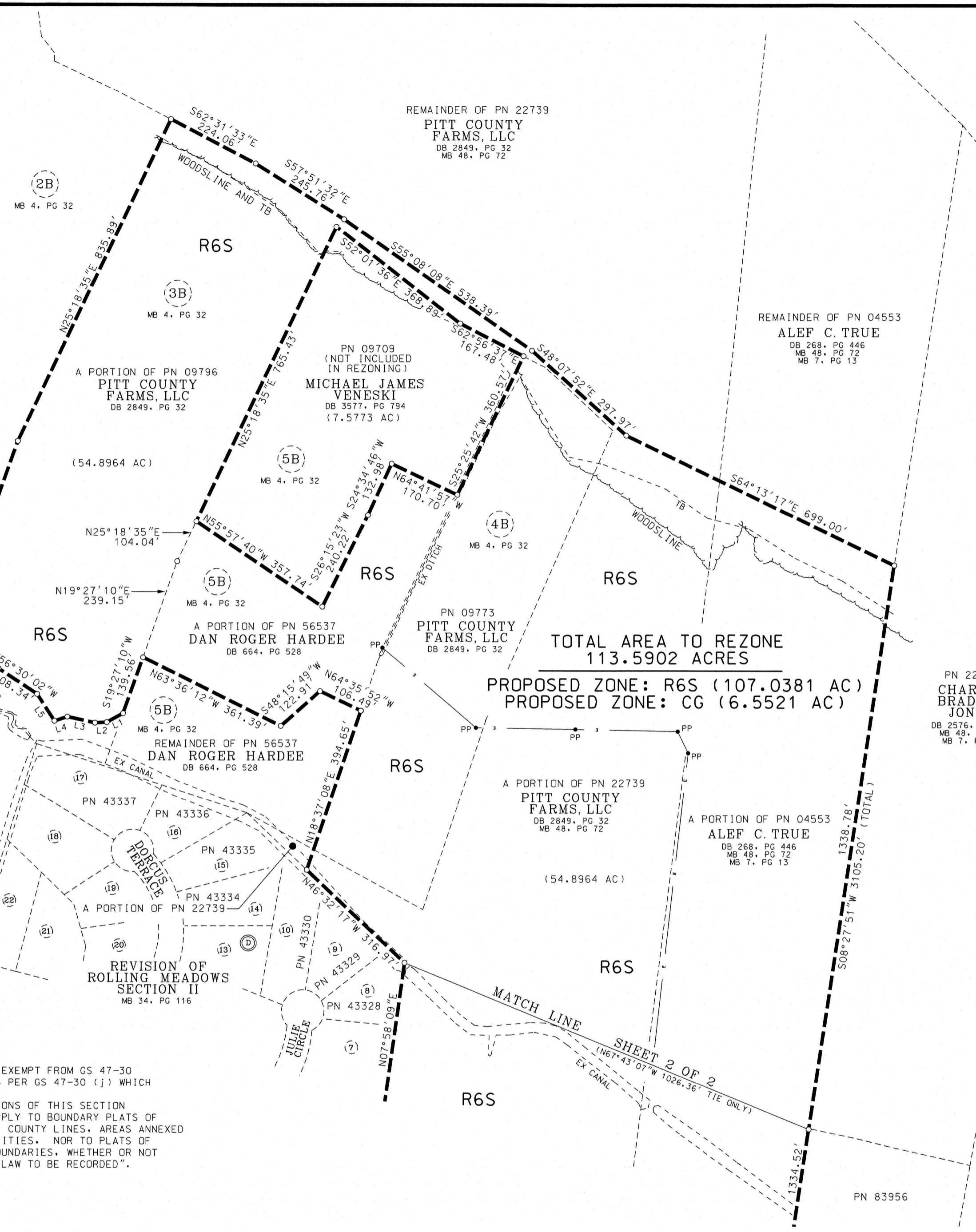
NORTH CAROLINA, PITT COUNTY
I, *Judy R. Stroud*, NOTARY PUBLIC OF THE COUNTY AND STATE AFORESAID, CERTIFY THAT DEBORAH T. BOYETTE, A PROFESSIONAL LAND SURVEYOR, PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT. WITNESS MY HAND AND OFFICIAL SEAL THIS THE 26th DAY OF JULY, 2021.

NOTARY PUBLIC *Judy R. Stroud*
MY COMMISSION EXPIRES 2/23/2025

THIS MAP IS EXEMPT FROM GS 47-30 REQUIREMENTS PER GS 47-30 (j) WHICH STATES:
"THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO BOUNDARY PLATS OF STATE LINES, COUNTY LINES, AREAS ANNEXED BY MUNICIPALITIES, NOR TO PLATS OF MUNICIPAL BOUNDARIES, WHETHER OR NOT REQUIRED BY LAW TO BE RECORDED".

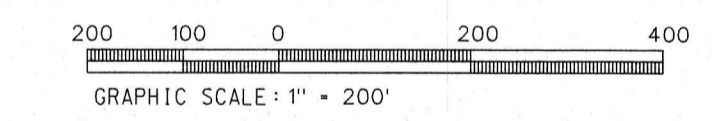


P1730-001 P1730-001 REZONE PG 1.DGN DWG NO 005 R1



TOTAL AREA TO REZONE
113.5902 ACRES

PROPOSED ZONE: R6S (107.0381 AC)
PROPOSED ZONE: CG (6.5521 AC)



TOTAL AREA TO REZONE: 113.5902 AC

SHEET 1 OF 2 AREA PAGE 1: 54.8964 AC

REZONING MAP FOR CYPRESS POINTE	
GRIMESLAND TOWNSHIP PITT COUNTY NORTH CAROLINA	
CLIENT: BILL CLARK HOMES OF GREENVILLE, LLC	SURVEYED: DE/JD
ADDRESS: 200 E. ARLINGTON BLVD., SUITE A GREENVILLE, NC 27858	DRAWN: LHJ
PHONE: (252) 355-5805	APPROVED: DTB
 STROUD ENGINEERING, P.A. 107B COMMERCE ST. GREENVILLE, NC (252) 756-9352	DATE: 7/14/21
	SCALE: 1" = 200'
	SHEET 1 OF 2
LICENSE NO. C-0647	

REVISED 07/26/21

ORDINANCE NO. 21-
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREENVILLE
REZONING TERRITORY LOCATED WITHIN THE PLANNING AND ZONING
JURISDICTION OF THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 6, Chapter 160D, of the General Statutes of North Carolina, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on the 9th day of September, 2021, at 6:00 p.m., conduct a public hearing on the adoption of an ordinance rezoning the following described territory;

WHEREAS, the City Council has been informed of and has considered all of the permitted and special uses of the districts under consideration;

WHEREAS, in accordance with the applicable provisions of North Carolina General Statute 160D-605, the City Council does hereby find and determine that the adoption of the ordinance zoning the following described property is consistent with the adopted comprehensive plan and other officially adopted plans that are applicable and that the adoption of the ordinance zoning the following described property is reasonable and in the public interest due to its consistency with the comprehensive plan and other officially adopted plans that are applicable and, as a result, its furtherance of the goals and objectives of the comprehensive plan and other officially adopted plans that are applicable;

WHEREAS, as a further description as to why the action taken is consistent with the comprehensive plan and other officially adopted plans that are applicable in compliance with the provisions of North Carolina General Statute 160D-605, the City Council of the City of Greenville does hereby find and determine that the adoption of this ordinance is consistent with provisions of the comprehensive plan including, but not limited to, Policy 1.1.1 guide development with the Future Land Use and Character Map and Policy 1.1.6 guide development using the Tiered Growth Approach; and

WHEREAS, as a further explanation as to why the action taken is reasonable and in the public interest in compliance with the applicable provisions of North Carolina General Statute 160D-605, the City Council of the City of Greenville does hereby find and determine that the adoption of this ordinance will, in addition to the furtherance of other goals and objectives, promote the safety and general welfare of the community because the requested zoning is consistent with the recommended Future Land Use and Character Map and is located in a Secondary Service Area;

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

Section 1. That the following described territory is rezoned from GB (General Business) - Simpson's Jurisdiction to CG (General Commercial) – City's Jurisdiction.

TO WIT: Pitt County Farms, LLC, Alef C. True, Mong Li Yuen properties (Tract 1)

LOCATION: Located north of Highway 33 East and 1,100+/- feet east of Farmingwood Road

DESCRIPTION: Lying and being in Simpson Township, Pitt County, North Carolina, lying south of the Tar River, east of Farmingwood Road and north of NC Highway 33 and being more particularly described as follows:

Beginning at a point in the eastern line of Lot 1, Block B, Rolling Meadows, Section I as recorded in Map Book 33, Pages 101-101A, said point being the northwest corner of Lot 7, Greene River Farms, Section 1 as recorded in Map Book 49, Page 60 of the Pitt County Registry, thence leaving Lot 1, Block B, Rolling Meadows, Section I and following the northern line of Greene River Farms, Section 1 (Map Book 49, Page 40) S85-15-24E – 713.36’ to the northwest corner of the Linda L. Tripp property (Deed Book 476, Page 740, Deed Book 727, Page 120, PN 29086), thence following the Tripp line N89-23-01E – 219.51’ to the northeast corner of the Linda L. Tripp property, The True Point of Beginning.

Thence from the True Point of Beginning, leaving the northeast corner of the Linda L. Tripp property, crossing the lands of Pitt County Farms, LLC (Deed Book 2849, Page 32) N75-31-22E – 60.20’ to the northwest corner of Lot 2, Greene River Farms, Section 1 (Map Book 49, Page 40), thence along the northern line of Green River Farms, Section 1 and across the lands of Alef C. True N71-50-52E – 831.20’ to a point in the western line of Storage Unlimited of Greenville, LLC (Deed Book 3569, Page 371, PN 83956), thence along the western line of Storage Unlimited of Greenville, LLC (Deed Book 3569, Page 371, PN 83956) and Eddie D. Williams (Deed Book 1662, Page 497, PN 08701) S08-27-51W – 431.90’ to the northern right-of-way of NC Highway 33 (98.425’ right-of-way), thence along the right-of-way of NC Highway 33 with a curve to the right having a radius of 1453.41’ and a chord bearing of S77-15-59W – 78.07’, thence S78-48-19W – 669.25’ to the southeast corner of the Linda L. Tripp property (Deed Book 476, Page 740, Deed Book 727, Page 120, PN 29086), thence leaving the northern right-of-way of NC Highway 33 and following the Tripp line N09-48-10W – 304.78’ to the True Point of Beginning, containing 6.5521 Acres, being all of Parcel Number 66584, Parcel Number 60134, and a portion of Parcel Number 22739 and Parcel Number 04553.

Section 2. That the following described territory is rezoned from RR (Rural-Residential) Pitt County’s Jurisdiction and AR (Agricultural-Residential) - Simpson’s Jurisdiction to R6S (Residential-Single [Medium Density) – City’s Jurisdiction.

TO WIT: Pitt County Farms, LLC, Dan Roger Hardee, Alef C. True, properties (Tract 2)

LOCATION: Located north of Highway 33 East and adjacent to Rolling Meadows Subdivision.

DESCRIPTION: Lying and being in Simpson Township, Pitt County, North Carolina, lying south of the Tar River, east of Farmingwood Road and north of NC Highway 33 and being more particularly described as follows:

Beginning at a point in the eastern line of Lot 1, Block B, Rolling Meadows, Section I as recorded in Map Book 33, Pages 101-101A, said point being the northwest corner of Lot 7, Greene River Farms, Section 1 as recorded in Map Book 49, Page 60 of the Pitt County Registry, the True Point of Beginning.

