



Agenda

1. Call to Order
2. Pledge of Allegiance
3. Invocation
4. Adjustment and approval of September 6, 2022 meeting agenda

PUBLIC COMMENT PERIOD

Notes on the Public Comment Period - Each speaker may speak up to 3 minutes, and the total comment period will be 15 minutes or less. Citizens should sign up with the Town Clerk to speak prior to the start of the meeting. Although the Council is interested in hearing your concerns, speakers should not expect Council action or deliberation on subject matter brought up during the Public Comment segment. Topics requiring further investigation will be referred to the appropriate town officials or staff and may be scheduled for a future agenda. Thank you for your consideration of the Town Council, staff, and other speakers.

RECOGNITIONS

5. Preparedness Month Proclamation

REQUESTS AND COMMUNICATIONS

6. South Wake Landfill Update
7. Upcoming Seasonal Loose Leaf Collection Plan

CONSENT AGENDA

8. Approve the minutes of the August 16, 2022 business meeting.
9. Quarterly Budget Amendments
10. Facilities and Public Restroom Janitorial Services Contract
11. Public Works Uniform Rental Services
12. Franchise Ordinance for Public Service Company of North Carolina - Second Reading
13. Memorandum of Understanding (MOU) with the Town of Fuquay-Varina for New Waterline Conveyance design
14. Approval of Land Purchase Contract for Fire Station 3

NEW BUSINESS

15. Condemnation Resolution - Holly Springs Rd. Widening East Right-of-Way and Arbor Creek Greenway

OTHER BUSINESS

MANAGER'S REPORT

CLOSED SESSION -

ADJOURNMENT

In accordance with ADA regulations please contact the Town Clerk's office at least 48 hours before the meeting to request an auxiliary aid or service needed to participate in this meeting:

linda.mckinney@hollyspringsnc.gov 919-557-3900



Holly Springs Town Council

Town Council Meeting Agenda Cover Sheet

Agenda Item#: 5.

Recognitions

Title: Preparedness Month Proclamation

Strategic Priority Area: Organizational Excellence

Safe & Friendly

Staff Resource: LeRoy Smith, Fire Chief

Action(s):

Issue proclamation.

Explanation:

- The President of the United States and Federal Emergency Management Agency (FEMA) recognize September as National Preparedness Month.
- Wake County is subject to multiple types of natural and man-made disasters.
- This proclamation encourages residents to prepare for potential emergencies by creating a family disaster plan, creating an emergency supply kit, and staying informed.

Background:

- National Preparedness Month (NPM) has been recognized at the federal level since 2004.
- September was chosen as the tragedies of September 11, 2001 highlighted to the nation the importance of being prepared and raising awareness about the importance of preparing for disasters and emergencies that could happen at any time.
- The theme for NPM 2022 is A Lasting Legacy: "The life you've built is worth protecting. Prepare for disasters to create a lasting legacy for you and your family."

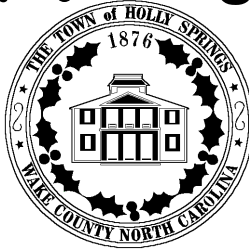
Funding Source(s):

N/A

Attachment(s):

1. Emergency Preparedness Month

Town of Holly Springs



A Proclamation By The Mayor

Preparedness Month 2022

WHEREAS, Wake County and the Town of Holly Springs are at risk for a multitude of hazards including severe weather, terrorism, biological events, hazardous materials incidents, nuclear emergencies, civil unrest, and other man-made or natural disasters; and

WHEREAS, thus far in 2022 Wake County has experienced 18 Flash Flood Warnings, 54 Flood Advisories, 88 Severe Thunderstorm Warnings, 6 Tornado Warnings, and 25 Extreme Heat Warnings; and

WHEREAS, political division has increased the risk of domestic terrorism and civil unrest; and

WHEREAS, communities across Wake County have experienced civil unrest, significant hazmat incidents, and severe weather; and

WHEREAS, every community, business, family, and individual in Holly Springs is encouraged to be ready for natural and man-made disasters including terrorism, tornadoes, flooding, hurricanes, and other emergency situations that might disrupt normal daily activities; and

WHEREAS, all Wake County residents can take steps such as making a family disaster plan, creating an emergency supply kit, and staying informed, to help make preparedness and personal responsibility a priority; and

WHEREAS, Holly Springs residents should know and understand the risks for their area and plan accordingly; and

WHEREAS, Holly Springs recommends residents include the safety of their pets in their emergency plans; and

WHEREAS, FEMA and the Office of the President of the United States recognize September as National Preparedness Month to encourage North Carolinians and Holly Springs residents to be disaster ready;

NOW, THEREFORE, I, Sean Mayefskie, Mayor of the Town of Holly Springs, North Carolina, am hereby honored to declare September 2022 as

Preparedness Month

in Holly Springs, and encourage all residents to plan and prepare for weather-related and man-made disasters by assembling their emergency supply kits and updating their emergency plans.

Presented this 6th day of September, 2022

IN WITNESS WHEREOF, I have
Hereunto set my hand and caused the Seal of
the Town of Holly Springs, North Carolina
to be affixed on this 6th day of September, 2022

Sean Mayefskie, Mayor



Holly Springs Town Council

Town Council Meeting Agenda Cover Sheet

Agenda Item#: 6.

Requests & Communications

Title: South Wake Landfill Update

Strategic Priority Area: Safe & Friendly

Staff Resource: Paige Scott, Director, Public Works

Action(s):

Receive update.

Explanation:

- The South Wake Landfill (landfill) is a regional landfill owned by Wake County and operated by GFL Environmental.
- The landfill takes in garbage collected from Wake County's businesses and 1.1 million residents. Waste is only accepted from licensed haulers and nothing comes from outside Wake County. For residents, the landfill features a convenience center, a household hazardous waste facility and a multi-material recycling facility.
- John Roberson and John Hamlin from Wake County will provide an update on the landfill, efforts to reduce the frequency and intensity of malodors associated with the landfill, and metrics on odor mitigation results.
- The Town and County will continue collaborative efforts to advance odor mitigation and communication from the landfill.

Background:

- In 2018, the Council and Town staff began hearing increasing levels of community concern about landfill malodors.
- In response, at the February 2020 Mayor & Council Retreat, Council established a landfill odor mitigation committee co-led by two Council members.
- The purpose of the committee was to review County efforts to mitigate odor at the South Wake County Landfill and identify engagement opportunities with residents and County officials to advance odor mitigation efforts and elevate communication associated with the landfill.
- Following the Mayor & Council's 2020 annual retreat, the Council adopted Resolution 20-04 outlining Town Council's malodor concerns and requested a number of actions by Wake County and GFL Environmental to engage the Holly Springs community and use all innovative methods and investments to significantly reduce the frequency and intensity of malodors emanating from the landfill.
- As a result, the South Wake Landfill team has undertaken operational changes at the landfill, installed eNose sensors to track and verify malodors, established a Wake County and Town working group, and increased communication efforts including weekly reporting of potential malodor concerns in an effort to accurately report and mitigate odor. These

Town Council Business Meeting
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efforts have led to a reduction in reported malodor complaints from residents.

Funding Source(s):

N/A

Attachment(s):

None



Holly Springs Town Council

Town Council Meeting Agenda Cover Sheet

Agenda Item#: 7.

Requests & Communications

Title: Upcoming Seasonal Loose Leaf Collection Plan

Strategic Priority Area: Organizational Excellence

Responsible & Balanced Growth

Safe & Friendly

Staff Resource: Paige Scott, Director, Public Works

Action(s):

Receive report.

Explanation:

- Since September 2019, the Town has made annual operational adjustments to the Town's seasonal loose leaf collection program to enhance reliability, operational effectiveness, and to accommodate growth.
- Seasonal loose leaf collection is an annual service that is provided to Holly Springs residents who opt to place leaves from their lawns into piles near the curb, which are then collected by specialized "vacuum trucks" and other collection equipment.
- The Town's Solid Waste Division within Public Works is preparing for four (4) sweep zones during the upcoming loose leaf collection period, beginning November 1, 2022 and through February 2023.
- Sweep zones are neighborhood designated loose leaf collection zones. This differs from street specific scheduling, allowing for staff to adjust and maintain overall schedules in the event there is loss of available resources, periods where below-freezing temperatures delay the start time of collection and programmed preventative maintenance to reduce equipment failures that often disrupt and delay collection schedules.
- Holly Springs neighborhoods will be divided into 4 sweep zones with each sweep zone receiving a monthly leaf collection, resulting in residents receiving four (4) collections throughout the loose leaf collection season.
- Neighboring communities that use a sweep zone approach for loose leaf collection include Raleigh and Cary, providing 2 and 3 sweeps respectively during leaf season.
- Staff will provide an overview of the planned loose leaf collection program and outline communication efforts to inform the public.

Background:

N/A

Funding Source(s):

N/A

Attachment(s):

Town Council Business Meeting
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1. LL Proposed 4 zones 4 sweeps
2. FY 22 - 23 Seasonal Loose Leaf Collection Zone Schedule

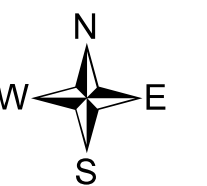


Utilities & Infrastructure

Yard Waste Proposed Zones

YardWasteZone

- A
- B
- C
- D
- E



0 500 1,000 2,000
Feet

1:17,000
State Plane NAD 1983
Date: 8/5/2022

Accounts per Zone

A: 4,686

B: 4,415

C: 2,162

D: 3,149

For More Information contact:
Town of Holly Springs
Engineering Department
P.O. Box 8
Holly Springs, NC 27540
919.557.3926
www.hollyspringsnc.us

The Town expressly denies any and all
responsibility for errors, if any, in the
information/data or for the misuse of the
information/data by the user or anyone else.
The user understands that he or she should
verify the accuracy of the information/data
before using it.

2022 - 2023 Loose Leaf Collection Schedule

8/10/2022

Holidays

Nov 11

Veterans Day

Nov 24,25

Thanksgiving

Dec 23,26,27

Christmas

2-Jan

New Year's Day

Sweep #	OFF-Holiday	Week	Dates	Sched Maint	Zone	HH Count	Days in Wk	HH/Day
1		1	Nov 1-4		A	4686	4	1172
	Nov 11	2	Nov 7-11		B	4415	4	1104
		3	Nov 14-18		C	2162	5	432
	Nov 24,25	4	Nov 21-25		D	3149	3	1050
2		5	Nov 28-Dec 2		A	4686	5	937
		6	Dec 5-9		B	4415	5	883
		7	Dec 12-16		C	2162	5	432
	Dec 23	8	Dec 19-23		D	3149	4	787
	Dec 26,27	9	Dec 26-30	Eq Maintenance		Equipment Maintenance		
3	Jan 2	10	Jan 2-6		A	4686	4	1172
		11	Jan 9-13		B	4415	5	883
		12	Jan 16-20		C	2162	5	432
		13	Jan 23-27		D	3149	5	630
4		14	Jan 30-Feb 3		A	4686	5	937
		15	Feb 6-10		B	4415	5	883
		16	Feb 13-17		C	2162	5	432
		17	Feb 20-24		D	3149	5	630



Holly Springs Town Council

Town Council Meeting Agenda Cover Sheet

Agenda Item#: 8.

Consent Agenda

Title: Approve the minutes of the August 16, 2022 business meeting.

Strategic Priority Area: Organizational Excellence

Staff Resource: Linda McKinney, Town Clerk

Action(s):

Approve the minutes of the Council's business meeting held August 16, 2022.

Explanation:

- Minutes in draft form are attached for the Council's review.
- If there are any corrections, please notify the Town Clerk in advance of Tuesday night's meeting so that corrected versions of the draft minutes can be circulated for review before adoption of the Consent Agenda.

Background:

Funding Source(s):

N/A

Attachment(s):

1. 8.16.22 minutes_notes



MINUTES

The Holly Springs Town Council met in regular session on Tuesday, August 16, 2022. Mayor Mayefskie presided, calling the meeting to order at 7 p.m. A quorum was established as the Mayor and four Council members were present in the Chamber as the meeting opened.

Council Members Present: Mayor Mayefskie, Mayor Pro Tem Dan Berry, Council members Timothy Forrest, and Kristi Bennett.

Council Member Present by Electronic Means: Council member Shaun McGrath.

Council Member Absent: Council member Aaron Wolff.

Staff Members Present in Chambers: Randy Harrington, *Town Manager*; Scott Chase, *Assistant Town Manager*; Daniel Weeks, *Assistant Town Manager*; John Schifano, *Town Attorney*; Linda McKinney, *Town Clerk* (recording the minutes); Mathew Mutter, *IT*; LeeAnn Plumer, *Director, Parks and Recreation*; Antwan Morrison, *Director, Finance*; Kendra Parrish, *Director, Utilities and Infrastructure*; Michael Leonas, *Utilities and Infrastructure*; Sara Emig, *Utilities and Infrastructure*; Chris Hills, *Director, Development Services*; Bronwyn Redus, *Development Services*; Corey Petersohn, *Administration*; Cassie Hack, *Director, Communications*; Kathy White, *Deputy Clerk*.

2. and 3. The Pledge of Allegiance was recited followed by an invocation by the Rev. LaVerne Cofield of Holly Springs United Church of Christ.

4. Agenda Adjustment: The August 16, 2022 meeting agenda was adopted with changes, if any, as listed: none.

Motion: Berry

Second: Forrest

Vote: Unanimous

Public Comment: At this time, an opportunity was provided for members of the audience who had registered to speak to address the Council, and the Clerk was asked for any written comments received prior to the meeting.

The following public comment was received in writing: one comment from Gina Clapp asking Council not to pass the Resolution of Condemnation for Holly Springs Road Widening – East.

The following comments were received in person:

Diane Whetsel said everyone deserves respect and dignity. She said she had spent her life in service in various capacities, but had faced discrimination her whole life. She said she must constantly be on the alert for those who would do her or her wife harm. She said those who have not experienced discrimination are fortunate. She said Council has the duty to represent all Holly Springs residents. She asked them to do their duty and sign the nondiscrimination ordinance (NDO).

Kathy O'Dette said she was here to ask the Mayor and Town Council to sign on the Wake County NDO. She said is proud of the LGBTQ+ community and their allies, and the work they have done since June to try to get these protections. She said she believes the Mayor when he says he's never been discriminated against, but asked that he not discount the experiences of those who have spoken up requesting the NDO. She said it will do no harm to families that look like his, but will make a difference to those who look like hers. She asked that they sign on to the Wake County NDO.

Donna Friend said she was back to give Council an update on the NDO. She has attended four Council meetings, hearing people speak on both sides. Those opposed to the NDO did not offer business argument, but their personal religious beliefs. This made it clear that the issue was not who was excluded, but who was included. She said that religious beliefs have no place in a Town Council meeting. She said she met with the Mayor and was told that the NDO was too expensive for small businesses. She has since met with 20 business owners in Holly Springs who all support the NDO. She will continue to meet with every business in Holly Springs to understand their position on the NDO. She has also met with representatives at the Chamber of Commerce who expressed fears that it would be too expensive and require training. She said both fears are groundless. She said her committee reached out to Commissioner Matt Calabria. They have started a petition and have over 500 signatures. She asked Council to take the time and take another look at the NDO.

Chuck Tryon said he was here to urge the Town Council to sign on to the Wake County NDO. It was unanimously adopted by the county Commissioners to protect county residents from discrimination. He said that most people want their communities to be inclusive and to make sure that people are treated fairly. He said they have been told that it will cost business owners money. He said he had an email from Wake County assuring him that businesses will not have any costs related to the NDO, and that business owners would not have to undergo any kind of special training. Most businesses are supportive of the NDO, because they would only have to continue what they are already doing. There is clear evidence that many businesses want this NDO to be put in place. But this is not just about money; it's about morality and doing the right thing, even when it is not popular with some of your constituents. Please sign the NDO.

Linda Hewitt said her husband and she chose Holly Springs out of every place in Wake County to buy a retirement home. She said they had been charmed by the town. And then she became aware of the controversy over the NDO, and her heart fell to her feet. She thought this was a place where she would feel comfortable. She said she's not comfortable when other people are being discriminated against. She is glad that women's rights were put into writing and they didn't just say "trust us." She said her husband is also in favor of the NDO but couldn't be here tonight because of medical reasons. She said she was shocked and astonished that Holly Springs would think it good business practice not to sign the NDO. She said it is going to be harder for the town to go into the future, because this is all about the past. We said earlier "with liberty and justice for all." You are the Mayor of all, not just your favorite people. Do your jobs and sign the NDO.

Ann Bono said she was astonished that she had to be speaking here tonight. She can't believe that she has to remind this Council that inclusion is important, and that discrimination needs to be addressed with policies and consequences, and that we don't live in a utopia. She asked Council to look back on past actions. She said that one council member solicited opposition to the NDO on Facebook. She said residents compared the trans people to serial killers and pedophiles. She had people say to leave Holly Springs is they were refused services here. She asked Council if they still believed that the community doesn't need protection. She asked if it was because Council doesn't want to have to be held to account. She is lucky to work for a firm that has excellent diversity and inclusion initiatives that protect her. She wonders what other large global corporations that are choosing to make their home here would think if they knew that non-white, non-male, gay talent they attract would run the risk of discrimination without consequence. She asked Council to back

their empty words of “this doesn’t happen in our town” with policies that ensure that it actually doesn’t.

Jackie Turnwald said she was here to once again remind Town Council that they have not yet done the right thing about the NDO, but they still can.

William Franklin Ball III said he was here on behalf of Holly Springs United Church of Christ and the MLK Jr. committee. He came to talk about diversity on the City Council. In the past we have had one community to comprise the entire council and he thinks it is because of lack of districting. Districting would not guarantee diversity on Council, but it would ensure complete representation of the Town’s entire people. An all-white Council does not give a fair representation of the Town of Holly Springs. He said he would like to know this administration’s position on districting, so we can have a more inclusive Council that would administer fair treatment to all.

Richard K. Ford said he attended a meeting last Thursday to talk about housing affordability which is important to him. He wants to put a progressive voice into Council to talk about “workforce housing,” because “affordable housing” has a negative connotation. He said that workforce housing addresses three populations: young people graduating high school and College who should be able to return to their home town and find affordable housing; those exiting the workforce who want to transition to smaller housing and be able to stay in Holly Springs; and for police, fire, and teachers who provide services to Holly Springs but find it impossible to find housing here. He wants to be sure Holly Springs is considering workforce housing without the stigma of calling it “affordable housing.”

RECOGNITIONS

5. Community Satisfaction Award

Cassie Hack, Director of Communications and Marketing, reminded Council and those present of the Community Survey which was done last year, and pointed out areas where the town scored very highly on community satisfaction compared to other municipalities nationwide. She said the entire survey is on the website for those who want to dig deeper into the data. She played a video of Jason Morado, Vice President and Director of Community Research at ETC Institute congratulating the town on winning the Leading the Way Award, given to those in the top 10% nationwide.

Consent Agenda

The Council passed a motion to approve all items on the Consent Agenda. The motion carried following a motion by Mayor Pro Tem Berry, a second by Council member Forrest and a unanimous vote. The following actions were affected:

6. Minutes – Council approved the minutes of the July 12, 2022 workshop and the July 19, 2022 business meeting.

7. NC DEQ Division of Water Infrastructure Fall 2022 Grant and Loan Funding Applications
– The Council adopted Resolution 22-28 for the Clean Water State Revolving Fund (CWSRF) Application for the Utley Creek 6 to 8 million gallons per day Upgrade Project.

A copy of Resolution 22-28 is attached to these minutes.

8. Position Reclassifications for Office of Customer Care – The Council approved the positions of Customer Service Representative (Grade D) and Administrative Assistant (Grade E) to be reclassified as Customer Service Specialist (Grade E) within the Office of Customer Care.

9. Surplus of Boom Truck – The Council authorized the sale of a surplus 2007 Grapple Boom Truck.

PUBLIC HEARINGS

10. Voluntary Annexation A22-01, Green Oaks Tech Center

Bronwyn Redus said this was a request for voluntary annexation of 120+/- acres of the remaining unannexed property of the Green Oaks Tech Center PUD at the intersections of Green Oaks Parkway, Holly Springs New Hill Road, and Thomas Mill Road. She showed where the properties are and said that it was the area referred to by the applicant as The Yield 2.0.

Mayor Mayefskie opened the public hearing.

There being no input, Mayor Mayefskie closed the public hearing.

Action: Motion to adopt Annexation Ordinance A22-01.

Motion by: Bennett

Second by: Forrest

Vote: unanimous

A copy of Annexation Ordinance A22-01 is attached to these minutes.

NEW BUSINESS

11. Future Cass Holt Road Park Policy Direction

LeeAnn Plumer, Director of Parks and Recreation, said that the purpose of this item was to receive direction on funding considerations for the Cass Holt Road park. She showed an overview map of the park concept and talked about how the conceptual plan was created, and what the community priorities were for the new park. She talked about specific considerations for the proposed Recreation Center including a tech lobby/snack bar; four multi-use court gymnasium; three classrooms/meeting rooms; and a warming kitchen to support them; and indoor play and exercise space. She gave some preliminary construction estimates, stressing that the construction is very volatile at this time. Because this is former farm land, it requires bringing in electricity and utilities, as well as roads. She outlined a possible timeline for funding and constructing the park. Antwan Morrison, Director of Finance, gave a summary of past events leading up to this point and outlined possible funding options to raise the funds needed to complete the park. He said the last park bond referendum was in 2011 when the population was only 25,000. Land for a park was purchased in January of 2020 for the first park west of NC 55, and the Parks and Recreation master plan was adopted about a year later. The Cass Holt Park concept plan was approved in March 2022, and the town's financial advisor updated Council on preliminary financing scenarios.

Mr. Morrison outlined funding considerations, with the bulk being funded by a bond, but with six other options that could contribute to funding the park. He said that staff recommends proceeding with holding a bond referendum in November 2023. He said this would allow the tax payers to be heard. He said there are a lot of steps that go into issuing a referendum, which is about an 8 month process. He outlined the preliminary tax rate projection for FY2025, after the next revaluation of property, explained that the Bond Reimbursement resolution does not obligate Council to have a bond referendum or to issue bonds, it merely provides authorization to get the process started. He then outlined the calendar of events needed if a referendum were going to be held.

Mayor Mayefskie asked, in a perfect world, when would the completion of the park be. Ms. Plumer said 15-18 months for design and permits, then another 18 for construction once financing is available. Depending on the construction environment and other issues we are looking at about 5 years out.

Council member Bennett asked what the reimbursement resolution would mean if the bond referendum did not pass, in terms of funds already spent. Mr. Morrison said they could be reimbursed from Parks and Recreation reserves, or staff could look at other options. This resolution just grants authorization.