Thence from the True Point of Beginning, leaving Lot 7, Greene River Farms, Section 1 and following the eastern boundary of Rolling Meadows, Section I N 13-00-00E – 946.33' to the northeast corner of Lot 9, Block B, Rolling Meadows, Section I, thence leaving Lot 9 and following the boundary of Revision of Rolling Meadows, Section II as recorded in Map Book 34, Page 116 of the Pitt County Registry the following calls: S71-49-41E – 467.91', thence S39-38-38E – 277.21', thence N07-58-09E – 1377.12' to the northeast corner of Lot 8, Block D, Revision of Rolling Meadows, Section II, thence N46-32-17W – 316.97' to a point in the northern line of Lot 10, Block D, Rolling Meadows, Section II, thence leaving the Rolling Meadows boundary, crossing a small portion of PN 22739 and then following the eastern line of the Dan Roger Hardee property as recorded in Deed Book 664, Page 528 (PN 56537), N18-37-08E – 394.65', thence through the lands of Dan Roger Hardee the following calls: N64-35-52W – 106.49', thence S48-15-49W – 122.91', thence N63-36-12W – 361.39' to the common line of Dan Roger Hardee and Pitt County Farms, LLC (Deed Book 2849, Page 32, PN 09796), thence along their common line S19-27-10W – 139.56', thence with a line through the lands of Pitt County Farms, LLC and along an existing path the following calls: S60-57-13W – 43.63', thence S87-49-45W – 27.68', thence N77-44-19W – 65.99', thence S71-52-41W – 31.98', thence N33-06-36W – 75.22', thence N56-30-02W – 108.34', thence N48-35-07W – 51.80', thence N44-12-14W – 99.22' to the eastern line of Janice P. Tomlinson (Deed Book 939, Page 167, PN 09728), thence along the eastern line of Tomlinson N19-28-35E – 455.20', thence N25-18-35E – 835.89' to a point in the southern line of Pitt County Farms, LLC (Deed Book 2849, Page 32, Map Book 48, Page 72, PN 22739), thence along the boundary of Pitt County Farms, LLC S62-31-33E – 224.06', thence S57-51-32E – 245.76', thence S55-08-08E – 538.39', thence S48-07-52E – 297.97', thence S64-13-17E – 699.00' crossing Pitt County Farms, LLC property and crossing the property of Alef C. True (Deed Book 268, Page 446, Map Book 7, Page 13, PN 04553) to the western boundary of Charles Bradley Jones (Deed Book 2576, Page 594, Map Book 48, Page 72, PN 22740), thence along the western line of Jones and the western line of Storage Unlimited of Greenville, LLC (Deed Book 3569, Page 371, PN 83956) S08-27-51W – 2673.30' to a point in the western line of Storage Unlimited of Greenville, LLC, thence crossing Alef C. True S71-50-52W – 831.20' to the northwest corner of Lot 2, Greene River Farms, Section 1 (Map Book 49, Page 40), thence leaving Lot 2 and crossing the lands of Pitt County Farms, LLC (Deed Book 2849, Page 32) S75-31-22W – 60.20' to the northeast corner of the Linda L. Tripp property (Deed Book 476, Page 740, Deed Book 727, Page 120, PN 29086), thence following the Tripp line S89-23-01W – 219.51' to the northeast corner of Lot 3, Greene River Farms, Section 1 (Map Book 49, Page 40), thence along the northern line of Greene River Farms, Section 1 N85-15-24W – 713.36' to the northwest corner of Lot 7, Greene River Farms, Section 1, the True Point of Beginning, containing 107.0381 Acres to be rezoned to R6S.

The acreage of 107.0381 is Less and except the property of Michael James Veneski as recorded in Deed Book 3577, Page 794 and listed as PN 09709. The Veneski property is described as follows: Beginning at a point in the northern line of Lot 10, Block D, Revision of Rolling Meadows, Section II (Map Book 34, Page 116), thence from said point, crossing a small portion of PN 22739 and then following the eastern line of the Dan Roger Hardee property as described in Deed Book 664, Page 528 N18-37-08e – 394.65’, thence through the lands of Dan Roger Hardee N64-35-52W – 106.49’, thence S48-15-49W – 122.91’, thence N63-36-12W – 361.39’, thence along the western line of Hardee as described in Deed Book 664, Page 528 N19-27-10E – 239.15’, thence N25-18-35E – 104.04’ to the westernmost corner of the Michael James Veneski property, the True Point of Beginning.

Thence from the True Point of Beginning, following the boundary of the Veneski property the following calls: N25-18-35E – 765.43’, thence S52-01-36E – 368.89’, thence S62-56-37E – 167.48’, thence S25-25-42W – 360.57’, thence N64-41-57W – 170.70’, thence S24-34-46W – 132.98’, thence S26-15-23W – 240.22’, thence N55-57-40W – 357.74’ to the True Point of Beginning, containing 7.5773 Acres and being all of Parcel Number 09709.

Section 3. That the Director of Planning and Development Services is directed to amend the zoning map of the City of Greenville in accordance with this ordinance.

Section 4. That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 5. That this ordinance shall become effective upon its adoption.

ADOPTED this 9th day of September, 2021.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

1151724

Excerpt from the draft Planning & Zoning Commission Minutes (8/17/21)

REQUEST BY BILL CLARK HOMES OF GREENVILLE TO REZONE A TOTAL OF 113.5902 ACRES LOCATED ALONG THE NORTHERN RIGHT-OF-WAY OF HIGHWAY 33 EAST AND ADJACENT TO ROLLING MEADOWS SUBDIVISION FROM RR (RURAL-RESIDENTIAL) PITT COUNTY'S JURISDICTION AND AR (AGRICULTURAL-RESIDENTIAL) – SIMPSON'S JURISDICTION TO R6S (RESIDENTIAL-SINGLE [MEDIUM DENSITY]) FOR 107.0381 ACRES (TRACT 1) AND FROM GB (GENERAL BUSINESS) – SIMPSON'S JURISDICTION TO GC (GENERAL COMMERCIAL) – GREENVILLE'S JURISDICTION FOR 6.5521 ACRES (TRACT 2).

Chantae Gooby presented for staff. The property is located beyond the eastern section of the city and consists of about 113 acres. This request is for two tracts: the first tract is for 6.5 acres with a request for General Commercial and the remaining portion is for about 107 acres with a request for R6S. This property is located in the Tar River Watershed and would require 10-year detention. A portion of the property is located in a special flood hazard area and the floodway along the northern property line. A Floodplain Development Permit and an Erosion Control Plan will be required. Jurisdictional wetlands, streams and riparian buffers may exist on the property. This rezoning may generate a net increase of about 2,200 trips per day and a traffic impact analysis is required by the City and DOT. Currently, the property is in Pitt County and Simpson's Jurisdictions. It is zoned RR (Rural Residential) and AR (Agricultural Residential). Under that zoning the properties collectively could yield about 200 single-family homes and under the City's zoning it could yield over 400 single-family homes. Tract 1 is General Commercial in Simpson, at full build out it would yield about 54,000 square feet of commercial and under the City's standards it would yield about 58,000 square feet. In staff's opinion, this request is in compliance with the Horizons 2026: Greenville's Community Plan and the Future Land Use Plan. Therefore, staff recommends approval of the request.

Mr. Maxwell asked why 10-year detention is the only detention required for a property this large.

Ms. Gooby stated it is related to the watershed and not the size of the property.

Vice Chair West opened the public hearing.

Landon Weaver spoke in favor. He stated this will be a single-family subdivision with one-third of it being a rear entry product so there will be alley ways, driveways in the rear and front porch living. It will be a walkable neighborhood with some open space.

No one spoke in opposition.

Vice Chair West closed the public hearing.

Motion made by Mr. Joyner, 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.

REZONING THOROUGHFARE/TRAFFIC VOLUME REPORT

Case No: 21-09

Applicant: Bill Clark Homes of Greenville, LLC

Property Information

Current Zoning: Tract 1: RR (Rural Residential)
Tract 2: GB (General Business)

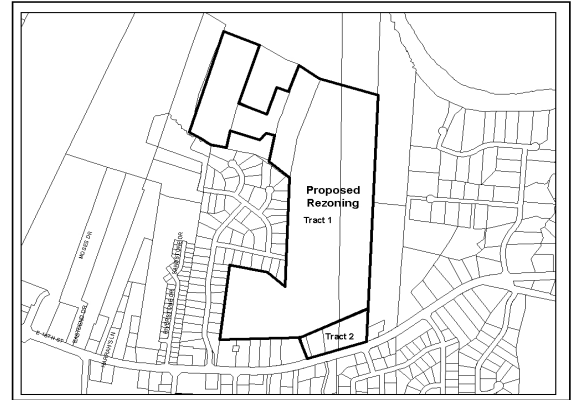
Proposed Zoning: Tract 1: R6S (Residential - Single Family)
Tract 2: CG (General Commercial)

Current Acreage: Tract 1: 107.0381 acres
Tract 2: 6.5521 acres

Location: NC Highway 33 (E. 10th St), east of Portertown Road

Points of Access: NC Highway 33 (E. 10th St)

Location Map



Transportation Background Information

1.) NC Highway 33- 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)	50	no change
Current ADT:	19,900 (*)	
Design ADT:	32,200 vehicles/day (**)	
Controlled Access	No	
Thoroughfare Plan Status	Major Thoroughfare	

Other Information: There are no sidewalks along NC Highway 33 that service this property.

Notes: (*) 2018 NCDOT count adjusted for a 2% annual growth rate
(**) Traffic volume based an 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: 4,265 -vehicle trips/day (*) **Proposed Zoning:** 6,525 -vehicle trips/day (*)

Estimated Net Change: increase of 2260 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 NC Highway 33 are as follows:

1.) NC Highway 33 , West of Site (70%): “No build” ADT of 19,900

Estimated ADT with Proposed Zoning (full build) – 24,468

Estimated ADT with Current Zoning (full build) – 22,886

Net ADT change = 1,582 (7% increase)

2.) NC Highway 33 , East of Site (30%): “No build” ADT of 19,900

Estimated ADT with Proposed Zoning (full build) – 21,858

Estimated ADT with Current Zoning (full build) – 21,180**Net ADT change = 678 (3% increase)****Staff Findings/Recommendations**

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 6525 trips to and from the site on NC Highway 33, which is a net increase of 2260 additional trips per day (over current zoning). A traffic impact analysis will be required to determine what measures are needed to mitigate traffic.

EXISTING ZONING

RR Rural Residential District (County's Jurisdiction)
(Per zoning permit and by-right - subject to standards)

SELECT USES

Bed and breakfast inn
Family Care Home
Mobile home on individual lot
Mobile home park (5 or less units per park)
Multi-family (5 or less units)
Single-family dwelling
Civic, social, and fraternal associations
Riding Academy
Animal Shelter

AR – Agricultural-Residential District (Simpson's Jurisdiction)
(Per zoning permit and by-right - subject to standards)

SELECT USES

Agriculture
Single-family dwelling
Mobile home on individual lot
Noncommercial recreational facility
Plant nursery and greenhouse
Church
Stable for animals maintained for agricultural or recreational use
Private club or lodge
Kennel

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	
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
m(1).	Dining and entertainment establishment (see also section 9-4-103)
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.	Launderette; household users
ll.	Dry cleaners; household users
oo.	Clothes alteration or shoe repair shop
pp.	Automobile wash
(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)
ll.	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 - None	
(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.	Public or private club
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

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: 09/09/2021

Title of Item: Ordinance requested by Evelyn Dail et al to rezone a total of 3.547 acres located near the northeastern corner of East 10th Street and Port Terminal Road from RA20 (Residential-Agricultural) and CN (Neighborhood Commercial) to CG (General Commercial)

Explanation: **Required Notices:**

Planning and Zoning meeting notice (property owner and adjoining property owner letter) mailed on August 3, 2021.
On-site sign(s) posted on August 3, 2021.
City Council public hearing notice (property owner and adjoining property owner letter) mailed on August 24, 2021.
Public hearing legal advertisement published on August 30, 2021 and September 6, 2021.