MPT Berry said that he is concerned about the impacts to tax payers, when families are already dealing with inflation. He said Council has made other financial decisions that are worthwhile but expensive. All of these limit our ability to leverage existing debt capacity. Perhaps this is growing pains, but we shouldn't shrug at making this decision. He said Council needs to look at where we can tighten our belts and take a hard look at cost-recovery in some of our programs. He wants this park and will support it, but requested selling points. The Town needs to take a hard look at all of the options and limit the need to "go back to the well." He said there was plenty of time to do this before having a referendum.

Council member McGrath said he echoes MPT Berry's comments. He thinks it merits more discussion. Our residents are looking for this park, but they are also looking for other things. We need to make sure that investments are in line with fiscal priorities and what the community wants.

Action 1: Motion to direct the Town Manager to begin efforts to design and construct a new park on Cass Holt Road through a future General Obligation bond referendum in November 2023.

Motion by: Forrest

Second by: Bennett

Vote: unanimous

Action 2: Motion to adopt Reimbursement Resolution 22-29 to reimburse expenditures for the park on Cass Holt Road from the future park bond funding.

Motion by: Forrest

Second by: Berry

Vote: unanimous

A copy of Resolution 22-29 is attached to these minutes.

12. Condemnation Resolution – Holly Springs Road Widening East Right-of-Way and Easements

John Schifano, Town Attorney, said the purpose of this item was to consider adopting a resolution authorizing him to initiate eminent domain proceedings to acquire rights-of-way and easements necessary for road construction for the Holly Springs Rd. Widening – East project. The bridge is under construction, and in order to keep the project on schedule, the Town needs to acquire these other rights-of-way. The Town engaged an agency called Telics which has been working hard to acquire these easements and rights-of-way. The Town has used a licensed appraiser, whose work was reviewed by a second licensed appraiser. He said he has been in talks with the property owners, but owners of 11 of the 80 identified parcels have been unwilling or unable to accept voluntary settlement and require the initiation of legal action in order to proceed with construction. One of them is an HOA, which will be a "friendly" condemnation because that HOA doesn't have the authority in their covenants to convey property. He explained the condemnation process and how the fair market value is deposited with the Clerk of Superior Court before the lawsuit is filed. He said he would continue to engage in negotiation and attempt settlement of claims prior to and subsequent to filing any suit, but this Resolution would give him that ability. He showed where the project is, and how the finished cross section would look.

Action: Motion to adopt Resolution 22-27 to authorize eminent domain action to acquire right-of-way and easements from various property owners for the Holly Springs Rd. Widening East Transportation Bond project.

Motion by: Berry

Second by: Forrest

Vote: unanimous

A copy of Resolution 22-27 is attached to these minutes.

13. Franchise Ordinance for Public Service Company of North Carolina

John Schifano, Town Attorney, said that this item was to renew an existing franchise with PSNC Gas for the operation of a public utility in the Town. He said that North Carolina law allows a municipality to regulate certain public utilities by way of a non-exclusive franchise. Rates and operation of the utility are regulated by the North Carolina Utilities Commission. The Town regulation is limited to town rights of way, requiring the company to relocate lines at their expense in the event of a change in the right of way. This franchise was originally enacted in 1988.

Action: Motion to adopt Franchise Ordinance 22-31.

Motion by: Forrest

Second by: Berry

Vote: unanimous

A copy of Ordinance 22-31 is attached to these minutes.

Mr. Schifano explained that state law requires that a franchise ordinance be heard at two meetings, so Council will see this on the Consent agenda at their September 6th meeting.

14. Condemnation Resolution for Friendship Utility Lines

John Schifano, Town Attorney, said the purpose of this item was to consider adopting a resolution authorizing him to initiate eminent domain proceedings to acquire rights of way and easements necessary for the Friendship utilities project. He said this project was a major trunk expansion of water, force main sewer, and reclaimed water to the western-most town limits. The project is principally located in the existing right of way, however the design deviates slightly due to the bridge that will be rebuilt in the near future, and some other areas where the right-of-way is not wide enough, and requires additional rights of way from eight property owners, all on vacant tracts. He said he believes we will be able to acquire these voluntarily, but is requesting the condemnation authority to allow him to proceed on an aggressive time frame.

Action: Motion to adopt Resolution 22-30 authorizing Eminent Domain for easement acquisition for the Friendship utility lines.

Motion by: Bennett

Second by: Berry

Vote: unanimous

A copy of Resolution 22-30 is attached to these minutes.

OTHER BUSINESS

Council member McGrath said he was pleased with the Leading the Way Award, which shows that we are meeting the primary needs of our residents.

Council member Bennett congratulated town staff and previous council members for all the work that got us the award. She said there are kinks to work out financially, but growing pains are good things to figure out and she is excited about these things that the community wants us to be addressing.

Council member Forrest said he attended a great meeting on affordable housing/workforce housing. It's obvious we have a lot of work to do, but the report coming out in November will put us in a good policy place. Engaging with the Community Advisory group to create the policy is one recommendation that he would like to explore. There are obstacles in the form of increasing land and construction costs. We need to explore ways to make sure people who work here can afford to live here. He thanked the residents who came out for the meeting and came up with good ideas. It won't be a quick thing, but we can make it a thorough thing and make good policy.

Mayor Mayefskie said that last week he went out to Amgen with Irena Krstanovic and Chris Hills and got to tour the site. It's a great site and is going to be fantastic when it is finished. He said that he and Mr. Harrington had a meeting at the Cultural Center with Rev Ball and others that was very well attended. They were there for 3 hours and got a lot out of it. He said it looks like there will be another meeting at the end of October. He said that he has been meeting every other month with the Mayors of Apex and Fuquay Varina to connect regionally and build relationships. Finally, he received a call from former mayor Jim Hancock who sat down and talked with him for a while. He talked about the history of the Town and the things that were going on in the late 1970s and early 1980's and it was fun to talk with someone about the early days of Holly Springs.

MANAGER'S REPORT

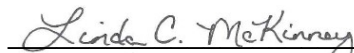
Randy Harrington, Town Manager, said he had two items. First, as part of the effort to enhance engagement with youth and particularly teens, there is an event coming up this Friday. Teens from 13 to 18, are invited to a Party in the Field beside Hunt Recreation Center, from 6:30-8:30. There will be many varied activities. Cost is ten dollars for residents and \$15 for nonresidents. Secondly, school is coming back in session for traditional schedules. He asked people to remember to be patient those first couple of days when traffic picks up. He applauded the police department and the SROs on fine tuning and managing the traffic during those days.

Council member Forrest said he had one other things. Speaking of back to school, as a parent of a high school student, he attended the welcome ceremony by the principal at Holly Springs High School and the principal spoke highly of the SROs and town police officers. He thanked Chief Liquorie for his team's work.

CLOSED SESSION: none.

Adjournment: MPT Berry made a motion to adjourn at 8:16 pm. It was seconded by Council member Forrest and passed with a unanimous vote.

Respectfully Submitted on Tuesday, September 6, 2022.



Linda C. McKinney, Town Clerk

Addenda pages as referenced in these minutes follow and are a part of the official record.



Holly Springs Town Council

Town Council Meeting Agenda Cover Sheet

Agenda Item#: 9.

Consent Agenda

Title: Quarterly Budget Amendments

Strategic Priority Area: Organizational Excellence

Staff Resource: Corey Petersohn, Finance

Action(s):

1. Receive monthly reported budget amendments authorized by the Town Manager.
2. Approve quarterly budget amendments and adopt the following ordinances:
 - Grants and Special Revenue Fund Ordinance (22-32)
 - Parks and Recreation Capital Project Ordinance (22-33)

Explanation:

1. The Budget Ordinance for the Town authorizes the Manager to approve inter-department budget amendments within the same fund up to \$50,000 with notification to Town Council. When applicable, staff will provide a copy of these approved amendments. Amendments processed in August to be reported are:
 - **Amendment 1** - Transferring \$7,856 in insurance proceeds to the Police Department for the purchase of a replacement vehicle.
 - **Amendment 2** - Transferring \$8,500 to the Town Clerk's Office for surveying services and management of the Town Cemetery.
2. Budget amendments above \$50,000 or that change the total appropriation of a fund require Town Council Approval. Amendments for approval in September are:
 - **Amendment 3** - Quarterly Budget Amendment (FY23 Q1):
 - Appropriate \$5,000 to the Town Clerk's Office as a pass-thru cost for cemetery plot management.
 - Re-appropriate \$30,000 from last year's budget that was earmarked for office improvements at the Law Enforcement Center that could not be completed by the end of prior fiscal year.
 - Appropriate \$251,640 to the Town Attorney's Office for Council approved claims, judgments, and litigations.
 - Transfer out \$23,300 from the general fund to a project account for the installation of two electric vehicle charging stations at the Town Hall Commons parking deck (see Town Halls Commons Parking Deck Electric Vehicle Charging Stations in background for more details).
 - Transfer \$70,000 from the general fund to a project account to be appropriated for

Town Council Business Meeting
September 6, 2022

concrete repairs at Ting Stadium (see Ting Stadium Drainage Repairs Project in background for more details).

- Appropriate \$20,643 in additional funds for the Police Department provided by Wake County Schools.

- **Amendment 4** - Adopt Grants and Special Revenue Fund Ordinance (22-32) to increase the total fund appropriation by \$39,000.

- Receive \$10,000 from the NC Department of Environmental Quality for installation of two electric vehicle charging ports at Town Hall Commons
- Receive \$23,300 in General Fund operating funds being transferred for the town-funded portion of the electric vehicle charging ports project
- Receive \$4,200 in grant funding from the United Arts Council of Raleigh and Wake County to support the Jazz Orchestra and Holly Springs Community Band programs
- Receive \$1,500 in grant funding for the SNAP Double Bucks match program for the Holly Springs Farmer's Market.

- **Amendment 5** - Adopt Parks and Recreation Project Ordinance (22-32) to increase the total fund appropriation by \$70,000.

- Receive \$70,000 in funding transferred from the General Fund for the Ting Stadium Drainage Repairs Project.

Background:

- **Town Hall Commons Parking Deck Electric Vehicle Charging Stations**

- The Town was awarded a grant from the North Carolina Department of Environmental Quality (DEQ) for installation of electric vehicle charging stations at \$5,000 per charging port.
- Staff identified an opportunity to add two charging ports using existing infrastructure within the Town Hall Commons parking deck which results in a total of \$10,000 in grants award.
- The total project budgeted is estimated at \$33,300 which does include 3 years of warranty and software support, installation, painting, and a 10% budget for project contingency.
- The Town will own the charging station and receive any revenue generated from customer use.

- **Ting Stadium Drainage Repairs Project**

- In the approved Community Investment Plan, the Town fully funded this project at \$130,000.
- The initial project scope only involved a surface membrane replacement to prevent leaking and drainage issues at Ting Stadium.
- Upon removal of the top surface, more extensive concrete repairs were deemed necessary to fix additional underlying issues.
- The Town's contractor ceased work and proposed a change order that would require \$135,000 in additional project budget, which includes 10% budget contingency.
- Staff have identified existing capital project funds (\$65,000), additional general fund revenues (\$30,000), and existing operating funds to repurpose (\$40,000) to fully fund the repair project.

- **Grants and Special Revenue Fund** was previously approved at \$2,652,324. Ordinance 22-32 increases the total appropriation by \$39,000 to a new budget of \$2,691,324.

- **Parks and Recreation Capital Project Fund** was previously approved at \$25,880,869. Ordinance 22-33 increased the total appropriation by \$70,000 to a new budget of

\$25,950,869.

Funding Source(s):

Amendment 1, 2, & 3 - General Fund Operating Budget

Amendment 4 - Grants and Special Revenue Fund

Amendment 5 - Parks and Recreation Capital Project Fund

Attachment(s):

1. Amendment 1 - Police Vehicle Insurance Proceeds
2. Amendment 2 - Town Clerk Contract Services
3. Amendment 3 - Quarterly Budget Amendment FY23 Q1
4. Amendment 4 - Grants and Special Revenue Ordinance (22-32)
5. Amendment 5 - Parks and Rec Project Ordinance (22-33)

Town of Holly Springs FY2022-23 Budget Amendment Request

BE IT ORDAINED by the Town Council of the Town of Holly Springs, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2023.

Department: Police

Date: 7/28/2022

Reason for Budget Amendment:

Transfer insurance proceeds from a Police vehicle claim to the Police Vehicle Capital Outlay account for the purchase of a replacement inspector's vehicle.

Expense			
Account #	Account Description	Increase	Decrease
10-410-37.03	General Fund - Insurance Proceeds		\$ 7,856
10-418-18-90.02	Police - Capital Outlay Vehicle	\$ 7,856	
Total Expense:		\$ 7,856	\$ 7,856

Revenue			
Account #	Account Description	Increase	Decrease
Total Revenue:		\$ -	\$ -

Department Head Signature (or electronic submission)

Finance Director Signature (if necessary)

Town Manager Signature (if necessary)

Council Approved/Notified (if necessary)

Town Manager is authorized to transfer within a department without prior approval of Town Council.
 Town Manager is authorized to approve transfers between departments within the same fund up to \$50,000.
 All inter-departmental transfers will be reported to Town Council by the following month.
 Amendments that change the total budget or departmental transfers over \$50,000 require Town Council approval.

Town of Holly Springs FY2022-23 Budget Amendment Request

BE IT ORDAINED by the Town Council of the Town of Holly Springs, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2023.

Department: Town Clerk

Date: 8/26/2022

Reason for Budget Amendment:

Moving operational funds for Clerk's office to have Town Cemetery surveyed for future plot selection management and additional cemetery management contract fees.

Expense			
Account #	Account Description	Increase	Decrease
10-410-46.01	Gen Fund - Central Services - Rental & Lease Equip		\$ 8,500
10-412-14-12.05	Gen Fund - Town Clerk - Contract Services	\$ 8,500	
Total Expense:		\$ 8,500	\$ 8,500

Revenue			
Account #	Account Description	Increase	Decrease
Total Revenue:		\$ -	\$ -

Department Head Signature (or electronic submission)

Finance Director Signature (if necessary)

Town Manager Signature (if necessary)

Council Approved/Notified (if necessary)

Town Manager is authorized to transfer within a department without prior approval of Town Council.

Town Manager is authorized to approve transfers between departments within the same fund up to \$50,000.

All inter-departmental transfers will be reported to Town Council by the following month.

Amendments that change the total budget or departmental transfers over \$50,000 require Town Council approval.

Town of Holly Springs FY2022-23 Budget Amendment Request

BE IT ORDAINED by the Town Council of the Town of Holly Springs, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2023.

Department: Administration **Date:** 9/6/2022

Reason for Budget Amendment:

Fiscal Year 2022-2023 Quarter 1 - quarterly budget amendment.

Expense			
Account #	Account Description	Increase	Decrease
10-412-14-12.05	Town Clerk - Contract Services	\$ 5,000	
10-418-18-90.03	Police Department - Capital Outlay Buildings	\$ 30,000	
10-412-13-82.15	Town Attorney - misc claims, judgments, & litigation	\$ 251,640	
10-412-11-12.01	Town Manager - Professional Fees		\$ 23,300
10-95	Transfer Out - Grants/Special Revenue Fund	\$ 23,300	
10-425-26-12.05	Parks and Rec - Park Maint Contract Services		\$ 40,000
10-95	Transfer Out - Parks and Rec Capital Projects	\$ 70,000	
10-418-18-62.11	Police Department - Law Enforcement Supplies	\$ 20,642	
Total Expense:		\$ 400,582	\$ 63,300

Revenue			
Account #	Account Description	Increase	Decrease
10-322.01	General Fund Misc Revenue	\$ 5,000	
10-360.08	General Fund Unassigned Fund Balance	\$ 30,000	
10-360.08	General Fund Unassigned Fund Balance	\$ 251,640	
10-331.01	General Fund NMAC Sponsors	\$ 30,000	
10-314.05	General Fund - Wake Co Schools	\$ 20,642	
Total Revenue:		\$ 337,282	\$ -

Department Head Signature (or electronic submission)

Finance Director Signature (if necessary)

Town Manager Signature (if necessary)

Council Approved/Notified (if necessary)

Town Manager is authorized to transfer within a department without prior approval of Town Council.

Town Manager is authorized to approve transfers between departments within the same fund up to \$50,000.

All inter-departmental transfers will be reported to Town Council by the following month.

Amendments that change the total budget or departmental transfers over \$50,000 require Town Council approval.



Ordinance No. 22-32

Date Submitted: September 6, 2022

Date Adopted: September 6, 2022

**Grants and Special Revenue Fund Project Ordinance
HOLLY SPRINGS, NORTH CAROLINA**

BE IT ORDAINED by the Town Council of Holly Springs, North Carolina, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

SECTION I: The project authorized by this ordinance consists of general government projects funded by donations, grants, and local, state, and federal restricted funds.

SECTION II: The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

SECTION III: Grants and Special Revenue Fund Fees shall be deposited directly in the fund effective September 6, 2022

Grant and Special Revenue Fund	
Expenditures:	
Code Enforcement	1,980,512
Police	345,858
General Government	320,191
Parks and Recreation	44,763
Total	2,691,324

SECTION IV: The following revenues are anticipated to be available to complete these projects:

Grant and Special Revenue Fund	
Revenues:	
Inspections Revenues	1,978,018
Federal Grants	331,085
Other Grants and Donations	334,057
Miscellaneous Revenues	24,864
General Fund Revenues	23,300
Total	2,691,324

SECTION V: The Finance Officer hereby directed to maintain within the project funds detailed accounting records.

SECTION VI: The Budget Officer is directed to include a detailed analysis of the past and future costs and revenues on this capital project in every budget submission made to the Town Council.

SECTION VII: The Town Manager is authorized to amend expenditures within the fund for expenditures that are authorized per section I of this ordinance that do not change the total appropriation within the fund.

SECTION VIII: Copies of this capital project ordinance shall be furnished to the Clerk to the Town Council, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

SECTION IX: All ordinances in conflict with this ordinance are hereby repealed or amended to reflect the controlling nature of this Ordinance.

The provisions of this ordinance shall become effective September 6, 2022 in accordance with the laws of the State of North Carolina.

Adopted this, the 6th day of September 2022.

Town of Holly Springs by

Sean Mayefskie, Mayor

ATTEST:

Linda McKinney, Town Clerk





Ordinance No. 22-33

Date Submitted: September 6, 2022

Date Adopted: September 6, 2022

**Parks and Recreation Capital Project Ordinance
HOLLY SPRINGS, NORTH CAROLINA**

BE IT ORDAINED by the Town Council of Holly Springs, North Carolina, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

SECTION I: The project authorized by this ordinance consists of parks and recreation capital projects.

SECTION II: The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

SECTION III: Parks and Recreation Fees shall be deposited directly in the fund effective September 6, 2022:

Parks and Recreation Capital Project Fund	
Expenditures:	
Parks and Recreation Capital Project Fund	25,950,869
Total	25,950,869

SECTION IV: The following revenues are anticipated to be available to complete these projects:

Park and Recreation Capital Project Fund	
Revenues:	
Transfer In	14,776,661
State Grants	834,340
Federal Grants	1,133,000
Bond Proceeds	9,177,668
Miscellaneous Revenues	29,200
Total	25,950,869

SECTION V: The Finance Officer hereby directed to maintain within the project funds detailed accounting records.

SECTION VI: The Budget Officer is directed to include a detailed analysis of the past and future costs and revenues on this capital project in every budget submission made to the Town Council.

SECTION VII: The Town Manager is authorized to amend expenditures within the fund for expenditures that are authorized per section I of this ordinance that do not change the total appropriation within the fund.

SECTION VIII: Copies of this capital project ordinance shall be furnished to the Clerk to the Town Council, and to the Budget Officer and the Finance Officer for direction in carrying out this project.

SECTION IX: All ordinances in conflict with this ordinance are hereby repealed or amended to reflect the controlling nature of this Ordinance.

The provisions of this ordinance shall become effective September 6, 2022 in accordance with the laws of the State of North Carolina.

Adopted this, the 6th day of September 2022.

Town of Holly Springs by

Sean Mayefskie, Mayor

ATTEST:

Linda McKinney, Town Clerk





Holly Springs Town Council

Town Council Meeting Agenda Cover Sheet

Agenda Item#: 10.

Consent Agenda

Title: Facilities and Public Restroom Janitorial Services Contract

Strategic Priority Area: Safe & Friendly
Organizational Excellence

Staff Resource: Paige Scott, Director, Public Works

Action(s):

Authorize the Town Manager to execute a three (3) year contract with Environmental Control for janitorial, day porter, and as-needed related services at town facilities and public restrooms for an annual amount not to exceed \$230,000.

Explanation:

- In early fall of 2021, the Town issued a Request For Proposals (RFP) for janitorial services.
- Six (6) bids were received, and two (2) met the final bid requirements.
- American Facility Services (AFS) was the lowest of the two (2) bids, with an annual cost of \$169,620.
- The Town entered into a contract with AFS on November 1, 2021.
- The contract start was delayed to January 3, 2022, because AFS could not meet the contract terms.
- Since work began in January, AFS has failed to perform the required services of the contract.
- Service deficiencies include, but are not limited to, failure to clean entire facilities on a routine basis, staffing shortages and high turnover, failure to follow supply procedures, and inability to meet cleanliness standards for all areas.
- The Town has worked to help AFS perform the required services by conducting daily performance meetings, issuing a cure letter, and completing the missed services with Town staff. None of these efforts have improved the performance of the janitorial services provided by AFS.
- Town staff continues to receive numerous complaints daily regarding janitorial services provided by AFS.
- In anticipation of the termination of AFS, staff increased the budget line item to accommodate an anticipated change in service providers.
- Of the six (6) bids previously received in the RFP, Environmental Control was the only other service provider that met the final bid requirements.
- Staff have been negotiating and collaborating with Environmental Control to transition janitorial services for the Town to their company.
- If approved by Council, the new agreement is anticipated to start on November 1, 2022 - following the company's staffing up and training of personnel. The Town or Environmental Control may terminate, for cause, the contract by either party upon 30 days written notice

in the event of a failure by the other party to perform in accordance with the terms of the contract.

Background:

- In FY 2021, staff consolidated Town janitorial services under one contract as multiple contracts managed by different departments were set to expire.
- Facilities include Town Hall, Town Hall Annex, Law Enforcement Center, Public Works, Utley Creek Reclamation Facility Administrative Offices, Bass Lake Retreat, and Visitor's Center, Village Office Condos, Cultural Center and Library, and public restroom facilities at Bake Lake, Womble Playground, Womble Baseball, Jones Park, Veterans Park, and Ting Modular Building.
- Services included are daily, weekly, semi-annual, annual cleaning, day porter services, and as-needed services.
- Optional as-needed services include window cleaning, carpet shampoo, and strip/wax Vinyl Composition Tile.

Funding Source(s):

General Fund

Attachment(s):

1. Scope of Services
2. Janitorial Contract_Standard

SCOPE OF SERVICES

Facilities Janitorial Maintenance Services

A. General Information

Service Provider shall provide facilities janitorial services at the Town of Holly Springs.

Services shall include, but are not limited, to cleaning of Town facilities, offices, training rooms, conference rooms, restrooms, showers, lockers, gyms, kitchen areas, hallways, elevators, stairwells, common areas and parks restrooms.

Unit prices in the Fee Schedule shall include full compensation for all labor, supervision, transportation, cleaning supplies (excluding paper products, soap, shower curtains, urinal screens, pee mats, feminine waste bags and trash bags) equipment, and related incidentals to provide such services, and no other compensation is allowed. The Town will provide storage space for janitorial supplies at various locations. The Town shall not receive any janitorial shipments from the Services Provider's supply vendors. The Service Providers representative will need to be onsite to meet the delivery person and/or company and store away all deliver items at time of receipt. Town staff will not assist in the moving of supplies. Service Provider shall maintain site safety and security for public areas at all times.

While working on Town property, the Service Provider's employees shall wear uniforms with appropriate company name and logo. Service Provider employees shall wear Town issued badges at all times during work performance. Service Provider shall ensure that employees maintain a professional demeanor at all times while working in town facilities. Service Provider shall refrain from other commercial or political activity while performing janitorial services on Town Facilities.

B. Safety

Service Provider shall abide by all local, state, federal, OSHA, and Town safety codes, policies, and procedures. Service Provider will be responsible for fines incurred if not in compliance with all above regulations. Before the start of work, Service Provider shall post temporary signs and provide barricades to safely protect the public and Town employees. Service Provider shall remove all signs and barricades at the completion of the service.

C. Town Facilities Locations

Service Provider shall provide janitorial services at the following Town facilities:

<i>Facility Name</i>	<i>Address</i>
Annex	104 West Ballentine St. (behind Town Hall)
Bass Lake Admin. & Restrooms	900 Bass Lake Rd.

Bass Lake Conference Center	900 Bass Lake Rd.
Bass Lake Picnic Shelter	1036 Bass Lake Rd.
Cultural Center & Library	300 West Ballentine St.
Holly Grove Modular	1401 Avent Ferry Rd. (Entrance on Cass Holt Rd)
Jones Park	405 School Days Ln.
HSPD-LEC	750 Holly Springs Rd.
Public Works	101 Thomas Mill Rd. (Entrance on Irving Pkwy)
Sugg Farm Dog Park	2401 Grigsby Ave.
TING Modular	101 Tennis Court
Town Hall	128 South Main St.
WWTP-Utley Creek Water Reclamation	150 Treatment Plant Rd.
Womble Concession/Tennis	340 Stinson Ave
Womble Playground	340 Stinson Ave
Womble Score Tower/Baseball	340 Stinson Ave.
Veterans Park	600 Bikram Dr.
Village Office Condos "VOC"	376 & 378 Raleigh St.

D. Execution

Service Provider shall provide the following janitorial services at all facilities Monday – Friday. The Cultural Center and Law Enforcement Center (LEC) require janitorial services on Saturday and Sunday in addition to Monday - Friday.

Daily Cleaning:

1. Empty waste and recycling receptacles, clean waste receptacles, and replace liners.
2. Move trash, waste and recycling to a central location for removal.
3. Clean all surfaces to ensure they are free of dust, debris, fingerprints, spots and spills.
4. Wipe ledges, handrails, and horizontal surfaces free of dust and debris.
5. Clean building entrance and exit glass to be free of streaks, fingerprints, dust and debris.
6. Clean interior glass partitions, display cases, mirrors, and interior doors to be free of streaks, fingerprints, dust, and debris.
7. Sanitize, wash, and polish drinking fountains, sinks, basins. Scour the mouthpiece, nozzle and bowl of drinking fountains. Report leaks, clogs or operational deficiencies to Town representative.
8. Sanitize and clean portable drinking units (water coolers) and fixtures. Use sanitizing wipes every day.
9. Sweep and damp mop stair landings and steps.
10. Maintain areas free of dust, loose dirt, and debris.
11. Lactation Rooms – clean, sanitize, dust, wipe down furniture.
12. Sweep outside entrance and exit areas and stairs within 10' of existing wall; clean entrance mats to remain free of dust, loose dirt, debris, leaves.
13. Vacuum all hallways, conference rooms and common areas.
14. Spot vacuum carpets in cubicles and offices.
15. Kitchens:
 - a. Empty trash

- b. Mop floors
- c. Dust
- d. Wipe down counter tops and cabinets

16. Elevators:

- a) Vacuum interior of all carpeted elevators.
- b) Sweep interior of non-carpeted elevators.
- c) Wipe down interior and exterior panels, buttons, handrails and doors with sanitizer.
- d) Shine and polish all stainless and aluminum surfaces.

17. Shower, Lockers and Changing Areas (at LEC only):

- a) Clean entire shower area with a germicidal detergent; remove encrustation, stains, scale and deposits from fixtures; change shower liners twice a year; sweep floors and clean baseboards; empty and clean receptacles and change plastic liners; clean and polish dispensers, partitions, floors, vents, ADA chair and furniture.

18. Restrooms:

- a) Clean commodes, urinals, and lavatories, with a germicidal detergent; remove encrustation, stains, scale, and deposits from fixtures, replace deodorant tablets.
- b) Replace urinal screens monthly or as needed.
- c) Sweep floors, stairs and clean baseboards; damp mop resilient tile floors with a germicidal detergent; wet-mop ceramic tile floors with a germicidal detergent.
- d) Restock supplies.
- e) Empty and clean trash receptacles and change plastic liners.
- f) Clean and polish dispensers, mirrors, partitions, doors, vents, shelves, and furniture.
- g) Polish stainless-steel fixtures, sinks, partitions, toilets, handrails and drinking fountains with cleaner.
- h) Replace feminine napkin waste bags nightly.

Weekly:

- 1. Thoroughly dust blinds, windowsills, cobwebs, ceiling fans and railings
- 2. Machine buff all tile and VCT with spray buff, including marble floors (Town Hall, LEC, Water Treatment Plant, Library & Cultural Center)
- 3. Spot clean scuff marks on walls and baseboards
- 4. Vacuum all carpets throughout entire facility
- 5. Clean all glass doors and inside office windows
- 6. Dust all HVAC vents that are within reach using a 3-step ladder
- 7. Polish all the fine wood surfaces where applicable (fine wood is includes Town Hall, Annex, LEC, and wood desks and furniture at all facilities)
- 8. Polish and buff any stainless-steel surfaces
- 9. Dust and polish all conference/meeting rooms tables and chairs
- 10. Flush all restroom floor drains with water

Note: Town Council meetings occur every other Tuesday at Town Hall. The Town Representative will provide the Service Provider with council meeting dates for the year. The Service Provider shall provide

janitorial services in Council Chambers after 10 pm or the day porter will address the next day. Janitorial services will take place in all other Town Hall areas before 10 pm in an effort not to disturb the Town Council meeting.

Semi-Annually:

1. Deep clean and polish wall and floor tile in restrooms and hallways
2. Strip and wax all VCT floors (Public Works, Annex, Town Hall, LEC, Village Condos, Water Treatment Plant, Library & Cultural Center)
3. Machines hot water extraction of all carpeted areas (Public Works, Annex, Town Hall, LEC, Village Condos, Water Treatment Plant, Library & Cultural Center)
4. Dust and clean all HVAC supply and return grills
5. Clean perimeter glass in/out

E. Standards

Facilities included in this scope of services shall be maintained at a high standard of cleanliness: free of dust, dirt, odors, stains, discoloration and deposits, and any other foreign material.

Service Provider shall immediately notify the Town Representative of vandalism, damages, defects, leaks, power outages, graffiti or any other problems with Town facilities that require immediate corrective action. All damage and routine wear and tear must be reported immediately to the Town Representative.

Service Provider shall provide a day porter for three (3) hours per day, Monday – Friday from 10:00 am to 1:00 pm. The day porter shall report each day to Town Hall to meet with the Town Representative to receive any feedback or input on clean standards. The day porter shall primarily concentrate on touchups and restocking at Town Hall, Cultural Center, LEC and Annex. The day porter shall also check the status of parks restrooms and clean as needed at those facilities. The day porter may be called upon by the Town Representative to handle emergency request for services. These requirements are not optional, and non-compliance may be cause for termination of this contract.

F. Materials

Service Provider shall provide all necessary equipment, materials, and supplies including chemical agents, waxes, and polishes. The equipment shall include quiet, commercial grade vacuum cleaners. Rags used to clean sinks shall not be used to clean toilets/urinals. A color coded microfiber cloth cleaning system must be established to prevent cross contamination of chemicals.

All cleaning supplies, materials, and equipment used in the performance of this scope of services shall be of good commercial quality, suitable for the purpose intended, and shall provide results necessary to provide the high standards of cleanliness required as outlined in this scope of services. All cleaning processes used shall meet high standards of safety and effectiveness for commercial applications in high traffic areas and shall not damage the facilities being cleaned. The Town reserves the right to prohibit the use of any process, material, supply, or equipment which may damage Town property, or which may be a risk to employees, the public, or others using Town facilities.

The Town will provide power, water, paper products, soap, shower curtains, urinal screens, pee mats, feminine waste bags and trash bags for the Service Provider to perform janitorial services.

G. Inspection/Reports/Logs/Schedules

1. Service Provider shall acknowledge receipt of Town keys on a memorandum receipt form furnished by the Town representative. All such keys shall remain the property of the Town and shall be promptly returned to the Town Representative at the termination of this contract. In the event of a lost key, the Service Provider is to notify the Town immediately.
2. A daily "Work Sign-in/Sign-out log" shall be provided by the Service Provider at all locations. Service Provider's employees shall sign-in and sign-out on each workday. Work logs shall be kept in the janitorial closet at each location and include technician name, date, start and end times of cleaning.
3. Service Provider shall provide a detailed route and work schedule to include cleaning route by location at the kickoff meeting.

H. Damages

Service Provider shall repair, replace and/or restore to its original condition any lost, misplaced, or damaged Town property caused by the Service Provider's operations, at no additional cost to the Town. Service Provider shall notify the Town representative of damages immediately but longer than 24 hours from incident.

The primary objective in handling contractor damages shall be the timely and competent repair of property to conditions as close to preexisting conditions as possible. All repairs shall be approved by the Town representative and performed without charge to the Town.

The Town retains the right to correct unacceptable work performed by the Service Provider and to charge associated costs to the contractor. Time will be billed at an average rate of pay for a Town employee. For example: if the showers at the LEC are missed and the health and safety of the police officers is a concern, Town staff will immediately address the issue and clean the showers. The Town will communicate the deficiency to the Service Provider for correction prior to acting.

In cases where repair is not possible or pre-existing conditions cannot be reasonably attained, the Town retains the right to assess damages by appropriate methods and to charge the value of those damages back to the contractor.

The Service Provider shall not be responsible for damages that are not attributable to the contractor such as vandalism or acts of God.

J. Service and Response Time

Service Provider shall provide a single point of contact to respond to all service calls. Service Provider's point of contact shall have authority to dispatch staff to meet the following response times:

Schedule Services: All scheduled services shall be performed as indicated in attachment A. Service provider shall have an answering service, cell phone, or office personnel available to receive service calls.

Task Authorizations – As Needed Janitorial Services: As needed janitorial services shall only be undertaken by the Service Provider upon issuance of a Task Authorization for said services. The Service Provider shall not perform services until the Town Representative provides a written authorization for said services.

K. Submittals

Safety Data Sheets (SDS) - Service Provider shall furnish a copy of the SDS for all chemicals used on Town properties. All chemicals, bottles and supplies used for janitorial cleaning shall be properly labeled in their original container.

Service Provider shall submit to the Town Representative a list of employees that will require a Town badge under this contract. Service Provider will update Town representative of any changes to this list in a timely manner.

L. Security Background Check and Badging

The Service Provider shall conduct criminal background checks on all employees and subcontractors working at the direction of the Service Provider in this contract, and shall exclude any employees from working in any Town facility that:

1. had a conviction of a felony within the past 10 years;
2. has a conviction in the past 10 years of any violent crime or crime involving theft or dishonesty; or is currently a registered sex offender

Cultural Center Additional Requirements:

Service Provider employees, providing janitorial services at the Holly Springs Library and Cultural Center must complete the following:

1. Wake County's prescreen form: Gerald Baker form
2. Wake County's ID/badge request form
3. Provide a clear copy of their social security card and driver's license
4. Current address must match driver's license
5. Staff must pass a recent background to continue service
6. Upon passing, the badge photo must be headshot from the waist up, in JPEG format

Law Enforcement Center Additional Requirements:

Service Provider employees, assigned to work at the Holly Springs Police Department (HSPD) Law Enforcement Center, must complete the following:

1. Provide two (2) copies of finger prints
2. Pass a thorough and comprehensive HPSPD background check
3. Must provide current copy of driver's license
4. Must provide a social security card
7. Must provide a headshot photo from the waist up

NOTE: Finger prints are to be obtained at the Wake County Sheriff's Department, CCBI Unit. The Holly Springs Police Department will not conduct fingerprinting. The Town reserves the right to deny employees access to the facility at the Chief of Police's discretion.

M. Licensing and Certification

Service Provider shall furnish a copy of any license or certification necessary or related to the performance of services under this contract.

N. Deductions

The Town representative will routinely inspect the Service Provider's work. If an area or task does not meet standards, the Town representative will notify the Service Provider. If the work is not corrected, the Town will deduct from the Service Provider's monthly invoice the dollar amount identified in the Fee Schedule for that work or task.

For repeated incidents in which Service Provider fails to meet response times, Service Provider agrees to a deduction to the total invoice for the month in which the response was not met. The deduction shall be fair and reasonable.

The Town Representative is the final authority on the quality of the Service Provider's work.

Attachment A

AREA DESCRIPTION, ESTIMATED MEASUREMENTS AND CLEANING TIMEFRAMES

<i>Facility Name</i>	<i>Address</i>	<i>Cleaning Hours</i>	<i>Sq. Ft.</i>	<i>Restrooms</i>	<i>Sinks</i>	<i>Toilets</i>	<i>Urinals</i>	<i>Breakrooms</i>	<i>Carpet</i>	<i>VCT/LVT /Tile</i>	<i>Floors</i>	<i>Windows</i>	<i>Exterior Trash</i>
Annex	104 West Ballentine St. (behind Town Hall)	5:30 pm - 8:00 am	4,894	4	4	4	0	2	YES	All 3 & Marble	2	12	NO
Bass Lake Admin. & Restrooms	900 Bass Lake Rd.	5:30 pm - 8:00 am	800	2	5	3	2	1	NO	Ceramic & hardwood	1	4	YES
Bass Lake Conf. Ctr.	900 Bass Lake Rd.	5:30 pm - 8:00 am	800	2	3	2	1	1	NO	Ceramic Tile	1	10	NO
Bass Lake Picnic Shelter	1036 Bass Lake Rd.	8 am - 1:30 pm	650	2	2	3	1	0	NO	Concrete	1	0	NO
Cultural Center & Library	300 West Ballentine St.	Cultural Center: M- TH: 9 pm Fri/Sat: 6 pm Sun: 5pm Library: M- TH: 8 pm Fri/Sat: 6 pm Sun: 5pm	19,939	5	10	8	4	2	YES	Terrazzo	1	100 +/-	YES-4
Holly Grove Modular	1401 Avent Ferry Rd. (Entrance on Cass Holt Rd)	8 am - 1:30 pm	300	2	4	3	2	0	NO	Epoxy-wood	1	0	NO
Jones Park	405 School Days Ln.	8 am - 1:30 pm	648	2	2	4	2	0	NO	Epoxy Concrete	1	0	NO
HSPD-LEC	750 Holly Springs Rd.	5:30 pm - 8:00 am	26,593	10	14	12	3	4	YES	All 3 & Marble	2	200 +/-	YES-6
Public Works	101 Thomas Mill Rd. (Entrance on Irving Pkwy)	5:30 pm - 8:00 am	2,856	3	5	3	2	1	YES	LVT	1	13	YES-2
Sugg Farm Dog Park	2401 Grigsby Ave.	8 am - 1:30 pm	600	2	4	5	2	0	NO	Bare Concrete	1	0	YES-2
TING Modular	101 Tennis Court	8 am - 1:30 pm	300	2	4	5	2	0	NO	Epoxy-wood	1	0	NO
Town Hall	128 South Main St.	5:30 pm - 8:00 am	28,247	6	13	10	4	3	YES	All 3 & Marble	2	72	NO
WWTP-Utley Creek Water Reclamation	150 Treatment Plant Rd.	5:30 pm - 8:00 am	2,800	2	3	2	1	1	NO	VCT	1	16	NO
Womble Concession/Tennis	340 Stinson Ave	8 am - 1:30 pm	681	2	2	3	1	0	NO	Concrete	1	0	NO
Womble Playground	340 Stinson Ave	8 am - 1:30 pm	670	2	2	4	2	0	NO	Epoxy Concrete	1	0	NO
Womble Score Tower/Baseball	340 Stinson Ave	8 am - 1:30 pm	600	4	4	6	4	0	NO	Epoxy Concrete	1	0	NO
Veterans Park	600 Bikram Dr.	8 am - 1:30 pm	650	2	2	3	1	0	NO	Epoxy Concrete	1	0	NO
Village Office Condos "VOC"	376 & 378 Raleigh St.	5:30 pm - 8:00 am	1,500	2	4	2	0	2	YES	Linoleum	2	16	NO

Attachment B FEE SCHEDULE

TERM 1: November 1, 2022 - October 31, 2023

1. Facility Janitorial Services:

DESCRIPTION OF SERVICES	Monthly Rate	FREQUENCY	TOTAL
Monday – Friday Daily Cleaning	\$11,285	X 12	\$135,420
Saturday – Sunday Daily Cleaning (LEC & Cultural Center Only)	\$1,640	X12	\$19,680
Weekly Cleaning (burnishing 4 locations)	\$450	X 12	\$ 5,400
Semi Annually Totals (Itemized below)	\$ 15,870	X2	\$31,740
Semi Annually Strip/Wax	\$4,500	X2	\$9,000
Semi Annually Carpet Cleaning	\$5,130	X2	\$10,260
Semi Annually Window Cleaning (Int/ext of peri. glass to include LEC)	\$6,240	X2	\$12,480

2. Day Porter Services:

DESCRIPTION OF SERVICES	Monthly Rate	FREQUENCY	TOTAL
Monday – Friday 10:00 am -1:00 pm	\$ 1,715	X 12	\$ 20,580

3. Park Bathroom Services – (Itemized separately but included in M-F daily cleaning above)

DESCRIPTION OF SERVICES	Monthly Rate	FREQUENCY	TOTAL
Monday – Friday 8:00 am -1:00 pm approx..	\$ 2,395	X 12	\$ 28,740

4. Additional Services – Requires Issuance of a Task Authorization:

DESCRIPTION OF SERVICES	Minimum Dollar Threshold	Unit of Measure	Rate
Carpet Shampoo	\$275	Sq. ft.	\$.15
Strip/Wax VCT	\$275	Sq. ft.	\$.50
Window Cleaning	N/A	Annually	\$ 6,325
Additional Labor Hours	N/A	Hourly	\$ 55

TERM 2: November 1, 2023 - October 31, 2024**1. Facility Janitorial Services:**

DESCRIPTION OF SERVICES	Monthly Rate	FREQUENCY	TOTAL
Monday – Friday Daily Cleaning	\$11,285	X 12	\$135,420
Saturday – Sunday Daily Cleaning (LEC & Cultural Center Only)	\$1,640	X12	\$19,680
Weekly Cleaning (burnishing 4 locations)	\$450	X 12	\$ 5,400
Semi Annually Totals (Itemized below)	\$ 15,870	X2	\$31,740
Semi Annually Strip/Wax	\$4,500	X2	\$9,000
Semi Annually Carpet Cleaning	\$5,130	X2	\$10,260
Semi Annually Window Cleaning (Int/ext of peri. glass to include LEC)	\$6,240	X2	\$12,480

2. Day Porter Services:

DESCRIPTION OF SERVICES	Monthly Rate	FREQUENCY	TOTAL
Monday – Friday 10:00 am -1:00 pm	\$ 1,715	X 12	\$ 20,580

3. Park Bathroom Services – (Itemized separately but included in M-F daily cleaning above)

DESCRIPTION OF SERVICES	Monthly Rate	FREQUENCY	TOTAL
Monday – Friday 8:00 am -1:00 pm approx..	\$ 2,395	X 12	\$ 28,740

4. Additional Services – Requires Issuance of a Task Authorization:

DESCRIPTION OF SERVICES	Minimum Dollar Threshold	Unit of Measure	Rate
Carpet Shampoo	\$275	Sq. ft.	\$.15
Strip/Wax VCT	\$275	Sq. ft.	\$.50
Window Cleaning	N/A	Annually	\$ 6,325
Additional Labor Hours	N/A	Hourly	\$ 55

TERM 3: November 1, 2024 - October 31, 2025**1. Facility Janitorial Services:**

DESCRIPTION OF SERVICES	Monthly Rate	FREQUENCY	TOTAL
Monday – Friday Daily Cleaning	\$11,285	X 12	\$135,420
Saturday – Sunday Daily Cleaning (LEC & Cultural Center Only)	\$1,640	X12	\$19,680
Weekly Cleaning (burnishing 4 locations)	\$450	X 12	\$ 5,400
Semi Annually Totals (Itemized below)	\$ 15,870	X2	\$31,740
Semi Annually Strip/Wax	\$4,500	X2	\$9,000
Semi Annually Carpet Cleaning	\$5,130	X2	\$10,260
Semi Annually Window Cleaning (Int/ext of peri. glass to include LEC)	\$6,240	X2	\$12,480

2. Day Porter Services:

DESCRIPTION OF SERVICES	Monthly Rate	FREQUENCY	TOTAL
Monday – Friday 10:00 am -1:00 pm	\$ 1,715	X 12	\$ 20,580

3. Park Bathroom Services – (Itemized separately but included in M-F daily cleaning above)

DESCRIPTION OF SERVICES	Monthly Rate	FREQUENCY	TOTAL
Monday – Friday 8:00 am -1:00 pm approx..	\$ 2,395	X 12	\$ 28,740

4. Additional Services – Requires Issuance of a Task Authorization:

DESCRIPTION OF SERVICES	Minimum Dollar Threshold	Unit of Measure	Rate
Carpet Shampoo	\$275	Sq. ft.	\$.15
Strip/Wax VCT	\$275	Sq. ft.	\$.50
Window Cleaning	N/A	Annually	\$ 6,325
Additional Labor Hours	N/A	Hourly	\$ 55



THIS AGREEMENT dated _____ of _____, 2022, between the Town of Holly Springs, North Carolina, for itself and it's Successors & Assigns (hereinafter called the "Town") and _____ (herein after called the "Contractor")

Town hereby desires to enter into a contract for services with the Contractor and the Contractor agrees to enter into this contract and perform the Services as set forth below, in the manner and time hereinafter described, and both parties do hereby agree as follows:

SERVICES OF Contractor

The services of the Contractor shall be performed in the manner as described in Exhibit A (the "Proposal") as attached hereto and incorporated by reference. Contractor agrees to employ such personnel as may be needed to deliver services in the manner and time prescribed herein. Such personnel shall be employees of the Contractor, said Contractor being an independent contractor of the Town.