Comprehensive Plan:

The Future Land Use and Character Map recommends commercial (C) at the northeastern corner of the intersection of East 10th Street and Port Terminal Road transitioning traditional neighborhood, medium-high density (TNMH) to the east and traditional neighborhood, low-medium density (TNLM) to the north.

Commercial

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

Intent:

- Provide connectivity to nearby uses (paths, streets)
- Locate new buildings near street on at least one side and accommodate

- parking to the side or rear of buildings
- Improve/provide public realm features such as signs, sidewalks, landscaping
- Reduce access-points into development for pedestrian and vehicular safety
- Reduce and consolidate surface parking

Primary uses:

Commercial (small and large format)

Office

Secondary uses:

Institutional/civic

Traditional Neighborhood, Medium-High Density

Primarily residential area featuring a mix of higher density housing types ranging from multi-family, townhomes, and small-lot single-family detached. They are typically located within a walkable distance to a neighborhood activity center. Traditional neighborhoods should have a walkable street network of small blocks, a defined center and edges, and connections to surrounding development.

Intent:

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

Primary uses:

Multi-family residential

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

Secondary uses:

Institutional (neighborhood scale)

Traditional Neighborhood, Low-Medium Density

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

Intent:

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

Primary uses:

Single-family residential

Two-family residential

Attached residential (townhomes)

Secondary uses:

Multi-family residential

Small-scale institutional/civic (churches and school)

Thoroughfare/Traffic Report Summary (Engineering Department):

Based on the possible uses permitted in the requested zoning, the proposed rezoning classification could generate 553 trips to and from the site on East 10th Street, which is a net increase of 496 additional trips per day along East 10th Street.

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

History/Background:

In 1972, the property was incorporated into the City's extra-territorial jurisdiction (ETJ) and zoned to its current zoning.

Existing Land Uses:

One (1) single-family residence, one (1) mobile home residence, farmland and an abandoned building

Water/Sewer:

Water and sanitary sewer are available to the property.

Historic Sites:

There are no known effects on historic sites.

Environmental Conditions/Constraints:

The property is located in the 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. Jurisdictional wetlands, streams, and riparian buffers may exist on the property.

Surrounding Land Uses and Zoning:

- North: R6 - Woodlands
- South: RA20 - Mobile Home Park
- East: RA20 - Woodlands
- West: CH - Lowe's Home Improvement

Density Estimates:

Under the current zoning (RA20), the site could accommodate six (6) single-family lots. Due to the size of the CN-zoned portion, it is undevelopable.

Under the proposed zoning, the site could accommodate 10,000+/- square feet of retail and 10,000+/- square feet of office space.

The anticipated build-out is within one (1) year.

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.

"In compliance with the comprehensive plan" should be construed as meaning the requested zoning is (i) either specifically recommended in the text of the Horizons Plan (or addendum to the plan) or is predominantly or completely surrounded by the same or compatible and desirable zoning and (ii) promotes the

desired urban form. The requested district is considered desirable and in the public interest, and staff recommends approval of the requested rezoning.

The Planning and Zoning Commission voted unanimously to approve the request at its August 17, 2021 meeting.








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

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

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

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

ATTACHMENTS

-  [Dail apo.com.pdf](#)
-  [Dail Survey](#)
-  [Ordinance - Evelyn_Dail_et_al_.pdf](#)
-  [Minutes - Evelyn_Dail.pdf](#)
-  [Traffic Report](#)
-  [Dail list of uses.pdf](#)
-  [Density and Veg Charts.pdf](#)

Evelyn B. Dail & Robert T. Brooks, etal
and Janice Rhem Orear

From: RA20 / CN

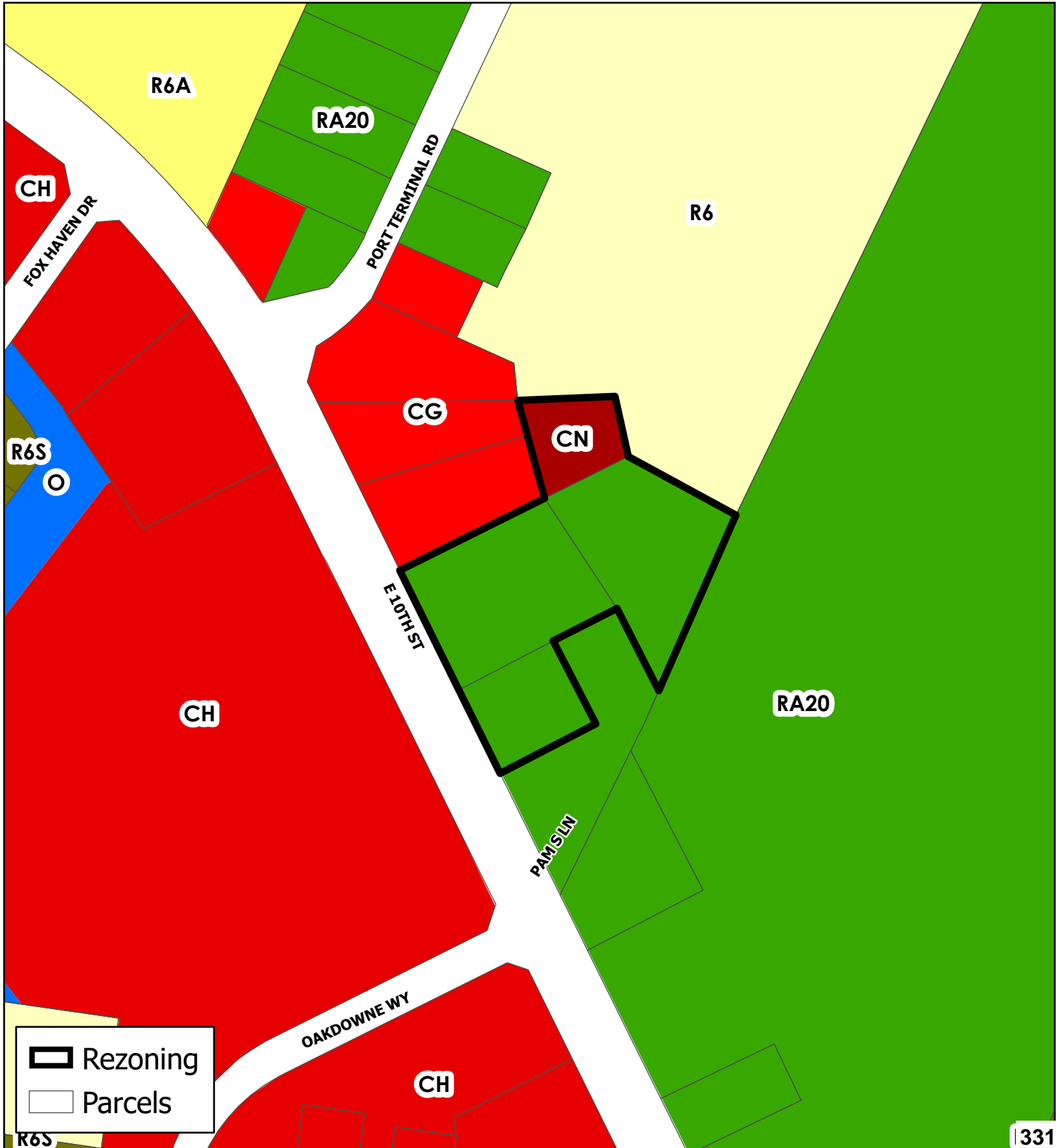
To: CG

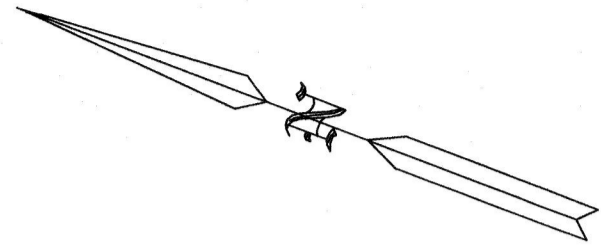
Acres: 3.547

Aug 3rd, 2021

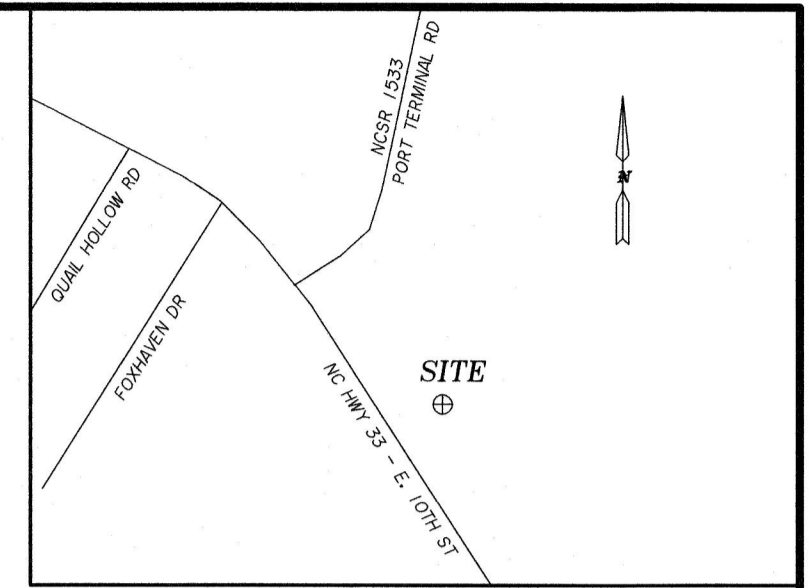


0 0.01 0.03 0.05 Miles





HAPPY TRAIL FARMS, LLC
DB 3367, P.289
TAX PARCEL 02481
ZONED R6



VICINITY MAP

PORT TERMINAL ROAD
NCSR 1533

POHL, LLC
DB 3512, P.491
TAX PARCEL 18927 ZONED CG
TAX PARCEL 02156 ZONED CG
TAX PARCEL 10044 ZONED CG

EVELYN B. DAIL, ETAL
TAX PARCEL 02491
DB H 39, P.592
0.394 ACRES
EXISTING ZONING CN
PROPOSED ZONING CG

EVELYN B. DAIL, ETAL
TAX PARCEL 02493
DB A 39, P.413
EXISTING ZONING RA 20
PROPOSED ZONING CG

WANDA COX HARRINGTON
2008 E. P.805
TAX PARCEL 06828
ZONED RA 20

EVELYN B. DAIL, ETAL
TAX PARCEL 02480
DB U 43, P.290
EXISTING ZONING RA 20
PROPOSED ZONING CG

JANICE RHEM OREAR
TAX PARCEL 17672
DB C 45, P.373
0.603 ACRES
EXISTING ZONING RA 20
PROPOSED ZONING CG

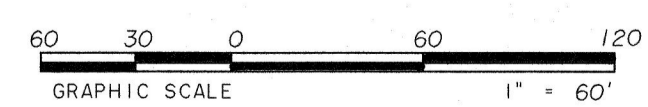
MID-ATLANTIC PROPERTIES MANAGEMENT, LLC
DB 1947, P.328
TAX PARCEL 03983
ZONED RA 20

NC HWY 33 - EAST TENTH STREET
(30 METER R/W - B/B VARIES)

REZONING BOUNDARIES ARE CALCULATED FROM EXISTING DEEDS REFERENCED HEREON AND DO NOT REPRESENT A CURRENT BOUNDARY SURVEY.