Town'S RESPONSIBILITIES

The Town shall make available the facilities to the Contractor and shall not impede the work of the Contractor except as necessary. Any additional Town responsibilities shall be listed in Exhibit A.

PAYMENT

The Town shall pay the Contractor the contract sum of in the following manner:

- ☐ A Lump Sum amount of _____ payable upon the completion of the services listed in Exhibit A.
- ☐ Payment on the basis of Time and/or Materials as described in Exhibit A, or as otherwise described as follows:
(Description of Alternative payment terms)

TIME FOR RENDERING SERVICES

The times for rendering the services are set forth in Exhibit A or as otherwise set forth below:

GENERAL CONSIDERATIONS

1. Standards of Performance

- 1.1. The standard of care for all services performed or furnished by Contractor under this Agreement will be the care and skill ordinarily used by members of Contractor's profession practicing under similar circumstances at the same time and in the same locality.
- 1.2. Contractor represents that, prior to submitting the Bid and executing this Contract, Contractor became and remains thoroughly acquainted with all matters relating to the performance of this Contract, all applicable laws and all of the terms and conditions of this Contract. All Services under this Contract shall be coordinated under, and performed to the satisfaction of the Town Contact. Town is authorized to withhold payment of any funds under this Contract until periodic performance of the Services has been inspected, accepted, and approved by the Town Contact.
- 1.3. Contractor shall be responsible for the technical accuracy of its services and documents resulting therefrom, and Town shall not be responsible for discovering deficiencies therein. Contractor shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in Town furnished information.
- 1.4. Contractor and Town shall comply with applicable Laws or Regulations and Town mandated standards. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to Town's responsibilities or to Contractor's scope of services, times of performance, or compensation.
- 1.5. Contractor is an independent contractor of the Town. The Town and the Contractor mutually agree to indemnify and hold harmless each party from any claims of negligence brought forth. Contractor is familiar with the property and its condition.

2. Term and Termination

2.1. The term for this contract is for three (3) years from the date of the last signatory below.

2.2. The mutual obligations of the Parties contained in this Agreement may be terminated:

2.2.1. For cause by either party upon 30 days written notice in the event of a failure by the other party to perform in accordance with the terms hereof.

2.2.2. For failure to consistently satisfy the Standards of Performance in the opinion of the Town Contact.

2.2.3. Upon Mutual Agreement.

3. Controlling Law

3.1. This Agreement is to be governed by the law of the State in which the project is located

3.2. Venue and jurisdiction are proper in the 10th Judicial District of North Carolina (Wake County).

4. Notices

4.1. Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address below, or given personally, or by regular, registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of the receipt.

4.1.1. For the Town:

Randy Harrington, Town Manager
PO Box 8
Holly Springs, NC 27540
(919) 552-6221

Town Contact: _____

For the Contractor:

5. Severability

5.1. 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 Town and Contractor, who 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.

6. Waiver

6.1. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

7. Attorney's Fees

7.1. In the event of a breach of this agreement, the substantially prevailing party shall be entitled to an award of reasonable attorney's fees and costs relating to compelling performance under this agreement.

8. INSURANCE & INDENMIFICATION REQUIREMENT

8.1 Contractor shall provide general liability insurance for a minimum of \$5,000,000 per occurrence, \$5,000,000 aggregate for the complete term of the contract. Additionally, the Contractor shall supply workman's compensation insurance coverage to all employees within the statutory limits. Contractor shall supply proof of coverage to the Town within 10 days of execution of this contract and shall list "Town of Holly Springs" as additional insured to all general liability policies for the duration of the contract term. A certificate of insurance shall be attached hereto as Exhibit B.

8.2 The Contractor agrees to waive any and all claims against the Town from itself or its employees arising from work performed by the Contractor pursuant to this Contract and to protect, defend, indemnify and hold the Town and its officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees, or other expenses or liabilities of every kind in character and arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of actions of every kind and character in connection with or arising directly or indirectly out of this Agreement and/or the performance hereof. The Contractor/Licensee further agrees to investigate, handle, provide defense for and respond to, any such claims at its sole expense and agrees to bear all other costs and expenses related thereto, even if such claims are groundless, false, or fraudulent.

9. E-Verify.

9.1 Contractor hereby agrees to comply with N.C.G.S. § 64-25, et. seq. regardless of Contractor's status as an independent contractor and not an employee with the Town. The E-Verify Affidavit shall be attached hereto as Exhibit C.

- 10. Prohibition against sex offenders.** Contractor is being granted access to the Town's park system and/or town facilities (collectively "Facility") during hours of operation. Contractor hereby agrees that it shall not employ or otherwise allow to perform any aspect of the Contract any person who is a registered sex offender for any scope of work requiring such employee or contractor of the Contractor to access any area of the Facility. Contractor shall have an affirmative duty to ensure compliance with this section by checking the state and national registry for sex offenders against any employee, agent, contractor, subcontractor, officer, director, or any person that shall in any way perform under this contract. Contractor shall check the registry initially and periodically during the term of the Contract as often as necessary to ensure compliance with this section at all times. Contractor additionally agrees to indemnify and hold the Town harmless for any act or omission that may arise out of the operation of the Contract, the ACP, or any parole agreement among the parties that arise from, directly or indirectly, the Contractor's failure to ensure compliance with this section. This indemnification includes a duty to provide a legal defense.

11. INDEPENDENT Contractor

11.1 Contractor's status shall be that of an independent contractor and not an agent, servant, employee, or representative of Town in the performance of the Services. Contractor shall exercise independent judgment in performing duties under this Contract and is solely responsible for setting working hours, scheduling or prioritizing the work flow and determining how the work is to be performed. No term or provision of this Contract or act of Contractor in the performance of this Contract shall be construed as making Contractor the agent, servant or employee of Town, or making Contractor or any of its employees eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which Town provides its employees.

11.2 Contractor's Control Over Services Provided. Contractor shall retain the unqualified right of control over the means, manner and methods by which the Services are performed, and the right to perform such Services at the locations and times that Service Provider independently determines, as approved by the Town. Contractor shall be responsible for providing all equipment, materials and supplies that Contractor determines are needed to timely provide the Services.

11.3 Contractor shall be responsible for the technical accuracy of its services and documents resulting therefrom, and Town shall not be responsible for discovering deficiencies therein. Contractor shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in Town furnished information

12. NONDISCRIMINATION

12.1 As a condition of this Contract, Contractor covenants that Contractor will take all necessary actions to insure that, in connection with any operations under this Contract, Contractor, its officers, employees and subcontractors, will not discriminate in the treatment or

employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, sexual orientation, or handicap unrelated to job performance, either directly, indirectly or through contractual or other arrangements. Contractor shall also comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended. In this regard, Contractor shall keep, retain and safeguard all records relating to this Contract or work performed hereunder for a minimum period of three (3) years from final Contract completion, with full access allowed to authorized representatives of Town, upon request, for purposes of evaluating compliance with this and other provisions of the Contract.

13. **Contractor's Employees.**

13.1 Contractor agrees and consents that the Town is allowing access to the Contractor to both publicly used and private sensitive Town facilities. Contractor, and any employee, agent, subagent, volunteer, or any person authorized to act on behalf of the Contractor shall maintain a professional demeanor at all times during the interaction with the Town's patrons and visitors to Town facilities. Contractor shall refrain from other commercial or political activity while performing this contract on Town Facilities. Contractor shall undergo criminal background checks on all employees and subcontractors working at the direction of the Contractor in this contract, and shall exclude any employees from working in any Town facility any employees that:

- 1) had a conviction of a any felony within the past 10 years;
- 2) has a conviction in the past 10 years of any violent crime or crime involving theft or dishonesty; or
- 3) is currently a registered sex offender.

13.2 Special Sensitive Areas. Contractor understands and agrees that there are special areas of Town, particularly the Town's Police Department, which requires a heightened security protocol. As such, the Chief of Police may require finger printing of any of Contractor's employees that access this facility, and such fingerprinting costs shall be borne by Contractor. Additionally, the Town reserves the right to prohibit certain employees from access the Police Department at the discretion of the Chief of Police, which may require the Contractor to provide replacement personnel at the cost of the Contractor.

14. **ASSIGNMENT** Contractor shall not sell, assign, transfer or convey this Contract, in whole or in part, without the prior written consent of the Town. As an express condition of consent to any assignment, Contractor shall remain liable for completion of the Contract work in the event of default by the successor contractor or assignee.

15. **RIGHT OF REVIEW AND AUDIT.** Town may review any and all of the services performed by Contractor under this Contract. Town is granted the right to audit, at Town's election, all of Contractor's records and billings relating to the performance of this Contract. Contractor agrees to retain such records for a minimum of three (3) years following completion of this Contract. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Contract shall be subject to Town's rights as may be disclosed by an audit under this section.

16. **Exhibit List.** The following documents shall be attached hereto and incorporated by reference.

Exhibit A – Proposal and Scope of Work

Exhibit B – Contractor's Certification of Insurance listing Town as additional insured

Exhibit C – E-Verify Affidavit

[Signature Page Follows]

Town OF HOLLY SPRINGS

BY: _____
Randy J. Harrington, Town Manager

DATE: _____

WITNESS: _____
Town Clerk

Contractor:

Signature _____

Name: _____

Title: _____

DATE: _____

Approved as to form:

Town Attorney

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

Director of Finance

)

)

)

I, _____ (the individual attesting below), being duly authorized by and on behalf of _____ (the "Contractor") after first being duly sworn hereby swears or affirms

1. Contractor 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. Contractor understands that Contractors Must Use E-Verify. Each Contractor, 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. Contractor 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. Contractor's subcontractors comply with E-Verify, and if Contractor is the winning bidder on this project Contractor will ensure compliance with E-Verify by any subcontractors subsequently hired by Contractor.
- This day of , 2013.

Print or Type Name: _____

County of _____

day of _____, 20__.

Notary Public

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Holly Springs Town Council

Town Council Meeting Agenda Cover Sheet

Agenda Item#: 11.

Consent Agenda

Title: Public Works Uniform Rental Services

Strategic Priority Area: Organizational Excellence

Staff Resource: Paige Scott, Director, Public Works

Action(s):

Authorize the Town Manager to execute an agreement with UniFirst Corporation for uniform rental services for the Public Works department for 3 years and 2 option years for an annual amount not to exceed \$20,000.

Explanation:

- The benefits of a uniform rental service include an improved overall professional image, stronger promotion of the Town of Holly Springs brand, and enhanced built-in safety apparel features.
- Work uniforms ensure that all persons in any given workplace are identifiable as employees and not customers or outsiders.
- Public Works employees work along roadsides and in places that require high visibility vests for their safety.
- UniFirst provides uniforms that incorporate high visibility into the shirt, which removes the need for an additional safety vest that can add an additional layer during the heat of summer.
- The operations performed by Public Works employees lead to heavily soiled and damaged uniforms.
- Uniform rental services provide cleaning, patching, stitching, and uniform replacement to keep the employees neat, clean, and safe while working in and around town.
- The agreement for uniform services is based on 52 weeks' service per year. On an annual basis, prices then, in effect, will be increased by the greater of the CPI (Consumer Price Index).

Background:

- The proposed uniform rental services contract would be the first of its kind for the Town.
- Current uniform challenges include inconsistency in uniform apparel dissemination to employees, a variety of uniform types which reduces Town branding identity and the ability for residents to easily identify a Town employee, regular cleaning of apparel, and quick replacement/repair of damaged work apparel.

Funding Source(s):

General Fund

Attachment(s):

1. TOHS Service Agreement

CUSTOMER SERVICE AGREEMENT

COMPANY NAME (Customer)

TOHS Public Works

LOC. NO.

210

ADDRESS

101 Thomas Mill Rd

ROUTE NO.

Holly Springs

DATE

08/16/2022

PHONE

919-552-5920

SIC/NAICS

The undersigned (the "CUSTOMER") orders from UniFirst Corporation and/or UniFirst Holdings, Inc. d.b.a. UniFirst and/or UniFirst Canada LTD. ("UNIFIRST") the rental service(s) at the prices and upon the conditions outlined:

MERCHANDISE SERVICED								
ITEM DESCRIPTION	LOST/ DAMAGED REPLACEMENT CHARGE	SERVICE FREQUENCY	NO. OF PERSONS/ ISSUE PER PERSON	TOTAL NO. OF CHANGES/ PIECES	PRICE PER CHANGE/ PIECE	STANDARD/ NON- STANDARD ¹	TOTAL FULL SERVICE	TOTAL VAL-U-LEASE ²
Hi-Vis Work Shirt S/S		1	28/6	168	\$0.52		\$87.36	
Hi-Vis Work Shirt L/S		1	28/5	140	\$0.60		\$84.00	
Cargo Pants		1	28/11	308	\$0.28		\$86.24	
Hi-Vis Bomber Jacket		1	28/1	28	\$0.73		\$20.44	
Navy Zip Hoody		1	28/1	28	\$0.60		\$16.80	
Mimix Work Shirt		1	2/11	22	\$0.41		\$9.02	
Mimix Work Pant		1	2/11	22	\$0.50		\$11.00	
Garment Maintenance Insurance		1		716	\$0.06		\$42.96	
Minimum weekly charge applies, equal to 75% of the initial weekly install value.							\$357.82	

OTHER CHARGES	AMOUNT
Garment preparation per piece	\$0.75
Name emblem per piece	\$0.45
Company emblem per piece	\$1.50
Direct Embroidery: Wearer name per piece	
Company name per piece	

OTHER CHARGES	AMOUNT
Non-stock sizes per piece	
Special cuts per piece	
Restock/Exchange per piece	
Automatic Wiper Replacement	
Automatic Linen Replacement	
DEFE (See description on reverse side)	\$3.50

PAYMENT TERMS: C.O.D. ☐ E.F.T. ☐ Approved Charge³ ☒

COMMENTS

This agreement honors Sourcewell US PV pricing. Emblem fees & preparation fees are waived for initial installation. Terms of agreement are 36 months with 24 month option at end of initial 36 months.

Approved charge: CUSTOMER agrees to make payments within 30 days of invoice receipt. A late charge of 1½% per month (18% per year) for any amount in arrears may be applied.⁴

The undersigned agrees to the attached Customer Service Agreement Terms and attests to have the authority to execute for the named CUSTOMER, and to approve use of any personalization – including logos or brand identities – that has been requested.

SALES REP:

SALES REP (Print Name)

DATE

ACCEPTED⁵:

LOCATION MANAGER (Signature)

DATE

LOCATION MANAGER (Print Name and Title)

ACCEPTED:

CUSTOMER (Signature)

DATE

CUSTOMER (Print Name and Title)

EMAIL

¹ Out-sizes of otherwise Standard Merchandise are deemed to be Non-Standard Merchandise.

² Merchandise which is Val-U-Leased is not cleaned by UniFirst.

³ Charge status contingent upon continuing credit worthiness and may be revoked at UniFirst’s discretion.

⁴ All returned checks and declined credit/debit cards subject to \$35 processing fee.

⁵ This Agreement is effective only upon acceptance by UniFirst Location Manager.

PAGE 2 OF 2

CUSTOMER SERVICE AGREEMENT TERMS

REQUIREMENTS SUPPLIED. Customer orders from UniFirst Corp. ("UniFirst") the rental garments and/or other items of the type specified in this Agreement ("Merchandise") and related pickup/delivery and maintenance services (collectively with Merchandise, "Services") for all of Customer's requirements therefor, at the prices and upon the terms and conditions set forth herein. Additional Services requested by Customer, verbally or in writing, will also be covered by this Agreement. All rental Merchandise supplied to Customer remains the property of UniFirst. Customer warrants that it is not subject to, and that this Agreement does not interfere or conflict with, any existing agreement for the supply of the Merchandise or Services covered.

PERFORMANCE GUARANTEE. UNIFIRST GUARANTEES TO DELIVER HIGH-QUALITY SERVICE AT ALL TIMES. All items of Merchandise cleaned, finished, inspected, repaired, and delivered by UniFirst will meet or exceed industry standards, or non-conforming items will be replaced by the next scheduled delivery day at no cost to Customer. Items of rental Merchandise requiring replacement due to normal wear and tear will be replaced at no cost to Customer, save for any applicable personalization and setup charges.

Customer expressly waives the right to terminate this Agreement during the initial term or any extension thereof for deficiencies in the quality of Services unless: (1) complaints are first made in writing to UniFirst which set forth the precise nature of any deficiencies; (2) UniFirst is afforded at least 60 days to correct any deficiencies complained of; and (3) UniFirst fails to correct those deficiencies complained of within 60 days. In the event Customer complies with the foregoing and UniFirst fails to correct such deficiencies, Customer may terminate this Agreement by written notice to UniFirst, providing that all previous balances due to UniFirst have been paid in full and that all other conditions to terminate have been satisfied. Any delay or interruption of the Services provided for in this Agreement by reason of acts of God, fires, explosions, strikes or other industrial disturbances, or any other cause not within the control of UniFirst, shall not be deemed a breach or violation of this Agreement.

TERM AND RENEWAL. This Agreement is effective when signed by both the Customer and UniFirst Location Manager and continues in effect for 60 months after installation of Merchandise (for new customers) or any renewal date. This Agreement will be renewed automatically and continuously for multiple successive 60-month periods unless Customer or UniFirst gives written notice of non-renewal to the other at least 90 days prior to the next expiration date.

PRICES AND PAYMENTS. Prices are based on 52 weeks of service per year. Any increase(s) to Service Frequency could result in additional charges. On an annual basis, the prices then in effect will be increased by the greater of the annual percent increase in the Consumer Price Index - All Urban Consumers, Series ID: CUUROOOSAG, other goods and services, or by 5%. Additional price increases and other charges may be imposed by separate written notice or by notation on Customer's invoice. Customer may, however, decline such additional increases or charges by notifying UniFirst in writing within 10 days after receipt of such notice or notation. If Customer declines said additional price increases, UniFirst may terminate this Agreement. Customer also agrees to pay the other charges and minimum weekly charge herein specified. Charges relating to a wearer leaving Customer's employ can be terminated by (1) giving notice thereof to UniFirst and (2) returning or paying for any missing Merchandise issued to that individual. Any Merchandise payments required pursuant to this Agreement will be at the replacement price(s) then in effect hereunder. If an authorized Customer representative is not available to receive and acknowledge delivery of Merchandise, Customer authorizes UniFirst to make delivery and assumes responsibility for related charges/invoices.

If Customer fails to make timely payment, UniFirst may, at any time and in its sole discretion, terminate this Agreement by giving written notice to Customer, whether or not UniFirst has previously strictly enforced Customer's obligation to make timely payments. Customer agrees to pay, and will pay, all applicable sales, use, personal property, and other taxes and assessments arising out of this Agreement.

DEFE CHARGE. Customer's invoices may also include a DEFE charge to cover all or portions of certain expenses including:

D = DELIVERY, or expenses associated with the actual delivery of Services and Merchandise to Customer's place of business, primarily Route Sales Representative commissions, management salaries, vehicle depreciation, equipment maintenance, insurance, road use charges and local access fees.

E = ENVIRONMENTAL, or expenses (past, present, and future) UniFirst absorbs related to wastewater testing, purification, effluent control, solids disposal, supplies and equipment for pollution controls and energy conservation, and overall regulatory compliance.

F = FUEL, or the gas, diesel fuel, oil, and lubricant expenses associated with keeping UniFirst's fleet vehicles on the road and servicing its customers.

E = ENERGY, primarily the natural gas UniFirst uses to run boilers and gas dryers, plus other local utility charges.

MERCHANDISE. Customer acknowledges and agrees to notify all employees that Merchandise supplied is for general occupational use and, except as expressly specified below, affords no special user protections. Customer further acknowledges that: (1) Customer has unilaterally and independently determined and selected the nature, style, performance characteristics, number of changes and scope of all Merchandise to be used and the appropriateness of such Merchandise for Customer's specific needs or intended uses; (2) UniFirst does not have any obligation to advise, and has not advised, Customer concerning the fitness or suitability of the Merchandise for Customer's intended use; (3) UniFirst makes no representation, warranty, or covenant regarding the performance of the Merchandise (including without limitation Flame Resistant and Visibility Merchandise); and (4) UniFirst shall in no way be responsible or liable for any injury or harm suffered by any Customer employees while wearing or using any Merchandise. Customer agrees to indemnify and hold harmless UniFirst and its employees and agents from and against all claims, injuries, or damages to any person or property resulting from Customer's or Customer's employee use of the Merchandise, whether or not such claims, injuries or damages arise from any alleged defects in the Merchandise.

Flame Resistant ("FR") Merchandise supplied hereunder is intended only to prevent the ignition and burning of fabric away from the point of high heat impingement and to be self-extinguishing upon removal of the ignition source. FR items will not provide significant protection from burns in the immediate area of high heat contact due to thermal transfer through the fabric and/or destruction of the fabric in the area of such exposure. FR items are designed for continuous wear as only a secondary level of protection. Primary protection is still required for work activities where direct or significant exposure to heat or open flame is likely to occur.

Visibility Merchandise is intended to provide improved conspicuity of the wearer under daylight conditions and when illuminated by a light source of sufficient candlepower at night. It is Customer's responsibility to determine the level of conspicuity needed by wearers under specific work conditions. Further, Customer agrees that Visibility Merchandise alone does not ensure conspicuity of the wearer and that additional safety precautions may be necessary. The Visibility Merchandise supplied satisfied particular ANSI/ISEA standards only when they were new and unused and only if so labeled. Customer acknowledges that usage and laundering of Visibility Merchandise may adversely affect its conspicuity.

Healthcare/Food-Related Customer acknowledges that: (1) UniFirst does not guarantee or warrant that the Merchandise selected by Customer or that processed garments delivered by UniFirst will be appropriate or sufficient to provide a hygienic level adequate for individual Customer's needs; and (2) optional poly-bagging* is recommended to reduce the risk of cross-contamination of Merchandise, and the failure to utilize such service may adversely affect the efficacy of UniFirst's hygienic cleaning process.

(* Poly-bag services incur additional charges.)