Carlton E. Parker
PLS 2980



REZONING MAP FOR
EVELYN B. DAIL & ROBERT T. BROOKS, ETAL AND JANICE RHEM OREAR

REFERENCE DEED BOOK A 39, PAGE 413, DEED BOOK H 39, PAGE 592, DEED BOOK U 43, PAGE 290 AND DEED BOOK C 45, PAGE 373 OF THE PITT COUNTY REGISTRY

GREENVILLE TOWNSHIP, PITT COUNTY, NORTH CAROLINA
JULY 12, 2021 SCALE 1" = 60'

OWNER: EVELYN B. DAIL, ETAL ADDRESS: 405 N. ELLIS AVE. GREENVILLE, NC 28334 TELEPHONE:	OWNER: JANICE RHEM OREAR ADDRESS: 3851 E. TENTH ST GREENVILLE, NC 27858 TELEPHONE:
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PARKER AND ASSOCIATES LAND SURVEYING, PA
1645 E. ARLINGTON BLVD. STE "D"
GREENVILLE, NC 27858
(252) 355-3055

C 1370

LS 21-07-1274

LS 21-07-1274

ORDINANCE NO. 21-
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREENVILLE
REZONING TERRITORY LOCATED WITHIN THE PLANNING AND ZONING
JURISDICTION OF THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 6, Chapter 160D, of the General Statutes of North Carolina, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on the 9th day of September, 2021, at 6:00 p.m., conduct a public hearing on the adoption of an ordinance rezoning the following described territory;

WHEREAS, the City Council has been informed of and has considered all of the permitted and special uses of the districts under consideration;

WHEREAS, in accordance with the applicable provisions of North Carolina General Statute 160D-605, the City Council does hereby find and determine that the adoption of the ordinance zoning the following described property is consistent with the adopted comprehensive plan and other officially adopted plans that are applicable and that the adoption of the ordinance zoning the following described property is reasonable and in the public interest due to its consistency with the comprehensive plan and other officially adopted plans that are applicable and, as a result, its furtherance of the goals and objectives of the comprehensive plan and other officially adopted plans that are applicable;

WHEREAS, as a further description as to why the action taken is consistent with the comprehensive plan and other officially adopted plans that are applicable in compliance with the provisions of North Carolina General Statute 160D-605, the City Council of the City of Greenville does hereby find and determine that the adoption of this ordinance is consistent with provisions of the comprehensive plan including, but not limited to, Policy 1.1.1 guide development with the Future Land Use and Character Map and Policy 1.1.6 guide development using the Tiered Growth Approach; and

WHEREAS, as a further explanation as to why the action taken is reasonable and in the public interest in compliance with the applicable provisions of North Carolina General Statute 160D-605, the City Council of the City of Greenville does hereby find and determine that the adoption of this ordinance will, in addition to the furtherance of other goals and objectives, promote the safety and general welfare of the community because the requested zoning is consistent with the recommended Future Land Use and Character Map and is located in a Primary Service Area;

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

Section 1. That the following described territory is rezoned from RA20 (Residential-Agricultural) and CN (Neighborhood Commercial) to CG (General Commercial).

TO WIT: Evelyn Dail et al

LOCATION: Located near the northeastern corner of East 10th Street and Port Terminal Road.

DESCRIPTION: Lying and being situate in Greenville Township, Pitt County, North Carolina and being more particularly described as follows:

Beginning at a point in the northern right of way of NC Hwy 33 – East Tenth Street said point being located S 20-09-29 E – 307.45’ from the intersection of the northern right of way of NC Hwy 33 – East Tenth Street and the eastern right of way of NCSR 1533 – Port Terminal Road, thence from said point of beginning N 69-24-20 E – 262.78’, thence N 00-08-25 E – 119.85’ to the southern line of the Happy Trail Farms, LLC property as recorded in deed book 3367, page 289, thence with the southern line of the Happy Trail Farms, LLC property N 89-55-00 E – 130.00’, thence S 07-10-00 E – 99.20’, thence S 55-04-00 E – 197.05’ to the western line of the Wanda Cox Harrington property as recorded in estate file 2008 E, page 805, thence with the western line of the Wanda Cox Harrington property S 30-57-30 W – 289.53’ to the northern line of the Mid-Atlantic Properties Management, LLC property as recorded in deed book 1947, page 328, thence with the northern line of the Mid-Atlantic Properties Management, LLC property N 20-16-00 W – 150.29’, thence S 69-50-31 W – 115.59’ to the eastern line of the Janice Rhem O’Rear property as recorded in deed book C 45, page 373, the with the eastern line of the Janice Rhem O’Rear property S 20-09-29 E – 150.00’, thence with the southern line of the Janice Rhem O’Rear property S 69-50-31 W – 175.00’ to the northern right of way of NC Hwy 33 – East Tenth Street, thence with the northern right of way of NC Hwy 33 – East Tenth Street N 20-09-29 W – 150.00’, thence N 20-22-30 W – 220.00’ to the point of beginning containing 3.547 acres.

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

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

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

ADOPTED this 9th day of September, 2021.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

1151748

Excerpt from the draft Planning & Zoning Commission Minutes (8/17/21)

REQUEST BY EVELYN DAIL ET AL TO REZONE A TOTAL OF 3.547 ACRES LOCATED NEAR THE NORTHEASTERN CORNER OF EAST 10TH STREET AND PORT TERMINAL ROAD FROM RA20 (RESIDENTIAL-AGRICULTURAL) AND CN (NEIGHBORHOOD COMMERCIAL) TO CG (GENERAL COMMERCIAL).

Chantae Gooby presented for staff. The property is located in the eastern section of the city. The property is made up for four different parcels with a combination of 3.5 acres in total. This property is located in the Hardee Creek Watershed. If stormwater rules apply, it would require 10-year detention. It is not in a special flood hazard area. Jurisdictional wetlands, streams, and riparian buffers may exist on the property. This rezoning could result in a net increase of about 496 trips per day. It is located in the vicinity of a community activity center which is where we would expect commercial to be located. Currently this property has two different zonings, with three quarters zoned RA20 (Residential-Agricultural) and a small portion zoned CN (Neighborhood Commercial). Under the current zoning, the RA20 properties could yield about six single-family homes and due to the size of the CN property is not developable. Under the current request for CG, it could yield approximately 10,000 square feet of commercial and 10,000 square feet of office space. The Future Land Use Plan recommends commercial at the corner of 10th Street and Port Terminal Road then it starts to transition into Medium-High Density Residential to the east and Low-Medium Density Residential to the north. In staff's opinion, this request is in compliance with the Horizons 2026: Greenville's Community Plan and the Future Land Use Plan. Therefore, staff recommends approval of the request.

Vice Chair West opened the public hearing.

John Day spoke in favor. He stated the request is in an already established commercial area and it is in general compliance with the Future Land Use Plan.

No one spoke in opposition.

Vice Chair West closed the public hearing.

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

REZONING THOROUGHFARE/TRAFFIC VOLUME REPORT

Case No: 21-10

Applicant: Evelyn Dail et al

Property Information

Current Zoning: RA20 (Residential-Agricultural) & CN (Neighborhood Commercial)

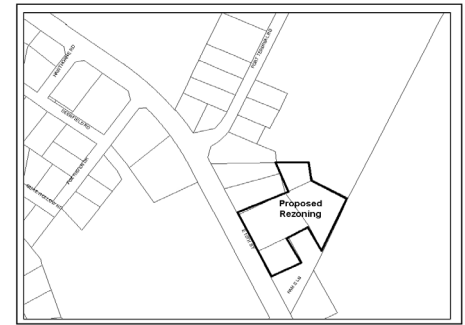
Proposed Zoning: CG (General Commercial)

Current Acreage: 3.497 acres

Location: E. 10th St, east of Port Terminal 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)	50	no change
Current ADT:	26,420 (*)	
Design ADT:	32,200 vehicles/day (**)	
Controlled Access	No	
Thoroughfare Plan Status	Major Thoroughfare	

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

Notes: (*) 2014 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: 57 -vehicle trips/day (*) **Proposed Zoning: 553** -vehicle trips/day (*)

Estimated Net Change: increase of 496 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 26,420**

Estimated ADT with Proposed Zoning (full build) – 26,807
 Estimated ADT with Current Zoning (full build) – 26,460
Net ADT change = 347 (1% increase)

2.) E. 10th St , East of Site (30%):**“No build” ADT of 26,420**

Estimated ADT with Proposed Zoning (full build) – 26,586

Estimated ADT with Current Zoning (full build) – 26,437**Net ADT change = 149 (<1% increase)****Staff Findings/Recommendations**

Based on possible uses permitted by the requested rezoning, the proposed rezoning classification could generate 553 trips to and from the site on E. 10th St, which is a net increase of 496 additional trips per day (over current zoning).

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

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	
CN (NEIGHBORHOOD COMMERCIAL) - PERMITTED USES	
(1) General	
a.	Accessory use or building
b.	Internal service facilities
c.	On-premise signs per Article N
f.	Retail sales; incidental
(2) Residential - None	
(3) Home Occupations - None	
(4) Governmental	
b.	City of Greenville municipal government building or use (see also section 9-4-103)
(5) Agricultural/Mining	
a.	Farming; agricultural, horticulture, forestry (see also section 9-4-103)
(6) Recreational/Entertainment	
f.	Public park or recreational facility
s.	Athletic club; indoor only

(7) Office/Financial/Medical	
a.	Office; professional and business, not otherwise listed
d.	Bank, savings and loans or other savings or investment institutions
e.	Medical, dental, ophthalmology or similar clinic, not otherwise listed
(8) Services	
e.	Barber or beauty salon
f.	Manicure, pedicure or facial salon
o.	Church or place of worship (see also section 9-4-103)
u.	Art studio including art and supply sales
x.	Dance studio
hh.	Exercise and weight loss studio; indoor only
kk.	Launderette; household users
ll.	Dry cleaners; household users
(9) Repair - None	
(10) Retail Trade	
d.	Pharmacy
e.	Convenience store (see also gasoline sales)
h.	Restaurant; conventional
(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	
CN (NEIGHBORHOOD COMMERCIAL) - SPECIAL USES	
(1) General - None	
(2) Residential - None	
(3) Home Occupations - None	
(4) Governmental	
a.	Public utility building or use
(5) Agricultural/Mining- None	
(6) Recreational/Entertainment	
m(1).	Dining and entertainment establishment (see also section 9-4-103)
t.	Athletic club; indoor and outdoor facilities
(7) Office/Financial/Medical - None	
(8) Services	
a.	Child day care facilities
b.	Adult day care facilities
aa.	Catering service including food preparation (see also restaurant; conventional and fast food)
(9) Repair	
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)
i.	Restaurant; fast food

	j.	Restaurant and/or dining and entertainment establishment; regulated outdoor activities
	u.	Pet shop (see also animal boarding; outside facility)
(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
	m(1).	Dining and entertainment establishment (see also section 9-4-103)
	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
(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)
ll.	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 - None	
(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.	Public or private club
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)

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: 09/09/2021

Title of Item:

Ordinance requested by the Planning and Development Services Department to amend Title 9 Chapter 4 Article U, Appendix A Table of Uses of the City Code to add (12)(a) "Licensed contractor, general, electrical, plumbing, mechanical, etc. excluding outside storage" as a permitted use in the following districts: CH (Heavy Commercial), IU (Unoffensive Industry), I (Industry), PIU (Planned Unoffensive Industry), and PI (Planned Industry) and add (13)(f) "Ambulance service" as a permitted use in the following districts: MI (Medical-Institutional), MS (Medical-Support), MO (Medical-Office), MCG (Medical-General Commercial), and MCH (Medical-Heavy Commercial) and reduce the requirement for fast food restaurants within an MO zoning district to be located in an attached multi-unit structure which contains not less than three individual units to two individual units

Explanation:

This amendment contains three (3) items:

Item 1: Add (12)(a) "Licensed contractor, general, electrical, plumbing, mechanical, etc. excluding outside storage" as a permitted use in the following districts: CH (Heavy Commercial), IU (Unoffensive Industry), I (Industry), PIU (Planned Unoffensive Industry), and PI (Planned Industry).