If any Merchandise supplied hereunder is Merchandise that: (1) UniFirst does not stock for whatever reason (including due to style, color, size or brand); (2) consists of non-UniFirst manufactured or customized FR Merchandise; or (3) consists of Merchandise that has been permanently personalized (in all cases known as "Non-Standard Merchandise"), then, upon the discontinuance of any Service hereunder at any time for any reason, including expiration, termination, or cancellation of this Agreement, with or without cause, deletion of any Non-Standard Merchandise from Customer's Service Program, or due to employee reductions (in each case a "Discontinuance of Service"), Customer will purchase at the time of such Discontinuance of Service all affected Non-Standard Merchandise items then in UniFirst's inventory (in-service, shelf, as well as any manufacturer's supplies ordered for Customer's use), paying for same the replacement charges then in effect.

Customer agrees not to contaminate any Merchandise with asbestos, heavy metals, solvents, inks, or other hazardous or toxic substances ("contaminants"). Customer agrees to pay UniFirst for all Merchandise that is lost, stolen, damaged or abused beyond repair. As a condition to the termination of this Agreement, for whatever reason, Customer will return to UniFirst all standard Merchandise in good and usable condition or pay for same at the replacement charges then in effect.

OBLIGATIONS AND REMEDIES. If Customer breaches or terminates this Agreement before the expiration date for any reason (other than for UniFirst's failure under the performance guarantee described above), Customer will pay UniFirst, as liquidated damages and not as a penalty (the parties acknowledging that actual damages would be difficult to calculate with reasonable certainty) an amount equal to 50 percent of the average weekly amounts invoiced in the preceding 26 weeks, multiplied by the number of weeks remaining in the current term. These damages will be in addition to all other obligations or amounts owed by Customer to UniFirst, including the return of Standard Merchandise or payment of replacement charges, and the purchase of any Non-Standard Merchandise items as set forth herein.

This Agreement shall be governed by Massachusetts law (exclusive of choice of law). If a dispute arises from or relates in any way to this Agreement or any alleged breach thereof at any time, the parties will first attempt to resolve the claim or dispute by negotiation at agreed time(s) and location(s). All negotiations are confidential and will be treated as settlement negotiations. Any matter not resolved through direct negotiations within 30 days shall be resolved exclusively by final and binding arbitration, conducted in the capital city of the state where Customer has its principal place of business (or some other location mutually agreed), pursuant to the Expedited Rules of the Commercial Arbitration Rules of the American Arbitration Association, and governed by the Federal Arbitration Act, to the exclusion of state law inconsistent therewith. The parties will agree upon one (1) Arbitrator to settle the controversy or claim. The successful or substantially prevailing party in any proceeding, including any appeals thereof (as determined by the Arbitrator/court) shall recover all of its costs and expenses including, without limitation, reasonable attorney fees, witness fees, and discovery costs, all of which shall be included in and as a part of the judgment or award rendered hereunder. This provision for Arbitration is specifically enforceable by the parties; the Arbitrator shall have no power to vary or ignore the provisions hereof; and, the decision of the Arbitrator in accordance herewith, may be entered in any court having jurisdiction thereof. Customer acknowledges that, with respect to all such disputes, it has voluntarily and knowingly waived any right it may have to a jury trial or to participate in a class action or class litigation as a representative of any other persons or as a member of any class of persons, or to consolidate its claims with those of any other persons or class of persons. If this prohibition against class litigation is ruled to be unenforceable for any reason in any proceeding, then the prohibition against class litigation shall be void and of no force and effect in that proceeding.

MISCELLANEOUS. The parties agree that this Agreement represents the entire agreement between them. In the event Customer issues a purchase order to UniFirst at any time, none of the standard pre-printed terms and conditions therein shall have any application to this Agreement or any transactions occurring pursuant hereto or thereto. UniFirst may, in its sole discretion, assign this Agreement. Customer may not assign this Agreement without the prior written consent of UniFirst. Customer agrees that in the event it sells or transfers its business, it will require the purchaser or transferee to assume all obligations and responsibilities under this Agreement, provided that such assumption shall not relieve Customer of its liabilities hereunder and provided further that any failure by a purchaser or transferee to assume this Agreement shall constitute a breach and early termination of this Agreement resulting in the obligation to pay all amounts on account thereof as set forth in this Agreement. Neither party will be liable for any incidental, consequential, special, or punitive damages. In no event shall UniFirst's aggregate liability to Customer for any and all claims exceed the sum of all amounts actually paid by Customer to UniFirst. In the event any portion of this Agreement is held by a court of competent jurisdiction or by a duly appointed arbitrator to be unenforceable, the balance will remain in effect. All written notices provided to UniFirst must be sent by certified mail to the attention of the Location Manager. In Texas and certain other locations, UniFirst's business is conducted by, and the term "UniFirst" as used herein means, UniFirst Holdings, Inc. d.b.a. UniFirst.



Holly Springs Town Council

Town Council Meeting Agenda Cover Sheet

Agenda Item#: 12.

Consent Agenda

Title: Franchise Ordinance for Public Service Company of North Carolina - Second Reading

Strategic Priority Area: Responsible & Balanced Growth

Staff Resource: John Schifano, Town Attorney

Action(s):

Adopt Franchise Ordinance 22-31.

Explanation:

- Adoption of the Franchise Ordinance would grant the Public Service Company of North Carolina (PSNC), Incorporated the right to use and occupy the public rights of way of The Town of Holly Springs to maintain, operate and construct a gas utility system to transmit and distribute gas within Town limits for a period of 30 years.
- The existing Franchise agreement has expired; therefore, approval of this agreement will suffice as a replacement, with similar conditions.
- Council voted to adopt the Ordinance at their August 16, 2022 meeting, but NCGS 160A-76(a) states in relevant part that "no ordinance making a grant, renewal, extension, or amendment of any franchise shall be finally adopted until it has been passed at two regular meetings of the council."
- This is the second reading and the Ordinance would be effective as of this date.

Background:

- Franchise agreements outline the rules, rights and fees associated with using public property for private purposes and are applicable for those right-of-way occupants that provide services to the local community.
- North Carolina law allows municipalities the right to regulate certain utilities such as natural gas providers.
- PSNC has been operating under a franchise since 1988 in the corporate limits of town.

Funding Source(s):

N/A

Attachment(s):

1. 22-31 Franchise Holly Springs PSNC Franchise Agreement

ORDINANCE 22-31

AN ORDINANCE GRANTING TO PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INCORPORATED, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO USE AND OCCUPY THE PUBLIC WAYS OF THE TOWN OF HOLLY SPRINGS, NORTH CAROLINA, FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A GAS UTILITY SYSTEM AND ALL NECESSARY MEANS FOR TRANSMITTING AND DISTRIBUTING GAS WITHIN SAID TOWN FOR A PERIOD OF THIRTY YEARS.

WHEREAS, Public Service Company of North Carolina, Incorporated proposes to continue to construct, operate and maintain a Gas Utility System and all necessary means for transmission and distribution of gas within the Town of Holly Springs, North Carolina, (the "Town") and

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Holly Springs, North Carolina as follows:

SECTION 1. DEFINITIONS.

Whenever and wherever used in this Ordinance the following words and names shall have the following meanings:

- (a) **TOWN COUNCIL**, shall mean the governing body of the Town of Holly Springs, North Carolina, as now or hereafter constituted.
- (b) **COMPANY** shall mean Public Service Company of North Carolina, Incorporated, dba Dominion Energy North Carolina, its successors and assigns.
- (c) **TOWN** shall mean the Town of Holly Springs, North Carolina, including its present and future boundaries.
- (d) **DEPARTMENT OF TRANSPORTATION** shall mean the North Carolina Department of Transportation or its successor.
- (e) **GAS** shall mean natural gas, mixed gas and substitute fuels carried over the Company's facilities as authorized by the North Carolina Utilities Commission.

- (f) **GAS UTILITY SYSTEM** shall mean all facilities of the Company in the Town used for the transmission or distribution of Gas within the Town.
- (g) **FERC** shall mean any reference made to the Federal Energy Regulatory Commission or its successor.
- (h) **COMMISSION** shall mean the North Carolina Utilities Commission or any successor body lawfully constituted.
- (i) **PUBLIC WAY OR WAYS** shall mean any public street, avenue, road, alley, lane, bridge, or other public dedicated right-of-way within the Town over which the Town has jurisdiction or exercises control.
- (j) **GOOD UTILITY PRACTICES** shall mean the practices, methods and acts engaged in or approved by a significant portion of the gas industry during the relevant time period or other practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result consistent with reliability, safety, expedition, requirements of governmental agencies having jurisdiction, and at the lowest reasonable cost. The term Good Utility Practices is not intended to be limited to the optimum practices, methods or acts to the exclusion of all others, but rather to constitute a spectrum of acceptable practices, methods, or acts.

SECTION 2. Grant of Authority

The right, power and authority is hereby granted to and vested in the Company to construct, install, replace, repair, maintain and operate transmission mains, gas mains, pipes, equipment, service lines, communications lines, facilities and other appurtenant apparatus of the gas system, for the purpose of operating a natural gas system along, across, and under the Public Way or Ways of the Town together with any necessary rights of access thereto; and to use that natural gas system to conduct a gas business. This granting of authority is provided that the Town as of the applicable time, has jurisdiction or exercises control of the public ways. This

Franchise Agreement shall also permit the Company to exercise the rights granted herein without the need for additional permit(s) from the Town.

SECTION 3. Conditions on Use of Public Ways

(a) No street, alley, bridge, right-of-way or other public place used by the Company shall be obstructed longer than reasonably necessary during its work of construction or repair, and shall be restored to the same good order and condition as when said work was commenced. However, should any such damage occur due to the Company's failure to use due care, the Company shall repair the same as promptly as possible, and, in default thereof, the Town, after written notice and opportunity for the Company to repair, may make such repairs and charge the reasonable cost thereof and collect the same from the Company. The Company shall save the Town harmless from liability (including judgment, decrees, and legal court costs) resulting directly from its negligence and failure to use due care in the exercise of the privileges hereby granted or of its rights under this Section.

(b) All work upon the Public Ways of the Town shall be done subject to reasonable inspection of the Town Manager or designee (or other legally constituted governing body) of the Town, all sidewalks or street pavements or street surfaces which may be displaced by reason of such work shall be properly replaced by the Company, its successors and assigns, to the reasonable requirements of the Town.

(c) Whenever the Town shall grade, expand, or regrade any Public Way, under or across which the Company shall have installed any of its Gas Utility System, it shall be the duty of the Company, at the Company's own cost and expense to promptly change said Gas Utility System so as to conform to the new Public Way which is then being or has been established by the Town.

SECTION 4. Annexation Notification

The Town shall mail or email notice to the Company of areas annexed into the Town. Said notices shall include pertinent maps and/or tax map numbers, so that newly annexed customers may be identified. Any written notice to the Company shall be sent to Public Service Company of North Carolina, GIS Services-Annexations, 800-A Gaston Road, Gastonia, NC 28056.

SECTION 5. Service

(a) The Company may supply any form of gas containing approximately one thousand (1,000) BTU's per cubic foot, and its obligation in respect thereto shall continue only so long as it is able to reasonably obtain an adequate supply of such gas hereunder, provided, however, that in the supply of such gas the customers within the Town shall enjoy equal rights with respect to other similar customers served by the Company consistent with Commission rules and regulations.

(b) The Company shall, as to all other conditions and elements of service not fixed herein, be and remain subject to the rules and regulations of the Commission, Department of Transportation, and FERC or its successors, applicable to gas service in the Town.

SECTION 6. Nonexclusive Grant and Term

(a) The gas franchise granted by this Ordinance is not exclusive. The Town may grant the same or similar rights and privileges to other certified persons or companies at any time, provided that any such grants shall be made under terms and conditions which do not materially impair the exercise of the rights and privileges granted to the Company under this franchise.

(b) Upon ratification and acceptance, this franchise shall constitute a contract between the Town and the Company, and shall be in force and effect for an initial term of thirty (30) years, and shall continue in force and effect year-to-year thereafter until properly terminated by either party. Either party may terminate the contract at the end of its initial term or its anniversary date any year thereafter, by giving written notice of its intention to do so no less than one (1) year before the proposed date of termination.

SECTION 7. Franchise Not Waiver of Law

This franchise is subject to the constitution and laws of the State of North Carolina, and is not a waiver of any present or future law or regulation. This franchise is not a limitation of the authority of the Town to enact any ordinance or policy that does not diminish, conflict or impair the rights and authority granted to the Company in this franchise or otherwise impose additional obligations on the Company in order to exercise the rights granted herein.

SECTION 8. Regulations, Safety and Customer Service

- (a) Gas utility service is not guaranteed to be free from interruptions, supply failure or outages.
- (b) The Company will restore gas utility service using Good Utility practices.
- (c) The Company shall maintain and operate its Gas Utility System in compliance with applicable State and Federal maintenance and safety regulations.
- (d) Company vehicles, responding to natural gas emergencies, may park as close to the location of the emergency as is practicable.

SECTION 9. Commission Rules and Rates

The Company may from time to time declare, make and enforce such rules and regulations as shall have been fixed or allowed by the Commission as to the sale or distribution of Gas to any of its customers in the Town. The rates to be charged for Gas at all times shall be such rates as are fixed or allowed by the Commission, including such rates as shall be negotiated by the Company with certain industrial or commercial customers pursuant to authority granted by the Commission.

SECTION 10. Plat of Gas Utility System

The Company shall maintain maps or plats of its Gas Utility System within the area covered by this franchise. Such maps or plats shall be maintained in the Company's offices, and the Town may review the same during any regular business hours of the Company.

SECTION 11. Bankruptcy, Successors, Assigns

In the event the Company is adjudged bankrupt or its assets are placed in the hands of a receiver or other court officer, either voluntarily or involuntarily, then the interest, rights and remedies of

the Town in respect to said properties and operations shall not be affected or prejudiced, and any receiver, assignee, trustee, purchaser or successor, whether by operation of law or otherwise, so succeeding to or representing the interest or position of the Company, shall be bound by this Ordinance and the terms and provisions hereof and shall be bound to carry out and perform the obligations and duties imposed upon the Company by this Ordinance. Likewise, if the Company reorganizes, merges, or consolidates with any other company, then the Town is bound by this Ordinance.

SECTION 12. Revocation

In the event the Company fails to comply with the provisions of this Ordinance and, within thirty (30) days after receipt of written notice from the Town, the Company fails to cure or remedy such default, or to have begun reasonable measures to do so, then the Town may cause the Company to appear at a hearing before the Town Council upon thirty (30) days prior written notice. Any written notice to the Company shall be sent to Public Service Company of North Carolina, 150 Fayetteville St, Suite 930., Raleigh, NC 27601, Attention: Local Government and Economic Development Manager. If at such hearing the Town should determine that the Company's failure or default has been substantial, repeated or flagrant, then upon such determination the Town may revoke and terminate this franchise; provided, however, that the Company may file with the Town within ten (10) days after such determination the Company's election to appeal to the proper North Carolina court, during the pendency of which the Ordinance shall remain in full force and effect. In that event the Town and Company agree that such court shall hear and determine *de novo* whether there has been substantial, repeated or flagrant failure or default by the Company of the terms, conditions or obligations of this Ordinance. Failure or default which cannot be corrected by the Company shall not be grounds for revocation or termination, unless such failure or default shall be determined to be material and continuing.

SECTION 13. Indemnification:

The Company shall indemnify and hold harmless the Town, its officers, and employees from any losses, costs, expenses, claims, judgments, suits, or demands resulting or in any manner arising from the action or inaction of the Company in constructing, operating, or maintaining a gas system, in carrying on the business of selling, transmitting or distributing gas, or in exercising or failure to exercise any right or privilege granted by this franchise and save and except for any such losses, costs, expenses, claims, judgments, suits, or demands resulting or in any manner arising from, or contributed to, by the negligent action or inaction of the Town or any of its officers, agents, or employees. Provided, however, the Company's indemnification at any time is conditioned on the Town having notified the Company in writing of any such claim, demand, or suit within such time as to give the Company reasonable opportunity to resolve or defend the same on behalf of the Town. In the event of such notification, the Company shall have the sole and full responsibility for the resolution and defense of any such claim, demand, or suit on behalf of the Town, and the Town shall cooperate fully with the Company in any such undertaking. If after proper notification, the Company fails to undertake any such responsibility, the Town shall have the right to resolve or defend any such claim, demand, or suit at the expense of the Company.

SECTION 14. Severability, Third Party Rights

(a) If any provision in this contract is determined to be invalid, void or unenforceable by any court or regulatory body having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Contract. This Contract and all provisions herein will be subject to all applicable and valid statutes, rules, orders and regulations of any governmental authority having jurisdiction over the parties, their facilities, or gas supply, this Contract or transaction or any provisions thereof.

(b) The rights hereunder in this Ordinance accrue exclusively to the parties, their successors and assigns. It is the express intent of the parties that this franchise shall not create any rights in third parties.

SECTION 15. Effective Date, Term, Adoption, and Ratification

(a) This Ordinance shall be effective from and after the ____ day of ____, 2022, provided the Company shall have executed the written acceptance hereof at the end of this Ordinance, and shall exist in force for a period of 30 years hereafter, and continue in force year to year thereafter until cancelled upon written notice of either party at least eighteen months in advance.

(b) All other Ordinances and clauses of Ordinances in conflict herewith are hereby repealed.

Adopted by the Town of Holly Springs on the ____ day of _____, 2022, and hereby ratified.

Sean Mayefskie, Mayor

ATTEST:

APPROVED AS TO FORM:

Linda McKinney, Town Clerk

John Schifano, Town Attorney

ACCEPTANCE BY COMPANY

Public Service Company of North Carolina, Incorporated does hereby accept and acknowledge the foregoing Ordinance, and in consideration of the benefits and privileges granted to it does hereby agree to the terms and conditions therein provided.

This the _____ day of _____, 2022.

PUBLIC SERVICE COMPANY
OF NORTH CAROLINA, INCORPORATED

By: _____
D. Russell Harris
Vice President and General Manager

ATTEST:

Karen W. Doggett
(Corporate Seal)

Its: Assistant Corporate Secretary



Holly Springs Town Council

Town Council Meeting Agenda Cover Sheet

Agenda Item#: 13.

Consent Agenda

Title: Memorandum of Understanding (MOU) with the Town of Fuquay-Varina for New Waterline Conveyance design

Strategic Priority Area: Responsible & Balanced Growth
Economic Prosperity & Diversity
Safe & Friendly

Staff Resource: Rachel Ingham, Utilities and Infrastructure, Seann Byrd, Utilities and Infrastructure, Kendra Parrish, Utilities and Infrastructure

Action(s):

Authorize the Town Manager to enter into a Memorandum of Understanding (MOU) with the Town of Fuquay-Varina in the amount of \$2,408,512 for cost-sharing associated with Professional Engineering Services for Water Conveyance from the Sanford Water Filtration Facility.

Explanation:

- On June 22, 2021, and March 1, 2022, the Town Council approved an MOU (Memorandum of Understanding) with the Town of Fuquay-Varina to participate in a Preliminary Engineering Report (PER) to study the feasibility of a joint waterline conveyance system from the City of Sanford Water Treatment Plant.
- A requested next step will be to enter into an MOU with the Town of Fuquay-Varina to engage in the design of conveying potable water from the Sanford Water Treatment Plant to Wake County.
- Partnering in the design would allow Holly Springs to have input on the conveyance route, size, material, and other construction considerations and would reduce costs for the town because engineering fees will be shared between municipalities.
- The design does not commit the town to enter into an agreement to purchase water from the City of Sanford, only to share in some portion of the total costs of the design of conveyance (\$6,545,077).
- Holly Springs (36.7%) and Fuquay-Varina (63.3%) will mutually share in the costs of the design contract. Accordingly, Holly Springs would pay \$2,408,512 (36.7%).
- The Fuquay-Varina Board of Commissioners approved the MOU at their meeting on August 16, 2022.

Background:

- September 1, 2020 - Town Council approved a Memorandum of Understanding (MOU) with the City of Sanford to participate in a Preliminary Engineering Report (PER) to study scope and costs associated with expansion of the Sanford Water Treatment Plant.
- September 21, 2021 - Town Council approved an Interlocal Agreement (ILA) with the City of Sanford to participate in the design of water treatment plant expansion from 12 to 30

Town Council Business Meeting
September 6, 2022

Million Gallons per Day (MGD). Design is currently at 60%.

- The Town of Holly Springs currently holds an agreement to obtain 10 MGD of potable water from the Harnett County Regional Water Treatment Plant. The town also has an additional 2 MGD available from Jordan Lake. There are four water interconnections with the Town of Apex, Town of Cary, Town of Fuquay-Varina, and Harnett County. Only Harnett County provides a continuous water supply.
- With the newly adopted Future Land Use & Character Plan, the water supply needed for future buildout of the town was increased to approximately 16 MGD, a 4 MGD increase from the previously anticipated water demand. In addition, recent economic development efforts drive the need to move expeditiously to obtain increased water supply.
- In order for Holly Springs to utilize the additional water supply from Sanford, construction of water mains is needed to convey water from the Sanford water treatment plant to potential partners.

Funding Source(s):

Water Projects Capital Project Fund

Attachment(s):

1. 2022-08-29 MOU with FV Design conveyance
2. Exhibit A to Design MOU
3. Fee Schedule
4. Sanford-FV-HS Conveyance Design Fee Estimate July 2022

STATE OF NORTH CAROLINA
COUNTY OF WAKE

MEMORANDUM OF UNDERSTANDING
FOR DESIGN OF A POTABLE WATER
CONVEYANCE LINE

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), made and entered into this _____ day of _____, 2022, by and between the TOWN OF FUQUAY-VARINA, a North Carolina Municipal Corporation, herein referred to as "Fuquay-Varina," and the TOWN OF HOLLY SPRINGS, a North Carolina Municipal Corporation, herein referred to as "Holly Springs," each additionally referred to herein as either a "Party," and collectively as the "Parties."

WITNESSETH:

WHEREAS, the parties have previously undertaken a study to determine the viability and feasibility of a shared treated water conveyance system ("Transmission Line") from the Sanford Water Treatment Plant to a certain location in Wake County (the "Booster Pump Station" or "BPS"); and

WHEREAS, both entities have previously signed a memorandum of understanding with the City of Sanford to determine if a collaborative water treatment plant expansion is a viable solution for future water treatment needs; and

WHEREAS, the City of Sanford, located in Lee County, currently owns and operates a municipal water treatment plant located at _____ ("Water Filtration Facility" or "WFF"), and Sanford has agreed to produce water for the Parties in such capacity as the Parties each require, and have agreed to deliver such water to the Parties at _____ ("Delivery Point"); and

WHEREAS, the Fuquay-Varina and Holly Springs desire to construct a shared transmission line for treated water from the Delivery Point to the BPS; and,

WHEREAS, a cost sharing arrangement and the utilization of resources and personnel from both entities will maximize the opportunity for a successful program.

NOW, THEREFORE, the Parties hereto agree as follows:

As a result of increasing water demands and projections due to expected population growth, Fuquay-Varina and Holly Springs have determined that additional treated water capacity will be required within the next 25 years. Fuquay-Varina and Holly Springs are currently negotiating a water capacity and water delivery agreement with the City of Sanford, along with others, to finalize the costs, term, Delivery Point, and other financial responsibilities of the parties to that agreement. Concurrently with this process, the Parties seek to enter into this MOU to begin the design of the Transmission Line and other needed appurtenances such as storage facilities, pumping equipment, and other necessary components to deliver the water to from the Delivery Point to the BPS.

1. Program of Work for the Engineering Design Contract

Through a Qualification based selection process consistent with N.C.G. S. § 143-64.31, *et. seq.*, Fuquay-Varina has selected as best qualified the firm of Hazen and Sawyer (“Consultant”) for the purpose of designing the Transmission Line. The consultant has proposed a fixed fee contract for the following tasks: Field Investigations, Transmission Line design, Design of the BPS, Hydraulic modeling, permitting, easement and property acquisition assistance, stakeholder engagement, SRF Funding support, bidding and contracting, and project management. The proposed fixed fee for this work is \$6,545,077. A copy of the proposed design contract is attached as Exhibit A.

2. Shared Costs of Engineering Design Contract

To mutually share in the costs of above-described contract, the Parties shall share the fee as follows: 63.2% to Fuquay-Varina, 36.8% to Holly Springs. Fuquay-Varina shall be the contracting authority under the contract, and any subcontracts necessary to complete the design and permitting of the Transmission Line. Upon receipt of payment requests by the Consultant, Fuquay Varina shall contemporaneously forward an electronic copy to Holly Springs. Holly Springs shall transmit to Fuquay Varina 36.8% of each payment request that is mutually approved by the Parties. In the event of a dispute as to the propriety of the charge on the pay request, the Parties shall attempt to negotiate a resolution in good faith in order that the project not be delayed. Such good-faith negotiation shall include payment of any disputed charge with reservation of rights to contest the charge at a later date, by indicating such reservation to the Party’s contact listed in Section 6.

3. Term of the MOU

This MOU is effective upon full execution by the Parties, and will remain in full force and effect for so long as necessary to complete the design work and bring a successful completion to the work of the Consultant, unless the Parties terminate pursuant to Section 4 below.

4. Termination

Once the Consultant’s contract is executed, neither party may unilaterally terminate the obligations under this agreement without first relieving Fuquay Varina of its obligations under the Consultant’s contract. As such, the Parties would have to mutually agree to any termination. In addition, if either party fails to fulfill in timely and proper manner the obligations under this MOU or obligations under the Consultant’s contract, for any reason, the other party shall have the right to terminate this MOU, by giving written notice, and the termination will be effective upon receipt.

5. Meetings

To accomplish these objectives, the Parties’ Staff may meet once per month for the purposes of program planning and monitoring, evaluating outcomes, and to review and ensure that each partner is in compliance with this Memorandum of Understanding. Holly Springs staff shall have the right to (i) receive proper notice and attend any meeting held by the Consultant under its contract; and (ii) receive any written communication and a

summation of any important oral communication regarding the work that is the subject of the Consultant's contract.

6. Notice

All notices or other communications arising hereunder shall be sent to the following:

Town of Fuquay-Varina
Attn: Michael Wagner, Public
Utilities Director
134 N. Main Street
Fuquay-Varina, NC 27526
Phone 919-567-3911
email: mwagner@fuquay-varina.org

Town of Holly Springs
Attn: Kendra Parrish, Executive Director
of Utilities & Infrastructure Services
128 S. Main Street
Holly Springs, NC 27540
Phone 919-577-3150
email: kendra.parrish@hollyspringsnc.us

7. Amendment

Any amendment to this MOU to be effective, must be in writing, signed by both Parties, and executed with the same formality and approvals as the foregoing MOU.

8. No Waiver of Immunity

Nothing herein shall be construed to mandate purchase of insurance by either Party, or to, in any other way, waive the defense of sovereign or governmental immunity from any cause of action alleged or brought against either Party, for any reason, if otherwise available as a matter of law.

Nothing herein shall be construed to mandate purchase of insurance by either Party, or to, in any other way, waive the defense of sovereign or governmental immunity from any cause of action alleged or brought against either Party, for any reason, if otherwise available as a matter of law.

9. Non-Appropriation

Fuquay-Varina and Holly Springs are governmental entities, and the MOU validity is based upon the availability of public funding under the authority of its statutory mandate.

In the event that funds are not available and not appropriated to the program specified in this MOU, then this MOU shall automatically expire without penalty to either party.

In the event of a legal change in either party's statutory authority, mandate, and mandated functions, which adversely affects the authority to continue performing obligations under this MOU, then this MOU shall automatically expire without penalty to either party.

By executing this MOU, each Party is certifying for the purposes of a pre-audit requirement that it has and will maintain sufficient funds to satisfy its obligations under this MOU and

the Consultant's contract. In the event of a breach of this provision, the breaching Party shall indemnify and hold harmless the non breaching Party for any losses or expenses spent in reliance of this section.

10. No Third-Party Beneficiaries

This MOU is not intended for the benefit of any third party. The rights and obligations contained herein belong exclusively to the Parties hereto, and shall not confer any rights or remedies upon any person or entity other than the Parties hereto.

11. Applicable Law

All matters relating to this MOU shall be governed by the laws of the State of North Carolina, without regard to its choice of law provisions.

12. Relationship of Parties

Fuquay-Varina and holly Springs are, and shall remain independent contractors, with respect to any service or function performed under this MOU. Except as provided for in this MOU, each party shall select the means, method, and manner of performing their respective services herein. Each party is an independent contractor and shall not represent itself or be deemed as an officer, agent, or employee of the other party, for any purpose. Nothing under this MOU is intended or should be construed in any manner, to create a partnership or venture between the Parties. Each party agrees that it will obey all State and Federal statutes, rules, and regulations which are applicable to any responsibility or duty outlined herein.

13. Applicability of North Carolina Public Records Law

Notwithstanding any other provisions of this MOU, this MOU and all materials submitted by the parties to one another are subject to the public records laws of the State of North Carolina and it is the responsibility of the submitting party to properly designate materials that may be protected from disclosure under North Carolina law as such and in the form required by law prior to the submission of such materials to the other party. The parties understand and agree that the Parties may take any and all actions necessary to comply with federal, state, and local laws and/or judicial orders and such actions will not constitute a breach of the terms of this MOU. To the extent that any other provisions of this MOU conflict with this paragraph, the provisions of this section shall control.

14. Force Majeure

Except as otherwise provided in any environmental laws, rules, regulations, or ordinances applicable to the parties and the services performed under this MOU, neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by an act of war, hostile foreign actions, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God. Either party to the MOU must take reasonable measures and implement reasonable protections when a weather event, otherwise defined as a force majeure event, is forecast to be eligible

to be excused from the performance otherwise required under this MOU by this provision.

15. Non-Discrimination

To the extent permitted by North Carolina law, the parties hereto for themselves, their agents, officials, employees and servants agree not to discriminate in any manner on the basis of race, color, creed, national origin, sex, age, handicap, or sexual orientation with reference to the subject matter of this MOU.

16. Advertising

The parties shall not use the existence of this MOU, or the name of the other, as part of any advertising without the prior approval of the other party.

17. Miscellaneous

The Parties shall be responsible for the proper custody and care of any property furnished or purchased by the other party for use in connection with the performance of this MOU, and will reimburse the other party for the replacement value of its loss or damage.

18. Severability

If any provision of this MOU shall be determined to be unenforceable by a court of competent jurisdiction, such determination will not affect any other provision of this MOU.

19. Counterparts

This MOU may be executed in several counterparts, each of which shall be deemed an original.

20. Incorporation of Documents/Complete Agreement

This MOU, and any documents incorporated below, represent the entire Agreement between the parties and suspend all prior oral or written statements, or Agreements.

21. Audit Rights

Each Party shall have the right to audit the books and records of the other to ensure compliance with: (i) the terms of this MOU; (ii) the terms of the Consultant's contract; and (iii) any other applicable rule or law regarding generally acceptable accounting principles in relation to local government accounting.

IN WITNESS WHEREOF, being duly authorized, Fuquay-Varina has executed the foregoing with the signature of its Town Manager, attested by its Clerk, with the official seal affixed, and, being duly authorized, Holly Springs has executed with the signature of its Town Manager, attested by its Town Clerk, with the official seal affixed, the day and year first above written.

TOWN OF FUQUAY-VARINA

TOWN OF HOLLY SPRINGS

By: *Adam Mitchell*
Adam Mitchell, Town Manager

By: _____
Randy Harrington, Town Manager

ATTEST:

ATTEST:

By: *Rose H. Rich*
Rose Rich, Town Clerk
(Affix Seal)

By: _____
Linda McKinney, Town Clerk
(Affix Seal)



THIS INSTRUMENT APPROVED AS TO FORM:

James Adcock
James Adcock, Town Attorney

John Schifano, Town Attorney

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

By: *Nicole Stevens*
JoAnne Crabtree, Finance Director
Nicole Stevens Asst.

By: _____
Antawn Morrison, Finance Director

EXHIBIT A

CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES for WATER CONVEYANCE FROM THE SANFORD WFF AMENDMENT NO. 1 – FINAL DESIGN, PERMITTING, AND BIDDING

AMENDMENT NO. 1 modifies the original Agreement entered into in January 2021 for engineering services related to the Water Conveyance from the Sanford Water Filtration Facility, by and between THE TOWN OF FUQUAY-VARINA (OWNER) and HAZEN AND SAWYER (ENGINEERS).

WITNESSETH, that the parties hereto do mutually agree as follows:

ARTICLE I - DESCRIPTION OF PROJECT

The Town of Fuquay-Varina selected Hazen and Sawyer to perform engineering for the necessary infrastructure to convey treated water from the City of Sanford Water Filtration Facility (WFF) to the Towns of Fuquay-Varina and Holly Springs. In collaboration with the Towns of Fuquay-Varina and Holly Springs (the Partners), a preliminary engineering report (PER) was completed in February 2022. The following details the Scope of Work associated with the design, permitting, and bid phases of the selected project.

The design will be based on the recommendations detailed in the PER including:

1. 36” transmission main from the Sanford WFF
 - Approximately 70,000 feet long originating at the Sanford WFF and extending to the referenced Booser Pump Station.
2. Booster Pump Station and Ground Storage Tank Site
 - Two booster pump station buildings with dedicated booster pumps for each distribution system
 - Two, 1.5 million gallon circular prestressed concrete ground storage tanks
 - Control valves and meters as required for system control

3. Dedicated transmission mains to the Fuquay-Varina and Holly Springs distribution systems
 - Approximately 10,000 feet of 24” transmission main from the Booster Pump Station to the existing 30” Holly Springs transmission main on Piney-Grove Wilbon Road
 - Approximately 10,000 feet of 30” transmission main from the Booster Pump Station to Piney-Grove Wilbon Road and then approximately 15,600 feet of 24” transmission main to the Fuquay-Varina distribution system at Wilbon Road and Hwy 55.

ARTICLE II - SERVICES TO BE PERFORMED

Services shall be provided as described in detail in Exhibit A – Scope of Work.

ARTICLE III - SCHEDULE

The work to be performed and the services to be rendered under this Amendment No. 1 shall commence approximately August 1, 2022, as directed by the OWNER. It is anticipated the work shall be completed on or before December 31, 2023.

ARTICLE IV - COMPENSATION

For the project described in Article I and scope of services described in Article II of the original Agreement as amended in this Amendment No. 1, the OWNER shall pay the ENGINEERS all allowable and allocable costs that are incurred up to the cost ceilings indicated below under Basis of Compensation or the Lump Sum or Time and Materials amounts contained therein.

BASIS OF COMPENSATION

This work will be invoiced as a combination of lump sum and time and materials tasks. A detailed breakdown of the tasks is provided in Exhibit C. The total amount of lump sum and time and materials tasks is \$6,545,077.20.

IN WITNESS WHEREOF, the parties hereto have made and executed this
Amendment No. 1 to the original Agreement this _____ day of _____,
2022.

Owner:
Town of Fuquay-Varina
By: Adam Mitchell
Title: Town Manager
Signature: _____
Date Signed: _____

Attest for Owner:

By: Michael Wagner
Title: Public Utilities Director

Engineer:
Hazen and Sawyer, P.C.
By: C. Todd Johnson, PE
Title: Vice President
Signature: _____
Date Signed: _____

Attest for Engineer:

By: Nichole Johnson, PE
Title: Senior Associate

Address for giving notices:
134 N. Main St.
Fuquay-Varina, NC 27526

Designated Representative (see Paragraph 8.03.A):
Michael Wagner
Title: Public Utilities Director
Phone Number: (919) 567-3911
Facsimile Number: (919) 752 - 4881
E-Mail Address: mwagner@fuquay-varina.org

Address for giving notices:
4011 WestChase Blvd., Suite 500
Raleigh, NC 27607

Designated Representative (see Paragraph 8.03.A):
C. Todd Johnson, PE
Title: Vice President
Phone Number: (919) 833-7152
Facsimile Number: (919) 833-1828
E-Mail Address: ctjohnson@hazenandsawyer.com

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

Finance Officer
Town of Fuquay-Varina, NC

Engineer's Services

1. Field Investigation

- A. Provide a full right-of-way/easement planimetric survey for the project area and required construction access roads. The survey will include the location of surface features within the study area including, but not limited to, edge of pavement, curb lines, utility/power poles, signs, driveways, sidewalks, overhead power and communication (approximate height of cables), lane striping, building outlines, etc. Additionally, storm and sanitary sewer mains will be surveyed with material, inverts, size, cleanouts, and manhole or catch basin information provided. Water main valve nut location and elevations, as well as fire hydrant locations, will be collected. Topographic information was obtained during the PER phase to be used for design.
- B. Complete Quality Level B subsurface utility engineering (SUE) along the proposed alignments where the proposed improvements will be installed within or parallel to the existing public right-of-way, at existing infrastructure connection points, and in limited locations along easements where underground utilities are known to exist and could impact the design and construction.
- C. Complete up to thirty (30) Quality Level A vacuum test holes at existing utility crossings or where utilities are closely paralleling the proposed improvements.
- D. Geotechnical Investigation
 - a. Complete geotechnical subsurface investigations along the route to determine existing soil conditions, groundwater levels, and the existence of rock at up to 38 locations and up to 900 feet in total depth. Samples will be collected and tested for moisture, Atterberg limits, and grain size. Up to fourteen bulk samples will be obtained and submitted for triaxial shear testing. Up to fourteen rock samples will be collected and tested. Samples for corrosion evaluation will also be collected during the geotechnical investigation.
 - b. A complete geotechnical subsurface investigation at the Cape Fear River crossing
 - c. A complete geotechnical subsurface investigation at the booster pump station and ground storage tank site
- E. Conduct site visit(s) to review the project areas, existing conditions, and survey data.
- F. Perform environmental field reviews to evaluate and summarize anticipated environmental impacts, perform threatened and endangered species surveys, and identify and delineate streams and wetlands. Not included are additional surveys that may be requested

by permitting agencies such as a complete tree survey of every tree in the corridor to identify possible wildlife habitats.

- G. A corrosion evaluation shall be completed including corrosivity testing of the pipeline soils and identification of other potential corrosion sources such as near existing utilities; identification of recommended locations for corrosion control and appropriate mitigative measures; and preparation of a technical report documenting the field and analytical efforts as well as the recommendations. Mitigative measures recommended from this evaluation effort shall be incorporated into the project's Contract Documents (plans and specifications).

2. Design of Transmission Main from Sanford WFF to Booster Pump Station Site

- A. Complete detailed design and construction drawings of the proposed improvements with a horizontal scale of 1" = 40' and a vertical scale of 1" = 4' including direct bury pipe, trenchless crossings, and interconnections. Where warranted, additional drawings will be developed to enlarge drawing features for specific portions of the design. Separate plan view only sheets are anticipated for erosion and sediment control. Hazen standard details will be used with the incorporation of Partner preferences. One set of transmission main details shall be developed and used for all transmission main designs.
- B. Prepare detailed tunnel and trenchless installation plans for the Cape Fear River crossing, NCDOT street crossings, and stream crossings where applicable.
- C. Prepare detailed technical specifications. Specifications will be Hazen standard documents modified to meet the project requirements with the incorporation of Partner preferences. One set of transmission main technical specifications shall be developed and used for all transmission main designs and construction contract packages.
- D. Prepare contract documents including Instructions to Bidders, Bid Forms, Agreement, General Conditions, Special Conditions, and appendices.
- E. Prepare submittals for review by the Partners at 30%, 60%, and 90% design phases. With the 30% submittal, a table of contents of for the specifications will be provided. With the 60% and 90% submittals, complete draft specifications shall be provided. Partner comments shall be addressed in a comment and response log.
- F. The 100% submittal shall incorporate all comments from the Partners and permitting agencies. Permits shall be submitted at the 90% phase. After addressing all comments, the contract documents shall be considered 100% complete and ready for bidding.

3. Design of Transmission Mains from Booster Pump Station to Fuquay-Varina and Holly Springs distribution Systems

- A. Complete detailed design and construction drawings of the proposed improvements, including access roads, with a horizontal scale of 1" = 20' and a vertical scale of 1" = 4' including direct bury pipe, trenchless crossings, and interconnections. Where warranted, drawings will be developed to enlarge drawing features for specific portions of the design.

Hazen standard details will be used with the incorporation of Partner preferences. One set of transmission main details shall be developed and used for all transmission main designs.

- B. Prepare detailed trenchless installation plans for NCDOT street crossings.
- C. Prepare detailed technical specifications. Specifications will be Hazen standard documents modified to meet the project requirements with the incorporation of Partner preferences. One set of transmission main technical specifications shall be developed and used for all transmission main design and construction contract packages.
- D. Prepare contract documents including Instructions to Bidders, Bid Forms, Agreement, General Conditions, Special Conditions, and appendices.
- E. Prepare submittals for review by the Partners at 30%, 60%, and 90% design phases. With the 30% submittal, a table of contents for the specifications will be provided. With the 60% and 90% submittals complete draft specifications shall be provided. Partner comments shall be addressed in a comment and response log.
- F. The 100% submittal shall incorporate all comments from the Partners and permitting agencies. Permits shall be submitted at the 90% phase. After addressing all comments, the contract documents shall be considered 100% complete and ready for bidding.

4. Booster Pump Station and Ground Storage Tank Site

- A. Complete detailed design and construction drawings of the booster pump station buildings and ground storage tanks including:
 - Site/Civil/Yard Piping Design
 - Process/Mechanical Design
 - Structural Design
 - Architectural Design
 - HVAC/Plumbing Design
 - Electrical Design
 - Instrumentation and Controls Design

The design shall consist of two dedicated booster pump stations with matching general design and architectural features. The buildings shall be designed with skylights to facilitate future pump removal and replacement. The electrical system shall include individual utility feeds with a dedicated standby power generator for each system. Outdoor lighting shall be incorporated for each booster pump station building.

- B. All design shall meet current codes and standards and incorporate owner preferences.
- C. Prepare detailed technical specifications. Specifications will be Hazen standard documents modified to meet the project requirements with the incorporation of Partner preferences.
- D. Prepare contract documents including Instructions to Bidders, Bid Forms, Agreement, General Conditions, Special Conditions, and appendices.

- E. Prepare submittals for review by the Partners at 30%, 60%, and 90% design phases. With the 30% submittal, a table of contents of for the specifications will be provided. With the 60% and 90% submittals complete draft specifications shall be provided. Partner comments shall be addressed in a comment and response log.
- F. The 100% submittal shall incorporate all comments from the Partners and permitting agencies. Permits shall be submitted at the 90% phase. After addressing all comments, the contract documents shall be considered 100% complete and ready for bidding.

5. Hydraulic Modeling

- A. Confirm Fuquay-Varina pump selection for final BPS site and conditions, and potential change to the distribution system pressure.
- B. Confirm Holly Springs pump selection for final BSP site and conditions.
- C. Perform transmission main transient modeling to size and place air valves.

6. QA/QC

- A. Perform QA/QC reviews for the 30%, 60%, 90%, and 100% design milestones.

7. Opinion of Probable Construction Cost

- A. Perform quantity takeoffs and prepare preliminary opinions of probable construction cost for the 30%, 60%, 90%, and 100% design milestones.

8. Permitting

Prepare and submit application packages for approval to the following entities:

- A. Public Water Supply Section – Design documents will be submitted to the state for review and approval. \$675 has been included for the review fee for three pipe and one pump station submittal.
- B. State Erosion and Sediment Control – permit application will be developed in compliance with the state standards and regulations. The estimated disturbed area and fees are as follows:
 - 1. The shared transmission main is 130 acres with a \$13,000 fee
 - 2. BPS and GST Site is 5 acres with a \$500 fee
 - 3. Dedicated transmission mains are 29 acres with a \$2,900 fee
- C. NC Department of Transportation – Encroachment agreements will be submitted to DOT for review and approval. Separate encroachment agreements for Lee, Chatham, and Wake County are anticipated. Up to 10 permanent and temporary driveway easements will be included with a fee of \$50 each.
- D. Norfolk South Railroad – a permit application will be developed and submitted for review and approval. A permit application fee of \$2,500 has been included in the scope of work.

Any additional fees and licensing associated with the installation of the crossing are not included.

- E. Nationwide Section 401/404 Permit Application – It is assumed that the project will qualify for authorization under Nationwide Permit #12 criteria for Utility Line Activities. The Engineer will prepare a Draft 404/401 Nationwide Permit and Buffer Authorization application package, and if necessary, conduct a pre-application meeting with the US Army Corps of Engineers (USACE) and/or the NC Division of Water Resources (NCDWR) to present the permit approach, avoidance/minimization measures, and alternatives analysis. This will include working with the agencies to determine whether mitigation will be required for the project, and if so, the type and amount necessary. If the regulatory agencies determine that the project does not qualify for authorization under the Nationwide Permit program, and an Individual Section 404/401 Permit is required, these efforts will be considered as an additional service. A fee of \$570 is included for the application.
- F. Chatham County Buffer Authorization – Prepare and submit buffer authorization to Chatham County for the portion of the project within their jurisdiction. Assumes one onsite visit with the County to review the jurisdictional areas. A fee of \$50 has been included for the application.
- G. Wake County Building/Site Plan for BPS and Ground Storage Tank Site – Prepare and submit for building, sit plan, and stormwater approval through Wake County. A fee of up to \$2,000 has been included in the scope of work for the site plan and stormwater approval. The building permit is assumed to be paid for by the Contractor during the construction phase of the project.
- H. Duke Energy Encroachment Agreement – The transmission main will follow and cross existing Duke Energy 5-6 times and be within Duke Energy-owned property. Exhibits will be developed for each crossing and for locations within property owned by Duke Energy.
- I. Colonial Pipeline Encroachment Agreement – Prepare exhibits, encroachment application, and agreement for crossing the existing gas main on Wilbon Road.