Item 2: Add (13)(f) "Ambulance service" as a permitted use in the following districts: MI (Medical-Institutional), MS (Medical-Support), MO (Medical-Office), MCG (Medical-General Commercial), and MCH (Medical-Heavy Commercial).

MEDICAL-INSTITUTIONAL (MI)

The MI District is primarily designed to provide areas where the institutionalized care of physically and/or mentally ill people can be provided and where governmental or private agencies, offices, or institutions can provide services of a medical, para-medical, or social service nature. It shall also be the purpose of this district to provide for a healthful environment that is conducive to the care and convalescing of ill people.

MEDICAL-SUPPORT (MS)

The MS District is primarily designed to create areas in which hospitals, rehabilitation centers, medical offices and clinics may be compatibly mixed, in order that these related uses can be near each other for doctor and patient

convenience. The district shall also allow a wider variety of medical support services. In addition, through its permitted uses, the district shall encourage a healthful environment in abutting residential areas, as well as within the health care delivery community.

MO MEDICAL-OFFICE (MO)

The MO District is primarily designed to provide for general business, professional offices and institutional uses, as well as to provide additional areas for medical offices and clinics to locate in a professional office environment. In addition, the district shall prohibit commercial and industrial land uses which can generate large traffic volumes, and shall encourage the development of areas that will serve as a buffer for residential zoning districts.

MCG MEDICAL-GENERAL COMMERCIAL (MCG)

The MCG District is primarily designed to provide for the sale of convenience goods, for provision of personal services, and for other frequent needs of the trade area within the medical district community in a planned shopping center environment. In addition, it is the purpose of this section to require that development sites of less than four acres be developed in conjunction with larger development sites in such a way that sites of less than four acres are served by internal traffic circulation in conjunction with the larger development site.

MEDICAL-HEAVY COMMERCIAL (MCH)

The MCH District is primarily designed to accommodate commercial developments that will best service the motoring public, as well as uses that will generate large traffic volumes in a development atmosphere that shall encourage compact, convenient shopping.

Item 3: Reduce the requirement for fast food restaurants within a MO zoning district to be located in an attached multi-unit structure which contains not less than three individual units to two.

Section 9-4-86. Listed Uses. Specific Criteria

(P) Restaurant; conventional or fast food.

(3) Within any MO Zoning District no fast food restaurant shall be located in a freestanding detached structure exclusive to such use. All fast food restaurants in any MO Zoning District shall be located within and be part of an attached multi-unit structure which contains not less than three **two** individual units occupied by, or are available for sale or lease, to separate establishments.

MO MEDICAL-OFFICE (MO)

The MO District is primarily designed to provide for general business, professional offices and institutional uses, as well as to provide additional areas for medical offices and clinics to locate in a professional office environment. In

addition, the district shall prohibit commercial and industrial land uses which can generate large traffic volumes, and shall encourage the development of areas that will serve as a buffer for residential zoning districts.

Fiscal Note: No cost to the City.

Recommendation: In staff's opinion, the proposed Zoning Ordinance Text Amendment is in compliance with the Horizons 2026: Greenville's Community Plan, Chapter 4, Growing the Economic Hub,

Goal 4.3 A Stable & Resilient Economy. Policy 4.3.1 Modernize and Diversify Local Economy. Support the growth of a variety of employment opportunities and businesses that diversify Greenville's economy and provide workers with a range of skill sets and training. Encourage business growth within incorporated areas to expand and diversify Greenville's tax base.

Therefore, staff recommends approval.




The Planning and Zoning Commission voted unanimously to approve the request at its August 17, 2021 meeting.

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

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

"Motion to deny the requested text amendment, to make a finding and determination that the required text amendment is inconsistent with the comprehensive plan or other applicable plans, including but not limited to Horizons 2026: Greenville's Community Plan, Chapter 4, Growing the Economic Hub, Goal 4.3 A Stable & Resilient Economy. *Policy 4.3.1 Modernize and Diversify Local Economy. Support the growth of a variety of employment opportunities and businesses that diversify Greenville's economy and provide workers with a range of skill sets and training. Encourage business growth within incorporated areas to expand and diversify Greenville's tax base.*"

ATTACHMENTS

-  [Text Amendment for Aug P&Z by staff.pdf](#)
-  [Ordinance - contractor ambulance service and restaurants.pdf](#)
-  [Minutes -Contractors & Ambulance.pdf](#)

ITEM 1

(12) Construction.

	USE	LUC#	RA20	R15S	R9S	R6S	R6N	R9	R6	R6 A	R6MH	MI	MS	MO	MCG	MR	MCH	MRS	MUI	OR	O	CD	CDF	CG	CN	CH	IU	I	PIU	PI	
a.	Licensed contractor, general, electrical, plumbing, mechanical, etc. excluding outside storage	3															P			P		P	P				P	P	P	P	P
b.	Licensed contractor, general electrical, plumbing, mechanical, etc. including outside storage	4																								P	P	P	P	P	

ITEM 2

(13) Transportation.

	USE	LUC#	RA20	R15S	R9S	R6S	R6N	R9	R6	R6 A	R6MH	MI	MS	MO	MCG	MR	MCH	MRS	MUI	OR	O	CD	CDF	CG	CN	CH	IU	I	PIU	PI	
	related freight																														
c.	Taxi or limousine service	3																				P	P	P		P	S				
d.	Truck terminal or distribution center	4																									P	P	P	P	
e.	Parcel delivery service	4																	P			P	P			P	P	P	P	P	
f.	Ambulance service	3										P	P		P		P						P			P	P	P	P	P	

ITEM 3

(10) Retail trade.

	USE	LUC#	RA20	R15S	R9S	R6S	R6N	R9	R6	R6 A	R6MH	MI	MS	MO	MCG	MR	MCH	MRS	MUI	OR	O	CD	CDF	CG	CN	CH	IU	I	PIU	PI
f.	Office and school supply, equipment sales	3												S																
g.	Fish market, excluding processing or packing	3																				S	S	P		P				
h.	Restaurant, conventional	3											S	S	P		P		P	S		P	P	P	P	P	P	P	P	P
i.	Restaurant, fast food (see also § 9-4-103)	4												S	P		P					P	P	P	S	P	P	P	P	P

ORDINANCE NO. 21-
AN ORDINANCE AMENDING THE CITY CODE
OF THE CITY OF GREENVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Greenville, North Carolina, in accordance with Article 6, Chapter 160D, of the General Statutes of North Carolina, caused a public notice to be given and published once a week for two successive weeks in The Daily Reflector setting forth that the City Council would, on the 9th day of September, 2021, at 6:00 p.m., conduct a meeting and conduct a public hearing on the adoption of an ordinance amending the City Code;

WHEREAS, in accordance with the provisions of North Carolina General Statute D-605, the City Council of the City of Greenville does hereby find and determine that the adoption of the ordinance involving the text amendment is consistent with the adopted comprehensive plan and other officially adopted plans that are applicable and that the adoption of the ordinance involving the text amendment is reasonable and in the public interest due to its consistency with the comprehensive plan and other officially adopted plans that are applicable and, as a result, its furtherance of the goals and objectives of the comprehensive plan and other officially adopted plans that are applicable;

WHEREAS, as a further description as to why the action taken is consistent with the comprehensive plan and other officially adopted plans that are applicable in compliance with the applicable provisions of North Carolina General Statute 160D-605, the City Council of the City of Greenville does hereby find and determine that the adoption of this ordinance is consistent with provisions of the comprehensive plan, including, but not limited to, Horizons 2026: Greenville's Community Plan, Chapter 4, Growing the Economic Hub, Goal 4.3 A Stable & Resilient Economy. *Policy 4.3.1 Modernize and Diversify Local Economy. Support the growth of a variety of employment opportunities and businesses that diversify Greenville's economy and provide workers with a range of skill sets and training. Encourage business growth within incorporated areas to expand and diversify Greenville's tax base.*

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

Section 1. That Title 9, Chapter 4, Article U, Appendix A Table of Uses, of the City Code is hereby amended by allowing use code (12)(a) "Licensed contractor, general, electrical, plumbing, mechanical, etc. excluding outside storage" as a permitted use in the following districts: CH (Heavy Commercial), IU (Unoffensive Industry), I (Industry), PIU (Planned Unoffensive Industry), and PI (Planned Industry).

Section 2. That Title 9, Chapter 4, Article U, Appendix A Table of Uses, of the City Code is hereby amended by allowing use code (13)(f) "Ambulance service" as a permitted use in the following districts: MI (Medical-Institutional), MS (Medical-Support), MO (Medical-Office), MCG (Medical-General Commercial), and MCH (Medical-Heavy Commercial).

Section 3. That Title 9, Chapter 4, Section 86 (P) Restaurant; conventional or fast food (3), of the City Code is hereby amended by deleting “three” and replacing with “two”.

(3) Within any MO Zoning District no fast food restaurant shall be located in a freestanding detached structure exclusive to such use. All fast food restaurants in any MO Zoning District shall be located within and be part of an attached multi-unit structure which contains not less than ~~three~~ two individual units occupied by, or are available for sale or lease, to separate establishments.

Section 4: That all ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 5: Any part or provision of this ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or North Carolina is hereby deemed severable and shall not affect the validity of the remaining provisions of the ordinance.

Section 6: That this ordinance shall become effective upon its adoption.

ADOPTED this 9th day of September, 2021.

P. J. Connelly, Mayor

ATTEST:

Valerie Shiuwegar, City Clerk

1151749

Excerpt from the draft Planning & Zoning Commission Minutes (8/17/21)

REQUEST BY THE PLANNING AND DEVELOPMENT SERVICES DEPARTMENT TO AMEND TITLE 9 CHAPTER 4 ARTICLE U, APPENDIX A TABLE OF USES OF THE CITY CODE TO ADD (12)(A) “LICENSED CONTRACTOR, GENERAL, ELECTRICAL, PLUMBING, MECHANICAL, ETC. EXCLUDING OUTSIDE STORAGE” AS A PERMITTED USE IN THE FOLLOWING DISTRICTS: CH (HEAVY COMMERCIAL), IU (UNOFFENSIVE INDUSTRY), I (INDUSTRY), PIU (PLANNED UNOFFENSIVE INDUSTRY), AND PI (PLANNED INDUSTRY) AND ADD (13)(F) “AMBULANCE SERVICE” AS A PERMITTED USE IN THE FOLLOWING DISTRICTS: MI (MEDICAL-INSTITUTIONAL), MS (MEDICAL-SUPPORT), MO (MEDICAL-OFFICE), MCG (MEDICAL-GENERAL COMMERCIAL), MCH (MEDICAL-HEAVY COMMERCIAL) AND REDUCE THE REQUIREMENT FOR FAST FOOD RESTAURANTS WITHIN A MO ZONING DISTRICT TO BE LOCATED IN AN ATTACHED MULTI-UNIT STRUCTURE WHICH CONTAINS NOT LESS THAN THREE INDIVIDUAL UNITS TO TWO INDIVIDUAL UNITS.