9. Easement and Property Acquisition Assistance

- A. Assist with property owner notifications and negotiations, and mapping for 100 permanent and temporary easements. Easement mapping will begin after 60% design is complete.

Services shall include a letter to each property owner to introduce the project and specific easement needs, an initial meeting with each property owner, preparation of a written offer, coordination to address property owner concerns, preparation of approval forms, closing, and recordation of required easements.

10. Stakeholder Engagement and Outreach

- A. Communication will continue with identified stakeholders and additional parties as they are identified during the design process. Communication will include the development of maps and figures to depict the project as well as updates as necessary.

- B. Information will be provided for the project website including figures, schedules, and notices of upcoming activities.
- C. Coordination with developers and property owners to incorporate proposed site development with the project design plans.

11. Drinking Water SRF Funding Assistance

It is anticipated both Fuquay-Varina and Holly Springs will receive Drinking Water SRF Funding. A single set of required funding documents including the ER/EID and design plans will be developed and customized for each partner's submittal requirements.

- A. Hazen shall prepare one Engineering Report/Environmental Information Document (ER/EID) in accordance with NC DEQ and federal requirements. It is anticipated that the EID will require a level of analysis commensurate with a National Environmental Policy Act (NEPA) Environmental Assessment (EA) and require a Finding of No Significant Impact (FONSI).
- B. Hazen shall prepare the Engineering Report and Environmental Information Document (ER/EID) for environmental review and concurrence. Hazen shall develop the documents in compliance with North Carolina Division of Water Infrastructure (DWI) guidance that shall include but not be limited to the following:
 - 1. Define the project, purpose, and need.
 - 2. Define and evaluate engineering alternatives.
 - 3. Define the existing environment and impacts to the existing environment in the EID. An environmental justice analysis shall be included.
 - 4. Develop a list of mitigative measures to mitigate any potential impacts of the proposed project.
 - 5. Development of draft documents for distribution and review as required by the environmental review process.
 - 6. Develop a presentation and facilitate one public meeting and review as warranted to support the EID process.
 - 7. Prepare final environmental review documents required to support the Finding of No Significant Impact (FONSI).
- C. Hazen shall submit bid and design documents for approval to DWI as detailed in the Bid and Design Document Submittal Checklist.
 - 1. Hazen will include all required funding elements in the design documents.
 - 2. Hazen will submit design documents for review and approval.
 - 3. Assumes one round of comments and responses
 - 4. Hazen will complete the required funding elements during the bidding period.
- D. Hazen shall obtain Authority to Award
 - 1. Hazen will submit the required documents to DWI for review and approval
- E. Hazen shall develop updated funding applications for the Fall 2022 and Spring 2023 submission cycles.
 - 1. The applications shall be updated for new forms and requirements

2. Hazen will coordinate obtaining the required signatures from the Owners
3. Hazen will assemble and deliver the applications to DWI.

12. Bidding

- A. It is anticipated the project will be bid in three separate contracts. The following work will be performed for each contract:
1. Advertisement – Assist in advertising and securing sealed bids for the construction contract. Provide electronic copies of Contract Documents to Contractor plan rooms.
 2. Contract Document Distribution – Distribute Contract Documents to prospective bidders who request and make non-refundable deposits and keep an updated log of document holders. It is anticipated that an online/local printing service process will be utilized.
 3. Meetings – Attend one (1) pre-bid meeting per contract and act as an advisor during the bid phase. Prepare and distribute minutes of the pre-bid meeting.
 4. Questions – Respond to a reasonable number of questions from Contractors during the bid period and issue addenda as appropriate. Addenda will be issued for changes related to Contractor questions/clarifications.
 5. Review of Bids – Analyze all bids received, prepare a certified “Bid Tabulation,” and prepare and submit a letter summarizing the results of the bid and the evaluation of the lowest apparent responsive bidder for the construction contract. Bids received will be evaluated for arithmetic errors and completeness of bid forms.
 6. Conformed Documents – Prepare updated Contract Documents (drawings and specifications) to include pertinent Addenda issued during the bid phase. The quantity of updated Contract Documents printed and delivered is not to exceed 10 sets.
 7. Construction Contract Execution – Assist with preparing and executing Contract Documents. Documents, including insurance documents and bonds, will be reviewed for completeness and included in a digital version of the Contract Documents to route for execution.

13. Project Management and Meetings

- A. Project management shall occur on an ongoing basis. Progress meetings will be held monthly to review and discuss the current status of the project, as well as next steps.
- B. Periodic check-in meetings will be held twice a month to facilitate project progress.
- C. Schedule review and update will occur on a monthly basis during design. Scheduling for construction shall occur beginning after the 60% design submittal
- D. Design workshops will be held for the 30%, 60%, 90%, and 100% submittals.

Construction Phase services for this project will be added to this Agreement by Amendment.

This is **EXHIBIT C** – Basis of Compensation
Amendment 1 – Design, Permitting, and Bidding

BASIS OF COMPENSATION

The Work identified here in Exhibit A will be billed on a Lump Sum or Time and Materials as noted in the table below.

Task	Engineering	Expenses	Total	Type
Field Investigations	\$ 234,125.60	\$ 1,135,333.00	\$ 1,369,458.60	Time and Materials
Transmission Main Design - Sanford to BPS	\$ 1,177,136.00		\$ 1,177,136.00	Lump Sum
Transmission Main Design - BPS to HS and F-V	\$ 730,478.80	\$ 6,380.00	\$ 736,858.80	Lump Sum
BPS and GST	\$ 1,136,144.00		\$ 1,136,144.00	Lump Sum
Hydraulic Modeling	\$ 136,302.40		\$ 136,302.40	Lump Sum
QA/QC	\$ 195,267.20		\$ 195,267.20	Lump Sum
OPCC	\$ 127,124.80		\$ 127,124.80	Lump Sum
Permitting	\$ 308,458.00	\$ 22,695.00	\$ 331,153.00	Lump Sum
Easements and Property Acquisitions Assistance	\$ 80,150.40	\$ 385,000.00	\$ 465,150.40	Time and Materials
Stakeholder Engagement and Outreach	\$ 221,498.40		\$ 221,498.40	Lump Sum
SRF Funding	\$ 183,673.20		\$ 183,673.20	Time and Materials
Bidding and Contracting	\$ 161,288.40	\$ 18,000.00	\$ 179,288.40	Lump Sum
Project Management and Meetings	\$ 286,022.00		\$ 286,022.00	Lump Sum
	\$ 4,977,669.20	\$ 1,567,408.00	\$ 6,545,077.20	

The Basis of Compensation will be invoiced monthly based on the percentage of work complete for the Lump Sum tasks and actual hours worked for the Time and Materials tasks. The Time and Materials tasks shall be invoiced at the following hourly billing rates. Rates are effective from July 1, 2022 through June 30, 2023

Vice President	\$269
Associate Vice President	\$263
Senior Associate	\$257
Associate	\$201
Senior Principal Engineer	\$183
Principal Engineer	\$160
Engineer	\$137
Assistant Engineer	\$126
Principal Architect	\$159
Architect	\$140
Senior Principal Scientist	\$180
Assistant Scientist	\$145

Senior Principal CAD Designer	\$172
Principal CAD Designer	\$137
Senior CAD Designer	\$114
CAD Designer	\$105
Administrative	\$104
Technician	\$70

Subconsultants employed by Hazen and Sawyer will be billed at cost times a multiplier of 1.1. All other reimbursable project expenses will be billed at cost and vehicle mileage will be billed at rates allowed by the Federal Internal Revenue Service.

Scope and fee for additional engineering services will be negotiated using these hourly billing rates and incorporated into this Agreement by Amendment. Hourly billing rates may be increased annually effective on July 1st of each year.

	Fuquay Varina	Holly Springs
Transmission Main and BPS/GST Site split based on % of flow	62.5%	37.5%
Transmission Main to Distribution Systems - Based on length	71.3%	28.7%

Task	Engineering	Expenses	Total	Type	Fuquay-Varina		Basis of cost sharing
					Cost	Cost	
Field Investigations	\$ 234,125.60	\$ 1,135,333.00	\$ 1,369,458.60	Time and Materials	\$ 855,911.63	\$ 513,546.98	FV 62.5% and HS 37.5%
Transmission Main Design - Sanford to BPS	\$ 1,177,136.00		\$ 1,177,136.00	Lump Sum	\$ 735,710.00	\$ 441,426.00	FV 62.5% and HS 37.5%
Transmission Main Design - BPS to HS and F-V	\$ 730,478.80	\$ 6,380.00	\$ 736,858.80	Lump Sum	\$ 525,464.88	\$ 211,393.92	FV 71.3% and HS 28.7%
BPS and GST	\$ 1,136,144.00		\$ 1,136,144.00	Lump Sum	\$ 710,090.00	\$ 426,054.00	FV 62.5% and HS 37.5%
Hydraulic Modeling	\$ 136,302.40		\$ 136,302.40	Lump Sum	\$ 76,341.40	\$ 59,961.00	Split based on Task
QA/QC	\$ 195,267.20		\$ 195,267.20	Lump Sum	\$ 126,659.21	\$ 68,607.99	Split based on Task
OPCC	\$ 127,124.80		\$ 127,124.80	Lump Sum	\$ 82,852.19	\$ 44,272.61	Split based on Task
Permitting	\$ 308,458.00	\$ 22,695.00	\$ 331,153.00	Lump Sum	\$ 206,970.63	\$ 124,182.38	FV 62.5% and HS 37.5%
Easements and Property Acquisitions Assistance	\$ 80,150.40	\$ 385,000.00	\$ 465,150.40	Time and Materials	\$ 290,719.00	\$ 174,431.40	FV 62.5% and HS 37.5%
Stakeholder Engagement and Outreach	\$ 221,498.40		\$ 221,498.40	Lump Sum	\$ 138,436.50	\$ 83,061.90	FV 62.5% and HS 37.5%
SRF Funding	\$ 183,673.20		\$ 183,673.20	Time and Materials	\$ 91,836.60	\$ 91,836.60	50/50 split
Bidding and Contracting	\$ 161,288.40	\$ 18,000.00	\$ 179,288.40	Lump Sum	\$ 116,809.25	\$ 62,479.15	Split based on Task
Project Management and Meetings	\$ 286,022.00		\$ 286,022.00	Lump Sum	\$ 178,763.75	\$ 107,258.25	FV 62.5% and HS 37.5%
	\$ 4,977,669.20	\$ 1,567,408.00	\$ 6,545,077.20		\$ 4,136,565.03	\$ 2,408,512.17	
					63.2%	36.8%	

Task Description	Employee Classification	Vice President	Associate Vice President	Senior Associate	Associate	Senior Principal Engineer	Principal Engineer	Assistant Engineer	Senior Scientist	Principal Designer	Professional 6	Professional 5	Professional 4	Professional 3	Professional 2	Professional 1	Senior Advisor	CAD - 2	CAD - 3	Subtotal Hours	Labor Cost By Task	
	Average Hourly Rate	\$ 276.00	\$ 270.00	\$ 264.00	\$ 207.00	\$ 188.00	\$ 164.00	\$ 130.00	\$ 185.00	\$ 141.00	\$ 231.00	\$ 216.00	\$ 185.00	\$ 154.00	\$ 139.00	\$ 113.00	\$ 205.00	\$ 123.00	\$ 149.00			
1 Field Investigations																						
A	Survey Coordination			4	24	40		40		16										124	\$ 21,000.00	
B	Level B SUE Coordination			4	8	24		24		16										76	\$ 12,600.00	
C	Level A SUE Coordination			4	8	24		24		8										68	\$ 11,472.00	
D	Geotechnical Coordination		40	24	80			24				4							8	180	\$ 38,872.00	
E	Site Visit Review				40	40				40		24	24						24	192	\$ 34,640.00	
F	Environmental Field Review			4	312		24	280												620	\$ 105,976.00	
G	Corrosion Evaluation	2		4	16			24												46	\$ 8,040.00	
		2	40	44	488	128	24	416	0	80	0	28	24	0	0	0	0	0	32	1306	\$ 232,600.00	
2 Transmission Main Design - Sanford to BPS		# of sheets																				
A	General sheets	4		4	16					32		4								56	\$ 9,744.00	
B	30% P&P	71	8	24	284	142		284		852		4								1598	\$ 251,944.00	
C	60% P&P	71	8	24	284	284		142		426		4								1172	\$ 200,114.00	
D	90% P&P	71	8	24	284	426		142		852		4								1740	\$ 286,876.00	
E	100% P&P	71	8	24	284	142		213		284		4								959	\$ 162,626.00	
F	Detail Sheets	5		8	12			16		20										56	\$ 9,496.00	
G	E&SC Drawings	42		8			252	80												340	\$ 53,840.00	
H	Tunnel and Bores		8	80	120	120		80												408	\$ 90,728.00	
I	Specifications - Transmission Main Base Spec			8	60	60		60												268	\$ 53,640.00	
J	Bid Documents		4		40	40		60												144	\$ 24,704.00	
K	30%, 60%, 90%, and 100% submittal prep				32	48		64		64										208	\$ 32,992.00	
		44	88	296	1436	1142	252	1141	0	2530	0	20	0	0	0	0	0	0	0	6949	\$ 1,176,704.00	
3 Transmission Main Design - BPS to HS and F-V		# of sheets																				
A	General sheets	4										16	16						32	64	\$ 11,184.00	
B	30% P&P	52	4		4	12				8		24	208	104					624	988	\$ 158,428.00	
C	60% P&P	52	4		4	12				8		24	208	208					312	780	\$ 127,956.00	
D	90% P&P	52	4		4	12				8		24	208	312					624	1196	\$ 190,460.00	
E	100% P&P	52	4		4	12				8		24	208	104					208	572	\$ 96,444.00	
F	Detail Sheets - modify for specific requirements	5										8							12	20	\$ 3,516.00	
G	E&SC	6										8			80				48	136	\$ 20,000.00	
H	Trenchless Crossings												40	40						80	\$ 13,560.00	
I	Specifications - Modify for specific requirements		2		2	8							16	16						44	\$ 8,160.00	
J	Bid Documents		2		2	8							16	16	40					84	\$ 13,720.00	
K	30%, 60%, 90%, and 100% submittal prep											4	8	16	64				64	156	\$ 23,240.00	
		20	0	20	64	0	0	0	0	32	0	132	928	816	184	0	0	0	0	1924	4120	\$ 666,668.00
4 BPS and GST		# of sheets																				
	General Design	2		8			16			24										48	\$ 8,120.00	
	Civil	24			36		192	384		576										1260	\$ 189,516.00	
	Process/Mechanical/Water Resources Design	14	8	8	56		224	224		336										856	\$ 132,384.00	
	Structural Design	18	8		72		216	288		432										1016	\$ 154,992.00	
	Architectural Design	15		30	60		180	240		360										870	\$ 135,420.00	
	HVAC-Plumbing Design	11			44		132	176		264										616	\$ 93,368.00	
	Electrical Design	24			96	24	384	384		576										1464	\$ 224,424.00	
	Instrumentation	6	8		24		72	96		144										344	\$ 53,136.00	
	Ground Storage Tanks	10	8		40	36	120	160		240										604	\$ 94,540.00	
	Specifications		2		32		96	192												324	\$ 50,244.00	
	Bid Documents																			0	\$ -	
	30%, 60%, 90%, and 100% submittal prep																			0	\$ -	
		34	112	432	96	0	1632	2144	0	2952	0	0	0	0	0	0	0	0	0	7402	\$ 1,136,144.00	
5 Hydraulic Modeling																						
A	Fuquay-Varina pump selection		8		16	16					24		40	60						164	\$ 31,928.00	
B	Holly Springs pump selection		8		40	68		60												176	\$ 34,644.00	
C	Transmission Main transient modeling & ARV Sizing		28		80	16		60												352	\$ 67,512.00	
		44	0	136	100	0	168	120	0	0	24	0	40	60	0	0	0	0	0	692	\$ 134,084.00	
6 QA/QC		# of sheets																				
A	36" Transmission 30%	71	8	4	8	16				16		8								60	\$ 12,696.00	
B	36" Transmission 60%	71	8	4	8	16				16		8								60	\$ 12,696.00	
C	36" Transmission 90%	71	8	4	8	16				16		8								60	\$ 12,696.00	
D	36" Transmission 1000%	71	8	4	8	16				16		8								60	\$ 12,696.00	
E	Distribution Mains 30 %	52	4		8	8						16					8		16	60	\$ 12,352.00	
F	Distribution Mains 60 %	52	4		8	8						16					8		16	60	\$ 12,352.00	
G	Distribution Mains 90 %	52	4		8	8						16					8		16	60	\$ 12,352.00	
H	Distribution Mains 100 %	52	4		8	8						16					8		16	60	\$ 12,352.00	
I	BPS & GST 30%		16	32	16	16				16										96	\$ 22,848.00	
J	BPS & GST 60%		16	32	16	16				16										96	\$ 22,848.00	
L	BPS & GST 90%		16	32	16	16				16										96	\$ 22,848.00	
K	BPS & GST 100%		16	32	16	16				16										96	\$ 22,848.00	
		112	144	128	160	0	0	0	0	128	0	96	0	0	0	0	32	0	64	864	\$ 191,584.00	
7 OPCC																						
A	36" Transmission 30%		1		4	8	4	32												49	\$ 7,900.00	
B	36" Transmission 60%		1		4	8	4	32												49	\$ 7,900.00	
C	36" Transmission 90%		1		4	8	4	40												57	\$ 8,940.00	
D	36" Transmission 100%		2		4	8	4	16												34	\$ 6,096.00	
E	Distribution Mains 30 %				2	8					4	8										

8 Permitting																						
A	Public Water Supply - Transmission Main	1		4	8		12	40		24								89	\$	13,540.00		
B	Public Water Supply - Water Lines			4	2					4		12			40		24		86	\$	13,126.00	
C	Public Water Supply BPS	1		4	8	12	12	24		24								85	\$	13,716.00		
D	E&SC - Transmission Main		2	4	8		60	80		24								178	\$	26,876.00		
E	E&SC - Water Lines			4						8		40			60		24		136	\$	21,596.00	
F	E&SC - BPS		2	4	8		40	80		24								158	\$	23,596.00		
G	NCDOT - Lee County			4	8		16	80		16								124	\$	17,992.00		
H	NCDOT - Chatham County			4	8		16	80		16								124	\$	17,992.00		
I	NCDOT - Wake County			4						8		16			80		16		124	\$	18,952.00	
J	Norfolk Southern RR			4	24		40	40		40								148	\$	23,424.00		
K	Nationwide Section 401/404		2	8	64			152										226	\$	35,660.00		
L	Chatham County Buffer Authorization			4	48			40										92	\$	16,192.00		
M	Wake County Building/Site Plan			4	24			40										68	\$	11,224.00		
N	Duke Energy	2		4	40			60		40								146	\$	23,328.00		
O	Colonial Pipeline	2		4						16		40			60		24		146	\$	23,996.00	
		6	6	64	250	12	196	716	0	208	36	0	108	0	240	0	0	88	0	1930	\$	301,210.00
9 Easements and Property Acquisitions Assistance																						
A	Permanent and Temporary Easements - Mapping	100			24		40			250	24				40		60		438	\$	65,262.00	
B	Owner notifications	100		4	8		40											52	\$	9,272.00		
C	Neogotiation questions	100		8	8													16	\$	3,768.00		
		0	0	12	40	0	80	0	0	250	24	0	0	0	40	0	0	60	0	506	\$	78,302.00
10 Stakeholder Engagement and Outreach																						
A	Stakeholder Communication																		0	\$	-	
	Residents			4	24		16	40		80								164	\$	32,328.00		
	Duke	4		24	24		40	60		120								272	\$	54,488.00		
	TLC	2		24	24			40		80								170	\$	35,536.00		
	Gas	2		4	8					60								74	\$	17,124.00		
B	Project Website Information - Maps and Schedule Updates Monthly	2		16	24		40	80		24								186	\$	32,248.00		
C	Developer and Property Owner Communication	4		24	40			80		60								208	\$	39,980.00		
		14	0	96	144	0	96	300	0	0	424	0	0	0	0	0	0	0	0	1074	\$	211,704.00
11 SRF Funding																						
A	Engineering Report	8		36	40	16	80	140		4	8							332	\$	56,972.00		
	Environmental Information Document	8		36	40		40	80	80									284	\$	51,752.00		
	Bid and Design Document Submittal and Approval	8		8	16		24	40		16	16						8	136	\$	23,704.00		
	Authority to Award	8		16	24		40	60										148	\$	25,760.00		
	Fall 2022 Applicaton - 2	4		8			40	20										72	\$	12,376.00		
	Spring 2023 Application - 2	4		8			40	20										72	\$	12,376.00		
		40	0	112	120	16	264	360	80	16	20	8	0	0	0	0	0	8	0	1044	\$	182,940.00
12 Bidding and Contracting																						
A	Transmission Main	4		36	40		60	100		40								280	\$	47,368.00		
B	BPS and GST Site	4	12	36	80	60		100		80								372	\$	65,968.00		
C	Distribution Mains	1		8	12					24	40		40	100			40	265	\$	44,036.00		
		9	12	80	132	60	60	200	0	120	24	40	0	40	100	0	0	40	0	917	\$	157,372.00
13 Project Management and Meetings																						
A	Monthly Meetings - 16	16	8	80	64	16	16	64		80		32	32					408	\$	84,224.00		
B	Check Ins - 18 Months	4		36	36					8		4						88	\$	20,648.00		
C	Management and Schedule - 18 months	4	8	244	60					80								396	\$	98,580.00		
D	30% Design Workshop	2	2	12	16	8	8	8		16	8		4	12				96	\$	18,120.00		
E	60% Design Workshop	4	4	12	16	8	8	8		16	8		4	12				100	\$	19,212.00		
F	90% Design Workshop	4	4	12	16	8	8	8		16	8		4	12				100	\$	19,212.00		
G	100% Design Workshop	4	4	12	16	8	8	8		16	8		4	12				100	\$	19,212.00		
		38	30	408	224	48	48	96	0	64	200	0	52	80	0	0	0	0	0	1288	\$	279,208.00
Labor Subtotals		384	448	1868	3350	1486	2884	5733	80	6380	768	356	1168	996	564	120	32	196	2020	28833	\$	4,872,932.00

Other Direct Costs	Quantity	Rate	Markup	Total
Mileage				
Hazen	10000	\$ 0.58	1	\$ 5,800.00
FNI	10000	\$ 0.58	1.1	\$ 6,380.00
Copies	30	\$ 300.00	1	\$ 18,000.00
Subconsultants				
Stewart	1	\$ 200,000.0	0.1	\$ 220,000.00
Cooper	1	\$ 455,030.0	0.1	\$ 500,533.00
Geotechnologies	1	\$ 310,000.00	0.1	\$ 341,000.00
Corrosion Probe	1	\$ 60,000.0	0.1	\$ 66,000.00
Right of Way Consultants	1	\$ 350,000	0.1	\$ 385,000.00
FNI	1	\$ 1,047,372.00	0.1	\$ 104,737.20
Field work expenses				
	1	\$ 2,000	1	\$ 2,000.00
Per Permitting Fees				
401/404		\$ 570		\$ 570.00
NCDOT Driveway Permits	10	\$ 50		\$ 500.00
Erosion and Sediment Control		\$ 16,400		\$ 16,400.00
Railroad		\$ 2,500		\$ 2,500.00
Public Water Supply		\$ 675		\$ 675.00
Wake County Site		\$ 2,000		\$ 2,000.00
Chatham County Buffer Authorization		\$ 50		\$ 50.00

OCD Subtotals				\$ 1,672,145.20
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Holly Springs Town Council

Town Council Meeting Agenda Cover Sheet

Agenda Item#: 14.