Chantae Gooby presented for staff. The first request is in regards to contractors. Currently, there contractors that can store materials and equipment are allowed in CH (Heavy Commercial), IU (Unoffensive Industry), I (Industry), PIU (Planned Unoffensive Industry), and PI (Planned Industry). However, contractors that do not store materials and equipment outside are not allowed in the same districts. Staff is asking for amendment so that comparable uses are allowed in the same or similar districts. The second request is to allow ambulance service in medical districts. Ambulance service is currently allowed in CDF (Commercial Downtown Fringe), CH (Heavy Commercial), and some Industrial districts but it isn't allowed in any of the medical uses. The MI (Medical-Institutional), MS (Medical-Support), MCG (Medical-General Commercial), and MCH (Medical-Heavy Commercial) districts are to support the hospital and medical services in that area so it makes sense to allow an ambulance service in those districts. The last request is to reduce the required number of units that are required for a fast food restaurant to locate in the medical area. In 1994, a text amended was approved that allowed fast food restaurants in the MO (Medical Office) district with the caveat that the restaurant had be located in a 3-unit planned center. The purpose was to eliminate freestanding fast food restaurants and to help preserve the medical area for medical uses and services. This request is to reduce the number from a 3-unit planned center to a 2-unit planned center. Staff is requesting to reduce the units from three to two. In staff's opinion, the proposed Zoning Ordinance Text Amendment is in compliance with the Horizons 2026: Greenville's Community Plan, Chapter 4, Growing the Economic Hub,

Goal 4.3 A Stable & Resilient Economy. Policy 4.3.1 Modernize and Diversify Local Economy. Support the growth of a variety of employment opportunities and businesses that diversify Greenville's economy and provide workers with a range of skill sets and training. Encourage business growth within incorporated areas to expand and diversify Greenville's tax base.

Mr. Overton asked why general contractor office is not allowed General Commercial.

Ms. Gooby stated general contractor office is allowed in General Commercial if the office is for payroll, accounting. It is a different use if this includes vehicles, equipment, materials etc, on-site.

Mr. Overton stated he has been speaking with Ms. Gooby about the last two items. He does not have anything he is working on but he has come across these issues in the past. He stated most of the zoning around the hospital is MO and the proposed table does not allow ambulance service at all.

Vice Chair West opened the public hearing.

No one spoke in favor.

No one spoke in opposition.

Vice Chair West closed the public hearing.

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



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Approval of the Draft 2020 Consolidated Annual Performance and Evaluation Report (CAPER)

Explanation: The City of Greenville is an entitlement community of the federally funded CDBG and HOME programs. Traditionally, an Annual Action Plan is due to HUD in the spring outlining the projects that will begin during the upcoming fiscal year beginning July 1st. HUD mandates that the entitlement community summarize activities completed during the fiscal year and assess the effectiveness of those programs. All activities must be classified under a potential project in the 5-year Consolidated Plan.

The City received several allocations throughout the year as a result of the CARES Act including \$977,811 in CDBG, \$1,164,559 in CDBG-CV, and \$386,578 in HOME.

Fiscal Note: For the 2020 program year, the City of Greenville expended from CDBG and HOME \$842,761.92 and \$351,736, respectively. Pandemic relief efforts utilized \$418,019 of CDBG-CV funds.

Recommendation: Following the public hearing, staff recommends City Council approve the 2020 Consolidated Annual Performance and Evaluation Report (CAPER) and grant authority for the City Manager and/or her designee to execute all documents for its submission to the US Department of Housing and Urban Development.

ATTACHMENTS

 [DRAFT 2020 CAPER](#)

City of Greenville, NC

DRAFT CAPER

2020-2021

Public Comment Period August 23, 2021- September 9, 2021

Introduction

The document that follows is the DRAFT Consolidated Annual Performance and Evaluation Report (CAPER) for the City of Greenville, North Carolina for the period of July 1, 2020- June 30, 2021. The CAPER reports the City of Greenville's use of federal entitlement funds and the number of demographics of the individuals served with federal Community Development Block Grant (CDBG) and HOME Investment Partnership funds during the plan year. HUD requires that cities receiving federal housing and community development funds submit this report every September.

This CAPER is the third year report of accomplishments within Greenville's Five Year Consolidated Plan, 2018-2022. The Citizen Participation Plan requires the opportunity for public comment on the CAPER before submitting it to HUD.

CR-05 - Goals and Outcomes

Progress the jurisdiction has made in carrying out its strategic plan and its action plan. 91.520(a)

The Consolidated Annual Performance and Evaluation Report (CAPER) details the housing and community development activities undertaken by the City of Greenville Planning and Development Services Department during the 2020 program year. This program year began on July 1, 2020 and ended June 30, 2021. The City of Greenville implemented projects and activities that were identified as the needs and priorities within the five (5) year Consolidated Plan, as well as needs brought on by the COVID-19 Pandemic. Priority needs call for a continued, concentrated effort within the West Greenville 45-Block Revitalization Area and Housing Rehabilitation within the entire jurisdiction of the City of Greenville. These efforts are designed to preserve the existing housing stock and to provide decent, safe affordable housing for citizens of Greenville. Within the city, all efforts during the course of the five (5) year period focused primarily on needs within the boundaries of the West Greenville Redevelopment Area bounded by the Tar River on the north, Greene Street on the east, Tenth Street Connector on the south, and Memorial Drive on the west. The following activities are addressing the needs in those areas: owner-occupied rehabilitation, preservation of the existing housing stock, new construction or infill development on vacant lots, down payment assistance, homeownership counseling, addressing lead-based paint issues, and support of the local Continuum of Care Plan. Special pandemic related assistance included emergency rental assistance, small business assistance, and COVID-related non-profit support. These funds were made available in the fourth quarter of the year.

CR-10 - Racial and Ethnic composition of families assisted

Describe the families assisted (including the racial and ethnic status of families assisted).

91.520(a)

Narrative

There were 818 households reported as assisted through the CDBG and HOME programs. The majority of persons served were Black making up 71 percent of all families assisted.

The City of Greenville has local target areas, as well as serving the community at large. These target areas are located within qualifying Census Tracts 37147000701 and 37147000702, which are primarily composed of African-American households. According to HUD provided AFH data, these tracts qualify as R/ECAP tracts (racially/ethnically concentrated areas of poverty), which HUD defines as tracts with a non-white population of 50 percent or more, and with 40 percent or more individuals living at or below the poverty level.

The City also has a scattered site program which enables staff to reach a broader range of races, ethnicities and qualifying Census Tracts based on ACS data.

CR-15 - Resources and Investments 91.520(a)

Identify the resources made available

Source of Funds	Source	Resources Made Available	Amount Expended During Program Year
CDBG		977,811	842,761
HOME		386,578	351,736
HOPWA			
CDBG-CV		1,164,559	418,019

Table 1 - Resources Made Available

Narrative

CDBG funds were utilized for owner-occupied rehabilitation, non-profit support grants, and related administrative costs. HOME funds were utilized for new construction and down payment assistance. CDBG-CV was utilized for rental assistance, business assistance, and associated administrative costs.

Identify the geographic distribution and location of investments

Target Area	Planned Percentage of Allocation	Actual Percentage of Allocation	Narrative Description
West Greenville	75	41	

Table 2 – Identify the geographic distribution and location of investments

Narrative

The City's concentrated efforts are in the West Greenville Redevelopment Area. This area is bounded by the Tar River to the north, Greene Street to the east, the 10th Street Connector to the south, and Memorial Drive to the west. The following activities are being carried out while addressing the needs in those areas: housing assistance through rehabilitation, new construction or infill development on vacant lots, down payment assistance and addressing lead-based paint issues. Two of nine owner-occupied homes were rehabilitated in the West Greenville Redevelopment Area. All seven down payment assistance subsidies were provided to first-time buyers in West Greenville. Rental assistance was provided to six families residing in the Redevelopment Area. Two rehabs, totaling \$299,645, were completed in West Greenville along with construction of the newly added homes that were completed by Bill Clark and sold at the beginning of the year to add safe affordable housing. The final new construction costs were \$211,736 for a grand total of \$657,894 invested into West Greenville.

Leveraging

Explain how federal funds leveraged additional resources (private, state and local funds), including a description of how matching requirements were satisfied, as well as how any publicly owned land or property located within the jurisdiction that were used to address the needs identified in the plan.

Fiscal Year Summary – HOME Match	
1. Excess match from prior Federal fiscal year	1,274,405
2. Match contributed during current Federal fiscal year	309,830
3. Total match available for current Federal fiscal year (Line 1 plus Line 2)	1,584,235
4. Match liability for current Federal fiscal year	87,934
5. Excess match carried over to next Federal fiscal year (Line 3 minus Line 4)	1,496,301

Table 3 – Fiscal Year Summary - HOME Match Report

Match Contribution for the Federal Fiscal Year								
Project No. or Other ID	Date of Contribution	Cash (non-Federal sources)	Foregone Taxes, Fees, Charges	Appraised Land/Real Property	Required Infrastructure	Site Preparation, Construction Materials, Donated labor	Bond Financing	Total Match

Table 4 – Match Contribution for the Federal Fiscal Year

HOME MBE/WBE report

Program Income – Enter the program amounts for the reporting period				
Balance on hand at begin-ning of reporting period \$	Amount received during reporting period \$	Total amount expended during reporting period \$	Amount expended for TBRA \$	Balance on hand at end of reporting period \$

Table 5 – Program Income

Minority Business Enterprises and Women Business Enterprises – Indicate the number and dollar value of contracts for HOME projects completed during the reporting period						
	Total	Minority Business Enterprises				White Non-Hispanic
		Alaskan Native or American Indian	Asian or Pacific Islander	Black Non-Hispanic	Hispanic	
Contracts						
Number	4					4
Dollar Amount	211,736					211,736
Sub-Contracts						
Number						
Dollar Amount						
	Total	Women Business Enterprises	Male			
Contracts						
Number	4		4			
Dollar Amount	211,736		211,736			
Sub-Contracts						
Number						
Dollar Amount						

Table 6 - Minority Business and Women Business Enterprises

Minority Owners of Rental Property – Indicate the number of HOME assisted rental property owners and the total amount of HOME funds in these rental properties assisted						
	Total	Minority Property Owners				White Non-Hispanic
		Alaskan Native or American Indian	Asian or Pacific Islander	Black Non-Hispanic	Hispanic	
Number						
Dollar Amount						

Table 7 – Minority Owners of Rental Property

Relocation and Real Property Acquisition – Indicate the number of persons displaced, the cost of relocation payments, the number of parcels acquired, and the cost of acquisition						
Parcels Acquired						
Businesses Displaced						
Nonprofit Organizations Displaced						
Households Temporarily Relocated, not Displaced						
Households Displaced	Total	Minority Property Enterprises				White Non-Hispanic
		Alaskan Native or American Indian	Asian or Pacific Islander	Black Non-Hispanic	Hispanic	
Number						
Cost						

Table 8 – Relocation and Real Property Acquisition

CR-20 - Affordable Housing 91.520(b)

Evaluation of the jurisdiction's progress in providing affordable housing, including the number and types of families served, the number of extremely low-income, low-income, moderate-income, and middle-income persons served.

	One-Year Goal	Actual
Number of homeless households to be provided affordable housing units	0	0
Number of non-homeless households to be provided affordable housing units	164	200
Number of special-needs households to be provided affordable housing units	0	0
Total	164	200

Table 9 – Number of Households

	One-Year Goal	Actual
Number of households supported through rental assistance	150	187
Number of households supported through the production of new units	4	4
Number of households supported through the rehab of existing units	10	9
Number of households supported through the acquisition of existing units	0	0
Total	164	200

Table 10 – Number of Households Supported

Discuss the difference between goals and outcomes and problems encountered in meeting these goals.

The annual outcomes were quite reflective of the pandemic. Expected activities were slightly slowed due to necessary precautions, while some COVID-relief efforts exceeded initial goals.

Discuss how these outcomes will impact future annual action plans.

The City of Greenville will continue the existing activities to encourage homeownership and will seek opportunities to support new and evolving needs as a result of the pandemic.

CR-25 - Homeless and Other Special Needs 91.220(d, e); 91.320(d, e); 91.520(c)

Evaluate the jurisdiction's progress in meeting its specific objectives for reducing and ending homelessness through:

The City of Greenville primarily reduced the risk of homelessness through provisions of emergency rental assistance to those at-risk of eviction. In addition, sub-recipient grants were made available to Community Crossroads Center to assess housing needs for residents.

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The partnership between the City and Community Crossroads, through the sub-recipient program is the most direct means of assessing and addressing homeless individuals' needs. The VI-SPDT assessment aids in determining severity and type of needs to be addressed. Funding for administration of that assessment is covered, in part, by CDBG.

Addressing the emergency shelter and transitional housing needs of homeless persons

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: likely to become homeless after being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); and, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

CR-30 - Public Housing 91.220(h); 91.320(j)

Actions taken to address the needs of public housing

There are four public housing authority managing agencies in the Pitt County area, which include Greenville Housing Authority with a total of 714 units; Mid-East Commission which manages a total of 135 units in three towns; Farmville Housing Authority which manages 174 units; and Ayden Housing Authority which manages 175 units. Each of the aforementioned public housing authorities receive federal funds to modernize and repair public housing units.

Actions taken to encourage public housing residents to become more involved in management and participate in homeownership

During program year 2020, the City of Greenville Community Development Department's Housing Division continued in partnership with the Greenville Housing Development Corporation, a non-profit extension of the Greenville Housing Authority, to participate in homebuyer counseling and financial literacy courses.

Actions taken to provide assistance to troubled PHAs

None of the public housing authorities in Pitt County have been designated as "troubled" agencies or otherwise performing poorly.

CR-40 - Monitoring 91.220 and 91.230

Describe the standards and procedures used to monitor activities carried out in furtherance of the plan and used to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements

The Housing Division conducts formal monitoring of its CDBG and HOME grant programs annually. The monitoring visits consist of reviewing programmatic procedures to ensure that each grant program regulations defined in the Code of Federal Regulations and the scope of work described in the Subrecipient Agreement are met. General Financial and accounting procedures are also reviewed in accordance with applicable Office of Management and Budget circulars.

If a finding or concern is identified as a result of the monitoring, technical assistance is provided in order for the agency to correct the deficiency. If deficiencies persist, reimbursement of funds may be suspended and/or the subrecipient could jeopardize future funding opportunities.

The City of Greenville ensures that all monitoring letters detail specific time frames for monitoring response and the corrective actions that need to be taken. Additionally, the City will impose sanctions if the corrective actions are not taken within the specified time frame. Furthermore, staff is coordinating a quarterly monitoring schedule to be employed in the 2021 program year.

Citizen Participation Plan 91.105(d); 91.115(d)

Describe the efforts to provide citizens with reasonable notice and an opportunity to comment on performance reports.

The “Notice of Availability” of the CAPER for review and to receive public comments was published in the local paper on August 16, 2021.

The CAPER was made available for review for a period of at least 15 days. Also, the “Notice of Public Hearing” to receive public comments at the City Council meeting was published in “The Daily Reflector” on August 16 and September 6, 2021. The public hearing was held by City Council on September 9, 2021.

CR-50 - HOME 91.520(d)

Include the results of on-site inspections of affordable rental housing assisted under the program to determine compliance with housing codes and other applicable regulations

Please list those projects that should have been inspected on-site this program year based upon the schedule in §92.504(d). Indicate which of these were inspected and a summary of issues that were detected during the inspection. For those that were not inspected, please indicate the reason and how you will remedy the situation.

Provide an assessment of the jurisdiction's affirmative marketing actions for HOME units. 92.351(b)

Refer to IDIS reports to describe the amount and use of program income for projects, including the number of projects and owner and tenant characteristics

Describe other actions taken to foster and maintain affordable housing. 91.220(k) (STATES ONLY: Including the coordination of LIHTC with the development of affordable housing). 91.320(j)



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Public Hearing on Entering Into a Trust Agreement or Installment Financing Agreement Not to Exceed \$20,000,000 for Financing Public Improvements

Explanation: In anticipation of the acquisition, construction, and equipping of several capital projects, there is a need to finance the costs associated with these projects by means of an installment financing arrangement not to exceed \$20,000,000. These projects include the following:

- Construction of Fire Station #7
- Construction of a bay extension at Fire Station #1
- Improvements to the Eppes Recreation Center
- Construction of a new community pool at Thomas Foreman Park
- Construction and development of Wildwood Park Phase I and II

Previous reimbursement resolutions for the five projects have already been completed, with the resolutions for the Fire Station #7 construction and the Fire Station #1 bay extension being approved during the January 6, 2020 City Council meeting, and the community pool construction, Eppes building improvements, and Wildwood construction and development being approved during the November 9, 2020 City Council meeting.

The application for financing is set to be considered by the Local Government Commission at their September 14, 2021 meeting, with a resolution for financing being brought back to Council for approval.

Fiscal Note: The installment financing agreements will not exceed \$20,000,000. Annual, recurring appropriations to fund the debt service payments related to the future installment financing is included in the Council adopted Fiscal Year 2021-22 General Fund Budget.

Recommendation: Conduct a public hearing in preparation for a future resolution for Public Improvements Trust Agreement or Installment Financing Agreement



City of Greenville, North Carolina

Meeting Date: 09/09/2021

<u>Title of Item:</u>	Consultant's Presentation, Redistricting, Alternative Plans
<u>Explanation:</u>	The City's consultants (Adam Mitchell, attorney and Blake Esselstyn, demographer) have reviewed 2020 census data and concluded that the Council must redistrict to bring districts into compliance with state and federal law. The Consultants will present three alternative plans that have been drawn in response to criteria recently discussed by Council at a previous meeting (August 9, 2021 Workshop).
<u>Fiscal Note:</u>	There is no fiscal impact.
<u>Recommendation:</u>	City Council review the alternative plans and adopt a plan for public engagement regarding the alternative plan or plans.



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: American Rescue Plan Act of 2021 Proposed Appropriation Plan

Explanation: The Federal American Rescue Plan Act of 2021 (ARP) was signed into law on March 21, 2021. The Act includes approximately \$350 billion in funding to state and local governments that is intended to provide the financial resources needed to respond to the COVID-19 public health emergency and its negative impacts on the country. In summary, ARP funding is intended to:

- Support urgent COVID-19 response efforts to continue to decrease spread of the virus
- Replace lost public sector revenue to strengthen support for vital public services and help retain jobs
- Support immediate economic stabilization for households and businesses
- Address systemic public health and economic challenges that have contributed to the unequal impact of the pandemic on certain populations

In May 2021, the U.S. Department of Treasury issued spending guidance (i.e. Interim Final Rule) relative to ARP funding to state and local governments. The guidance provides for five categories from which ARP funding may be used to achieve its intended objectives:

- Support public health expenditures
- Address negative economic impacts caused by the public health emergency
- Replace lost public sector revenue
- Provide premium pay for essential workers
- Invest in water, sewer, and broadband infrastructure

With concerns to addressing the negative economic impact of COVID-19, the Interim Final Rule identified a broad range of services and programs that are considered to be in response to the public health emergency when provided in a Qualified Census Tract (QCT). A QCT is a census tract where 50% or more of the households in the tract have an income level less than 60% of the area's gross median income. The broader range of services allowable within such tracts include:

- Addressing health disparities and the social determinants of health
- Investments in housing and neighborhoods
- Addressing educational disparities

- Promoting healthy childhood environments

Services intended to build stronger neighborhoods and communities within a QCT include investments in parks, public plazas, and other public outdoor recreation spaces so as to promote healthier living environments and outdoor recreation and socialization to mitigate the spread of COVID-19.

The City of Greenville has been allocated approximately \$27.3 million in Federal funds through the ARP program. The funding is comprised of appropriations from three program sources as included in the ARP plan. The following is a summary:

Federal Home Program Funding	\$1,988,461
Federal Transit Program Funding	662,800
Local Fiscal Recovery Funding	24,689,311
Total ARP Funding	\$27,340,572

The City of Greenville has developed an appropriation plan for funding allocated through the ARP program. The appropriation plan is focused on bold projects that will enhance and accentuate Greenville's position as the hub for economic growth and leadership within Eastern North Carolina. Consistent with the U.S. Treasury's guidance, the appropriation plan centers around five strategic use categories:

- Provide infrastructure improvements to enhance Greenville's entertainment and recreation economy.
- Develop grant programs to support local small businesses impacted by the COVID-19 pandemic.
- Enhance equity in opportunity for residents of the lower-income West Greenville community to engage in recreational and entertainment activities so as to mitigate social disparities exacerbated during the COVID-19 pandemic.
- Expand affordable housing opportunities for the City's low income residents and those populations at higher risk of facing homelessness.
- Reward City employees for their efforts to maintain the continuity of City core public services during the heightened risk period of the COVID-19 pandemic.

The City of Greenville's appropriation plan will also serve to be a strong reflection of City Council's goals and priorities:

- Expand the economic hub of Eastern North Carolina.
- Deliver public infrastructure improvements and execute existing opportunities.
- Build a thriving and attractive community.

- Enhance community engagement, safety and wellness.
- Build a high-performing, diverse organization, govern with transparency and fiscal responsibility.

At the September 9, 2021 City Council meeting, staff will present an overview of the ARP spending guidance that dictates the use of ARP funding allocated to the City of Greenville. Staff will then present the proposed projects included in the appropriation plan that center around the five strategic use categories and City Council's goals and priorities.

Fiscal Note: No immediate fiscal impact.

Recommendation: Receive presentation on American Rescue Plan Act of 2021 Proposed Appropriation Plan and provide feedback.



City of Greenville, North Carolina

Meeting Date: 09/09/2021

Title of Item: Budget Ordinance Amendment #2 to the 2021-22 City of Greenville Budget (Ordinance #21-035), Special Revenue Grant Fund (Ordinance #11-003), and Capital Projects Funds (Ordinance #17-024)

Explanation: Attached for consideration at the September 9, 2021 City Council meeting is an ordinance amending the 2021-22 City of Greenville Budget (Ordinance #21-035), Special Revenue Grant Fund (Ordinance #11-003), and Capital Projects Funds (Ordinance #17-024).

For ease of reference, a footnote has been added to each line item of the Budget Ordinance Amendment, which corresponds to the explanation below:

<u>Item</u>	<u>Justification</u>	<u>Funds Amended</u>	<u>Net Adjustment</u>
A	Record carryover of Facility Improvement Funding for Recreation & Parks that was not included in Budget Amendment #1	General Fund Rec & Parks Capital	\$125,000
B	Recognize additional revenue associated with the reimbursement of costs associated with the SRO contract with the Board of Education.	General Fund	\$125,000
C	Close the Tar River Development project, consolidate additional related construction in the Wildwood Park project and corrected Watersports Facility Project.	Rec & Parks Capital	\$ 10,148
D	Appropriate occupancy tax reserves from the Debt Service Fund and transfer to the General Fund to reflect the actual amount received and transferred to the Occupancy Tax Fund.	General Fund Debt Service Fund	- \$ 40,786

E	Recognize Miscellaneous Revenue within the Pitt-Greenville Convention and Visitors Authority Fund received as a City sponsorship for the Little League Softball World Series.	CVA	\$ 25,000
F	Appropriate anticipated revenues and expenses associated with the City's operation of the Red Light Camera Program.	Red Light Camera	\$1,500,000
G	Appropriate funds for Stormwater system infrastructure improvements based on needs identified in the Watershed Master Plan.	Enterprise Capital	\$12,000,000

Fiscal Note:

The Budget Ordinance Amendment affects the following funds:

<u>Fund</u>	<u>2021-22 Original Budget</u>	<u>Amendment #2</u>	<u>2021-22 Budget per Amendment #2</u>
General	\$92,236,505	\$250,000	\$92,486,505
Debt Service	6,971,244	40,786	7,012,030
Public Transportation (Transit)	3,279,064	-	3,279,064
Fleet Maintenance	5,388,888	-	5,388,888
Sanitation	8,200,307	-	8,200,307
Stormwater	9,399,890	-	9,399,890
Housing	1,884,784	-	1,884,784
Health Insurance	14,258,648	-	14,258,648
Vehicle Replacement	7,258,784	-	7,258,784
Facilities Improvement	1,570,546	-	1,570,546
Special Revenue Grants	11,413,417	125,000	11,538,417
Recreation & Parks Capital Projects	9,274,557	135,148	9,409,705
Convention Center (CVA)	1,375,450	25,000	1,400,450
Red Light Camera Program	-	1,500,000	1,500,000
Enterprise Capital Projects	44,049,657	12,000,000	56,049,657

Recommendation:

Approve Budget Ordinance Amendment #2 to the 2021-2022 City of Greenville Budget (Ordinance #21-035), Special Revenue Grant Fund (Ordinance #11-003), and Capital Projects Funds (Ordinance #17-024).

ATTACHMENTS

 [Budget Amendment #2.xlsx](#)

ORDINANCE NO. 21-
CITY OF GREENVILLE, NORTH CAROLINA
Ordinance (#2) Amending the 2021-22 Budget (Ordinance #21-035), Special Revenue Grant Fund (Ordinance #11-003),
and the Capital Projects Funds (Ordinance #17-024)

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

Section I: Estimated Revenues and Appropriations. General Fund, of Ordinance #21-035 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	Budget Amendment #2					
	2021-22 Revised Budget	A.	B.	D.	Total Amend #2	2021-22 Budget per Amend #2
ESTIMATED REVENUES						
Property Tax	\$ 36,938,258	\$ -	\$ -	\$ -	\$ -	\$ 36,938,258
Sales Tax	22,913,854	-	-	-	-	22,913,854
Video Prog. & Telecom. Service Tax	783,083	-	-	-	-	783,083
Rental Vehicle Gross Receipts	170,995	-	-	-	-	170,995
Utilities Franchise Tax	6,700,000	-	-	-	-	6,700,000
Motor Vehicle Tax	1,734,556	-	-	-	-	1,734,556
Other Unrestricted Intergov't	877,968	-	-	-	-	877,968
Powell Bill	2,123,924	-	-	-	-	2,123,924
Restricted Intergov't Revenues	665,800	-	-	-	-	665,800
Licenses, Permits and Fees	4,454,521	-	125,000	-	125,000	4,579,521
Rescue Service Transport	3,200,000	-	-	-	-	3,200,000
Parking Violation Penalties, Leases,	150,000	-	-	-	-	150,000
Other Sales & Services	314,868	-	-	-	-	314,868
Other Revenues	599,162	-	-	-	-	599,162
Interest on Investments	744,389	-	-	-	-	744,389
Transfers In GUC	6,579,431	-	-	-	-	6,579,431
Appropriated Fund Balance	3,285,696	125,000	-	(40,786)	84,214	3,369,910
Transfer from Debt Service	-	-	-	40,786	40,786	40,786
Total Revenues	\$ 92,236,505	\$ 125,000	\$ 125,000	\$ -	\$ 250,000	\$ 92,486,505
APPROPRIATIONS						
Mayor/City Council	\$ 506,207	\$ -	\$ -	\$ -	\$ -	\$ 506,207
City Manager	3,192,168	-	-	-	-	3,192,168
City Clerk	247,565	-	-	-	-	247,565
City Attorney	646,989	-	-	-	-	646,989
Human Resources	3,121,045	-	-	-	-	3,121,045
Information Technology	3,282,171	-	-	-	-	3,282,171
Engineering	4,885,989	-	-	-	-	4,885,989
Fire/Rescue	16,572,445	-	-	-	-	16,572,445
Financial Services	2,839,736	-	-	-	-	2,839,736
Recreation & Parks	7,430,946	-	-	-	-	7,430,946
Police	28,405,326	-	-	-	-	28,405,326
Public Works	6,972,120	-	-	-	-	6,972,120
Planning & Development	3,227,194	-	-	-	-	3,227,194
OPEB	600,000	-	-	-	-	600,000
Capital Improvements	-	-	-	-	-	-
Contingency	50,000	-	-	-	-	50,000
Indirect Cost Reimbursement	(1,950,887)	-	-	-	-	(1,950,887)
Total Appropriations	\$ 80,029,014	\$ -	\$ -	\$ -	\$ -	\$ 80,029,014
OTHER FINANCING SOURCES						
Transfers to Other Funds	\$ 12,207,491	\$ 125,000	\$ 125,000	\$ -	\$ 250,000	\$ 12,457,491
Total Other Financing Sources	\$ 12,207,491	\$ 125,000	\$ 125,000	\$ -	\$ 250,000	\$ 12,457,491
Total Approp & Other Fin Sources	\$ 92,236,505	\$ 125,000	\$ 125,000	\$ -	\$ 250,000	\$ 92,486,505

Section II: Estimated Revenues and Appropriations. Special Revenue Grant Fund, of Ordinance #11-003 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2021-22 Revised Budget	B.	Total Amend #2	2021-22 Budget per Amend #2
ESTIMATED REVENUES				
Special Fed/State/Loc Grant	\$ 8,538,502	\$ -	\$ -	\$ 8,538,502
CARES Act Funding	1,560,518	-	-	1,560,518
Transfer From General Fund	1,241,743	125,000	125,000	1,366,743
Transfer From Pre-1994 Entitlement	27,419	-	-	27,419
Transfer from Other Funds	45,235	-	-	45,235
Total Revenues	\$ 11,413,417	\$ 125,000	125,000	\$ 11,538,417
APPROPRIATIONS				
Personnel	\$ 2,253,228	\$ -	\$ -	\$ 2,253,228
Operating	5,127,592	125,000	125,000	5,252,592
Capital Outlay	2,006,385	-	-	2,006,385
Transfers	27,419	-	-	27,419
COVID-19	1,560,518	-	-	1,560,518
Rural Housing Recovery Grant	350,000	-	-	350,000
Environmental Enhancement Grant	88,275	-	-	88,275
Total Appropriations	\$ 11,413,417	\$ 125,000	\$ 125,000	\$ 11,538,417

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

	2021-22 Revised Budget	A.	C.	Total Amend #2	2021-22 Budget per Amend #2
ESTIMATED REVENUES					
Restricted Intergovernmental	\$ 224,507	\$ -	\$ -	\$ -	\$ 224,507
Transfer from General Fund	1,116,312	125,000	-	125,000	1,241,312
Transfer from Capital Reserve	128,822	-	-	-	128,822
Transfer from CD Cap Project Fund	82,965	-	-	-	82,965
Transfer from FIP	44,818	-	-	-	44,818
Transfer from FEMA-Hurricane	117,340	-	-	-	117,340
Transfer from Public Works Capital	30,000	-	-	-	30,000
Special Donations	132,000	-	-	-	132,000
Miscellaneous Revenue	550,000	-	10,148	10,148	560,148
Appropriated Fund Balance	572,874	-	-	-	572,874
Long Term Financing	6,274,919	-	-	-	6,274,919
Total Revenues	\$ 9,274,557	\$ 125,000	\$ 10,148	\$ 135,148	\$ 9,409,705
APPROPRIATIONS					
Water Sports Facility Project	\$ 298,677	\$ -	\$ 7,648	\$ 7,648	\$ 306,325
Tar River Development	2,940,112	-	(2,940,112)	(2,940,112)	-
Wildwood Park	346,000	-	2,942,612	2,942,612	3,288,612
Transfer to General Fund	9,000	-	-	-	9,000
Eppes Remodel	1,350,000	-	-	-	1,350,000
Parks Improvements	45,000	-	-	-	45,000
Pool Replacement	4,261,385	-	-	-	4,261,385
GAFC Bathrooms	-	125,000	-	125,000	125,000
Transfer to Other Fund	24,383	-	-	-	24,383
Total Appropriations	\$ 9,274,557	\$ 125,000	\$ 10,148	\$ 135,148	\$ 9,409,705

Section IV: Estimated Revenues and Appropriations. Debt Service Fund, of Ordinance #21-035 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2021-22 Original Budget	D.	Total Amend #2	2021-22 Budget per Amend #2
ESTIMATED REVENUES				
Occupancy Tax	\$ 684,958	\$ 40,786	\$ 40,786	\$ 725,744
Transfer from General Fund	6,286,286	-	-	6,286,286
Total Revenues	<u>\$ 6,971,244</u>	<u>\$ 40,786</u>	<u>\$ 40,786</u>	<u>\$ 7,012,030</u>
APPROPRIATIONS				
Principal Payments	\$ 4,157,351	-	-	\$ 4,157,351
Interest Payments	2,813,893	-	-	2,813,893
Transfer to General Fund	-	40,786	40,786	40,786
Total Appropriations	<u>\$ 6,971,244</u>	<u>\$ 40,786</u>	<u>\$ 40,786</u>	<u>\$ 7,012,030</u>

Section V: Estimated Revenues and Appropriations. Pitt-Greenville Convention and Visitors Authority Fund, of Ordinance #21-035 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2021-22 Original Budget	E.	Total Amend #2	2021-22 Budget per Amend #2
ESTIMATED REVENUES				
Coccupancy Tax (2%)	\$ 516,667	-	-	\$ 516,667
Coccupancy Tax (1%)	258,333	-	-	258,333
Capital Reserve	300,000	-	-	300,000
Investment Earnings	450	-	-	450
Miscellaneous Revenue	-	25,000	25,000	25,000
Appropriated Fund Balance	75,000	-	-	75,000
PPP	100,000	-	-	100,000
Capital Reserve/CVB	125,000	-	-	125,000
Total Revenues	<u>\$ 1,375,450</u>	<u>\$ 25,000</u>	<u>25,000</u>	<u>\$ 1,400,450</u>
APPROPRIATIONS				
Pitt-Greenville Convention and Visitors Authorit	\$ 1,375,450	\$ 25,000	\$ 25,000	\$ 1,400,450
Total Appropriations	<u>\$ 1,375,450</u>	<u>\$ 25,000</u>	<u>\$ 25,000</u>	<u>\$ 1,400,450</u>

Section VI: Estimated Revenues and Appropriations. Red Light Camera Program Fund, of Ordinance #18-058 is hereby amended by increasing estimated revenues and appropriations in the amount indicated:

	2021-22 Revised Budget	F.	Total Amend #2	2021-22 Budget per Amend #2
ESTIMATED REVENUES				
Red Light Citations	\$ -	\$ 1,500,000	\$ 1,500,000	\$ 1,500,000
Total Revenues	<u>\$ -</u>	<u>\$ 1,500,000</u>	<u>\$ 1,500,000</u>	<u>\$ 1,500,000</u>
APPROPRIATIONS				
Operating	\$ -	\$ 1,500,000	\$ 1,500,000	\$ 1,500,000
Total Appropriations	<u>\$ -</u>	<u>\$ 1,500,000</u>	<u>\$ 1,500,000</u>	<u>\$ 1,500,000</u>

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

	2021-22 Revised Budget	G.	Total Amend #2	2021-22 Budget per Amend #2
ESTIMATED REVENUES				
Spec Fed/State/Local Grants	\$ 195,490	\$ -	\$ -	\$ 195,490
State Revolving Loans	16,340,571	-	-	16,340,571
Bond Proceeds/Town Creek Culvert	14,199,712	12,000,000	12,000,000	26,199,712
Transfer from Other Funds	13,313,884	-	-	13,313,884
Total Revenues	\$ 44,049,657	\$ 12,000,000	\$ 12,000,000	\$ 56,049,657
APPROPRIATIONS				
Stormwater Drain Maint Improvement	\$ 1,281,000	\$ -	\$ -	\$ 1,281,000
Town Creek Culvert Project	35,503,387	-	-	35,503,387
Watershed Masterplan Project	7,265,270	12,000,000	12,000,000	19,265,270
Total Appropriations	\$ 44,049,657	\$ 12,000,000	\$ 12,000,000	\$ 56,049,657

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

Adopted this 9th day of September, 2021

P. J. Connelly, Mayor

ATTEST:

Valerie P. Shiuwegar, City Clerk