Consent Agenda

Title: Approval of Land Purchase Contract for Fire Station 3

Strategic Priority Area: Responsible & Balanced Growth
Safe & Friendly

Staff Resource: John Schifano, Town Attorney

Action(s):

Approve Land Purchase Contract for 4.3 Acres of land from Duke Energy Progress for \$650,000 for Fire Station #3

Explanation:

- The Town has identified a site for the construction of a future fire station (#3) near the intersection of Woodfield Dead End Road and Woods Creek, in the north western area of Town.
- The existing Fire Station 3 is located in a temporary rented structure on Friendship Road, which will be replaced with the new station constructed on the new 4.3 acre site.

Background:

- An appraisal was acquired for this 4.3 acre parcel by a North Carolina certified appraiser, indicating a value of \$650,000 for the tract.
- The site is currently undeveloped and the Town will be coordinating with Duke Energy Progress through a future development agreement for the installation of public utilities.
- Purchase will take place in December after the completion of the Town's due diligence on the parcel and NC Utilities Commission approval.
- Council's approval of this purchase contract will be used as part of the sale application to the NC Utilities Commission by Duke Energy.

Funding Source(s):

- Adopted Fiscal Year 2022-23 Community Investment Plan (CIP)

Attachment(s):

1. DEP - Town of Holly Springs Purchase and Sale Agreement (TOHS Fire Station) Duke 8-17 Clean

NORTH CAROLINA

Site No. 104528

WAKE COUNTY

Land Unit No. 1183088

Project No. 104528-86011

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“**Agreement**”), dated as of _____, 2022, is made by and between **DUKE ENERGY PROGRESS, LLC**, a North Carolina limited liability company (“**Seller**”), and **TOWN OF HOLLY SPRINGS**, a North Carolina municipal corporation (“**Purchaser**”). The term “**Effective Date**” shall mean the date this Agreement becomes binding on Seller and Purchaser, as evidenced by that date on which the last of the parties to this Agreement signs this Agreement as indicated below (provided, however, that the signature of the Escrow Agent shall not be required for calculating any time periods under this Agreement).

WITNESSETH:

WHEREAS, Seller is the owner of fee simple title to that certain tract of land located south of Woods Creek Road (N.C.S.R. 1154) and west of Woodfield Dead End Road (N.C.S.R. 1155) in Wake County, North Carolina containing approximately 4.3 acres, more or less, and being generally shown as the area labelled “Proposed Fire Station Approximately 4.3 Acre Site” on the preliminary drawing attached hereto as **Exhibit A** and incorporated herein by reference, less and except any portion of such 4.3-acre tract of land (if any) that is located below the 265-foot contour line (the “**Land**”); and

WHEREAS, Purchaser desires to purchase from Seller, and Seller desires to sell to Purchaser, the Property (as hereinafter defined) on the terms and conditions contained herein.

NOW, THEREFORE, for and in consideration of the foregoing recitals (which, by this reference, are incorporated into the operative provisions of this Agreement), the mutual covenants, premises, and undertakings set forth herein, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Seller and Purchaser agree as follows:

1. The Property and Closing.

1.1 Description of the Property. Subject to the terms and conditions of this Agreement, and for the consideration herein set forth, Seller agrees to sell, transfer, and convey to Purchaser, and Purchaser agrees to purchase and acquire from Seller, all of Seller’s right, title and interest in and to the Land, together with all tenements, hereditaments, rights, privileges, interests, easements (except for the Distribution Easement as defined in Section 1.3 hereof, and all related rights under such Distribution Easement that will be reserved by Seller in accordance with this Agreement), and appurtenances belonging or in any wise pertaining to the Land (collectively the “**Property**”). The Property shall not include any land located below the 265-foot contour line, which shall be retained in fee by Seller. The boundary line(s) of the Property (and its total acreage) may be adjusted and/or modified on the final approved Property Survey (defined in Section 3.3 hereof) to account for this exclusion of land located below the 265-foot contour line.

1.2 Seller’s Distribution Facilities Excluded. The Property shall not include any right, title, or interest whatsoever in or to Seller’s lines, facilities, fixtures, equipment, and/or other personal property now located upon the Property (if any) or as the same may hereafter be located upon the Property and that shall remain on the Property after Closing (defined in Section 1.5 hereof), pursuant to the terms and conditions of the Distribution Easement that will be reserved by Seller in accordance with this Agreement. The Seller represents and warrants that no distribution facilities are located on the Property as of the Effective Date.

1.3 Agreement to Convey Property and Reserved Distribution Easement. Subject to the terms and conditions of this Agreement, Seller agrees to convey to Purchaser, and Purchaser agrees to accept from Seller, title to the Property by special warranty deed (the “**Deed**”), subject to the Permitted Encumbrances (defined in Section 3.4 hereof) and reserving unto Seller, its successors and assigns, a distribution easement for Seller’s existing (if any) and future electrical distribution and communication facilities on, over, under, and across the Property in a location to be determined by the location of the existing facilities (the “**Distribution Easement**”). The Parties understand that the Purchaser shall use the Property for a municipal fire station. If the existing facilities to be covered by the Distribution Easement need to be relocated to accommodate the municipal fire state then that relocation shall be handled using Seller’s then applicable practices around relocations. The language for reserving the Distribution Easement in the Deed shall be in substantially the same form as set forth on **Exhibit B** attached hereto and incorporated herein by reference. The rights, privileges, and easement reserved unto Seller shall include full, unrestricted and uninterrupted access at all times for Seller, its employees, agents, and contractors to said distribution easement area(s) for ingress, egress and regress in the conduct of Seller’s business. From the Effective Date through the Closing, Seller may exercise, as deemed necessary and desirable by Seller and without the Purchaser’s consent, any and all rights, privileges, and easement contemplated by the Distribution Easement to be reserved in the Deed.

1.4 Restrictive Covenants. The Deed shall contain restrictive covenants running with the Property (and any portion thereof) in substantially the same form as follows: (i) The Property shall not be used for residential purposes. (ii) Any and all development, operations, construction, and/or land-disturbing activities conducted at the Property (or any portion thereof) (A) shall comply with all applicable federal, state, and local laws, regulations, ordinances, and requirements (including without limitation all permitting requirements) of federal, state, and local governmental agencies having jurisdiction associated with or pertaining to protection of surface water quality, protection of groundwater, stormwater runoff and stormwater management, erosion and sedimentation control, wetlands, stream and riparian buffers, and floodplains (collectively the “**Water Quality Laws**”), and (B) shall be designed, implemented, managed, conducted, and maintained in a manner that avoids and minimizes any illegal discharges or adverse impacts to Harris Lake, White Oak Creek, Utley Creek, Big Branch, streams, surface waters, wetlands, riparian buffers, and floodplains. (iii) Permanent stormwater conveyances and permanent stormwater control measures shall be designed, installed, operated, and maintained on the Property (and on each portion or outparcel of the Property that is individually developed) to the extent required by and in accordance with applicable Water Quality Laws. (iv) Prior to commencing each and every phase of development, construction, or land-disturbing activities for which applicable Water Quality Laws require the person conducting and/or the person financially or otherwise responsible for the construction or land-disturbing activity (the “**Responsible Party**”) to obtain, secure coverage under, and/or maintain any stormwater permit or stormwater management plan, the Responsible Party shall submit a copy of its proposed storm water management plan(s) to Duke Energy Progress, LLC (addressed to Duke Energy Progress, 5413 Shearon Harris Road, New Hill, N.C. 27562, **Attention:** Lead EHS Professional) and provide a reasonable opportunity for Duke Energy Progress, LLC to review and comment upon such plan(s) during the development, implementation, and closure of such plan(s). The Seller, Purchaser, and their respective successors and assigns shall have a right to enforce these restrictive covenants.

1.5 Closing. Subject to the terms and conditions of this Agreement, payment of the Purchase Price (defined in Section 2 hereof) by Purchaser and the closing of the purchase and sale and transfer of title to the Property (the “**Closing**”) shall occur, subject to the satisfaction of all closing contingencies set forth in this Agreement, within thirty (30) days after the expiration date of the Investigation Period (defined in Section 3.1 hereof), or by no later than December 9, 2022, whichever occurs first, at a time and location mutually agreeable to Seller and Purchaser, or by mail if so agreed by the parties (the “**Closing Date**”).

2. Purchase Price. The purchase price for the Property (the “**Purchase Price**”) shall be Six Hundred Fifty Thousand and No/100s U.S. Dollars (**\$650,000.00**). Payment of the Purchase Price is to be

made in cash or immediately available U.S. funds as follows: Within five (5) business days after the Effective Date, Purchaser shall make an earnest money deposit of Ten Thousand and No/100 Dollars (**\$10,000.00**) (the “**Deposit**”) with the Escrow Agent (as defined below) by a wire transfer of funds or by a bank, certified, or cashier’s check issued by a North Carolina bank or other nationally recognized bank reasonably acceptable to Seller. The Purchaser’s outside counsel, David N. Bryan, P.A., shall act as “**Escrow Agent**.” The Escrow Agent shall hold, maintain, and disburse the Deposit subject to and in accordance with the terms of this Agreement. Seller and Purchaser agree that the Deposit shall be held in the Escrow Agent’s trust account that earns interest for the benefit of Interest on Lawyers Trust Accounts, which interest will not be for the benefit of either party. Except as otherwise provided in Sections 3.2, 3.3, 3.5, 3.6, 6, and 9.2 of this Agreement, if the Purchaser has not notified Seller of Purchaser’s intent to terminate this Agreement on or before the expiration date of the Investigation Period, then the Deposit shall become non-refundable. The Deposit shall be paid to Seller upon consummation of the Closing and shall be credited against the Purchase Price. The balance of the Purchase Price shall be delivered by Purchaser to the Escrow Agent’s (or designated and mutually approved settlement agent’s) escrow or trust account by a wire transfer of funds by 4:00 p.m. the day before the Closing. The Deposit and the balance of the Purchase Price shall be paid over to Seller at the time of the Closing, less any prorations as hereafter provided, and credited against the Purchase Price. Seller shall provide the Purchaser and Escrow Agent with wiring instructions before Closing.

3. Purchaser’s Due Diligence Investigation.

3.1 Investigation Period. Purchaser shall have one hundred twenty (120) days after the Effective Date (the “**Investigation Period**”) within which to determine whether the Property is suitable for Purchaser’s intended use of the Property for a new fire and emergency services station (the “**Intended Use**”). Seller shall allow Purchaser (and Purchaser’s employees, contractors, surveyors, agents or representatives, all of which collectively are hereinafter referred to as “**Purchaser’s Agents**”) reasonable access to the Property at their own and sole risk during the Investigation Period for purposes of appraising, inspecting, investigating, and surveying the Property. All work done on the Property pursuant to this right of entry shall be done in a professional manner, in accordance with the professional standards of environmental and/or engineering consulting firms in the area, and in compliance with all applicable laws, ordinances and regulations.

Subject to the terms and conditions of this Agreement, Purchaser, at Purchaser’s cost, shall conduct a Phase I environmental site assessment of the Property (prepared for the Purchaser and the Seller) and provide a copy of the complete final Phase I environmental site assessment to Seller, at no cost to Seller, within one hundred twenty days (120) days after the Effective Date. Unless this Agreement is sooner terminated in accordance with its terms, Seller and Purchaser acknowledge and agree that the final Phase I environmental site assessment prepared for Seller and Purchaser, the final Appraisal of Real Property dated April 27, 2022 prepared for Purchaser by Integra Realty Resources (the “**Appraisal**”), and the Property Survey approved by the parties pursuant to Section 3.3 hereof will be included with Seller’s filing with the N.C. Utilities Commission requesting approval of the sale of the Property pursuant to Section 3.6 of this Agreement.

Purchaser shall not, however, conduct any soil, groundwater or other surface or subsurface sampling or testing on, at or below the Property without first obtaining the Seller’s prior written consent, such consent to be given or withheld in Seller’s sole discretion and subject to such terms and conditions as Seller may impose regarding any such sampling or testing. Seller shall not withhold such consent if Purchaser agrees to the following: (i) Prior to initiating any such environmental testing, Purchaser shall notify Seller of the proposed dates of any such testing, the name of Purchaser’s Agents conducting such testing, and a description of the scope and parameters of the testing to be conducted such that Seller may effectively conduct “split sampling”, at Seller’s cost, if desired; (ii) Purchaser shall permit Seller, at Seller’s cost, to

“split sample” along with Purchaser or Purchaser’s Agents; (iii) Seller shall determine, in Seller’s sole discretion, the reportability or disclosure of any and all results of such testing to any governmental (or quasi-governmental) agency or other third party; and (iv) Seller shall determine, in Seller’s sole discretion, the appropriate manner of addressing any contamination discovered as a result of such testing. Purchaser shall promptly provide Seller (but in no event later than the expiration date of the Investigation Period) with copies, at no cost to Seller, of any such other data generated in connection with any work performed hereunder, and copies of any other environmental and/or engineering assessments and any addenda thereto prepared on Purchaser’s behalf concerning the Property. Upon Purchaser or any of Purchaser’s Agents obtaining knowledge of any actual or suspected environmental contamination on, in or below the Property, Purchaser or Purchaser’s Agents shall immediately notify Seller of such contamination and immediately provide Seller with any reports, data, laboratory results, notes, or other information of any kind whatsoever (including any and all drafts and final work products) that indicate any such actual or suspected environmental contamination of the Property. All such information shall be in writing and delivered to Seller by means of electronic mail or facsimile transmission (with follow-up by U.S. Mail or hand-delivery).

Purchaser shall and does agree to repair any damage to the Property arising out of or resulting from Purchaser’s or Purchaser’s Agents entry, inspection, investigation, and/or surveying of the Property. To the extent allowed by applicable laws, Purchaser shall indemnify, defend, protect, and hold harmless Seller, Seller’s parent, affiliates, and their respective directors, officers, shareholders, employees, affiliates, contractors and agents from and against any and all suits (whether pending or threatened), liabilities, claims, losses, costs, damages, expenses (including, but not limited to, court costs and reasonable attorneys’ fees), and any liens placed upon the Property that may be suffered or incurred by Seller arising out of or as a result of Purchaser’s exercise of its rights under this Section 3.1. During the Investigation Period, Purchaser and Purchaser’s Agents entering the Property shall maintain in effect comprehensive general liability insurance with bodily injury and property damage coverage of at least Five Hundred Thousand Dollars (\$500,000) per occurrence and One Million Dollars (\$1,000,000) in the aggregate; provided however, any contractor(s) of Purchaser who enter the Property to conduct soil boring and/or drilling activities at the Property associated with any geotechnical investigation or environmental testing at the Property shall maintain comprehensive general liability insurance with bodily injury and property damage coverage of at least One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate. All such required insurance shall name Seller as an additional insured, include a waiver of any right of subrogation against Seller, and be sufficient in all respects to provide and ensure the performance of the indemnity obligations of this Section 3.1. Upon Seller’s request, Purchaser shall provide Seller with a certificate of insurance evidencing Purchaser’s compliance with the insurance requirements set forth herein. The indemnity of Purchaser set forth in this Section 3.1 shall survive Closing, delivery of the Deed, and any termination of this Agreement.

3.2 Title. Purchaser shall have one hundred twenty (120) days after the Effective Date (the “**Title Approval Date**”) by which to provide written notice to Seller of any matters of title only that are not reasonably satisfactory to Purchaser and Purchaser’s counsel other than the Permitted Encumbrances, which notice must specify the reason such matter(s) are not satisfactory (the “**Objection Notice**”). Seller shall have no obligation whatsoever to expend or agree to expend any funds, to undertake or agree to undertake any obligations, or otherwise to cure or agree to cure any title objections; and Seller shall not be deemed to have any obligation to cure, unless Seller expressly undertakes such an obligation by a written notice to or written agreement with Purchaser given or entered into after Seller’s receipt of an Objection Notice and reciting that it is in response to an Objection Notice. Purchaser’s sole right with respect to any matter of title (excluding the Permitted Encumbrances) that will materially and adversely encumber Purchaser’s use and enjoyment of the Property for its Intended Use, and to which Purchaser objects in an Objection Notice and Seller either has not responded or has notified Purchaser of its unwillingness to cure, shall be to elect to terminate this Agreement by written notice to Seller in accordance with Section 3.5 hereof or accept title subject to the exception(s) to

which Purchaser objected without reduction in the Purchase Price; and in the event such timely notice of termination is given, then the Deposit shall be returned to Purchaser and this Agreement shall be null and void and have no further force or effect, except as to those matters that by their very nature survive, or that expressly survive, the expiration or termination of this Agreement. All matters with respect to which Purchaser fails to give an Objection Notice on or before the Title Approval Date, or with respect to which a timely Objection Notice is given but Seller fails to undertake an express obligation to cure as provided above and Purchaser does not elect to terminate this Agreement, shall be deemed to be approved by Purchaser as a “**Permitted Encumbrance**,” as provided in Section 3.4 hereof (subject, however, to Purchaser’s termination right as provided in Section 3.5 of this Agreement).

3.3 Surveys. During the Investigation Period, Purchaser shall obtain, at Purchaser’s sole expense, a physical survey of the Property containing such certifications as are necessary for Purchaser to obtain an ALTA “full coverage” owner’s title insurance policy, or any such lesser policy that the Purchaser may so choose, (together with identification of the 265-foot contour line sufficient in all respects to ensure that no portion of the Property conveyed by Seller to Purchaser at Closing includes any land located below the 265-foot contour line (the “**Property Survey**”). The Property Survey will be prepared by a North Carolina licensed professional land surveyor selected and mutually agreed upon by the parties. The Property Survey shall be subject to the review and approval of Seller and Purchaser.

In the Deed to be conveyed by Seller to Purchaser at Closing, the Seller intends to use the Property Survey approved by the parties as the basis for the legal description of the Property. Notwithstanding anything to the contrary herein, if any legal description as set forth in the Property Survey differs from the property description contained in the deed(s) by which Seller obtained title to the Property, Seller shall be entitled to limit its deed warranties to the description contained in the deed(s) by which Seller obtained title to the Property. On or before the Title Approval Date, Purchaser shall have the right to object to matters of survey, such objections being included within the term “Objection Notice.” Any Objection Notice with respect to matters of survey that are not reasonably satisfactory to Purchaser and Purchaser’s counsel shall be treated in the same manner as an Objection Notice and Purchaser shall have the same rights and obligations with respect to matters of survey as Purchaser has with respect to matters of title. Purchaser, at Purchaser’s expense, shall be responsible for obtaining any approvals associated with any recombination or subdivision of the Property if and to the extent required by, and in accordance with, all applicable laws, regulations, and ordinances and as reasonably necessary for the conveyance of the Property including, without limitation, obtaining all necessary governmental approvals for recording any such recombination or subdivision survey.

3.4 Permitted Encumbrances. Unless Purchaser terminates this Agreement pursuant to Sections 3.2, 3.3, 3.5, 6, or 9.2 of this Agreement, Purchaser shall be deemed to have approved and to have agreed to take title to the Property at Closing subject to the following (collectively, the “**Permitted Encumbrances**”):

3.4.1 All exceptions to title that Purchaser has approved or is deemed to have approved pursuant to Section 3.2;

3.4.2 All real and personal property taxes and assessments for the year of Closing, which shall be paid by Seller as provided herein;

3.4.3 All present and future environmental and zoning laws, ordinances, resolutions, orders, and regulations of all municipal, county, state, or federal governments having jurisdiction over the Property and/or the use thereof;

3.4.4 All liens resulting from the performance of any inspections, work, or activities on the Property by or on behalf of Purchaser or Purchaser's Agents;

3.4.5 All building codes, regulations, ordinances, and restrictions heretofore or hereafter adopted by a public agency, insurance and rating codes and regulations, and any other laws, regulations, ordinances, or requirements affecting the Property and/or its use as heretofore or hereinafter adopted by any Federal, State, or local governmental authority having jurisdiction over the Property and the use thereof;

3.4.6 Any and all utility easements and rights of way of record affecting the Property;

3.4.7 The restrictive covenants affecting the Property as set forth in Section 1.4 hereof;

3.4.8 Any and all public transportation, road, and railroad easements and/or rights of way of record affecting the Property;

3.4.9 Any portion of the Property located within or embraced by the right of way of Woods Creek Road (N.C.S.R. 1154);

3.4.10 Any stream buffers affecting the Property or its use that are regulated by governmental authorities having jurisdiction and the rights of others in and to the continued uninterrupted flow of any creeks or streams crossing the Property;

3.4.11 All matters that would be revealed by a current survey of the Property; and

3.4.12 Seller's Mortgage and Deed of Trust, dated May 1, 1940, and recorded in Book 845, Page 1, Wake County Registry, as supplemented. Seller shall apply for, obtain, and record in the Wake County Registry a release for said Property from said lien within one (1) year after the Closing Date. Seller's obligation set forth in this Section 3.4.12 of this Agreement shall survive the Closing and delivery of the Deed. Failure of Seller to obtain said release is a material breach of this Purchase and Sale Agreement.

3.5 Rights to Terminate Agreement. In addition to Purchaser's termination rights under Sections 6 and 9.2 of this Agreement, the Purchaser may terminate this Agreement and receive a return of the Deposit only under the following circumstances: (a) if, prior to the expiration of the Investigation Period, the Purchaser determines, in Purchaser's sole discretion, that the Property is unsuitable for Purchaser's Intended Use; or (b) if, prior to the Title Approval Date, an exception to title or matter of survey exists which will materially and adversely encumber Purchaser's use and enjoyment of the Property for its Intended Use. To exercise any of its rights to terminate this Agreement, Purchaser shall deliver written notice of its election to terminate this Agreement (the "**Termination Notice**") to Seller on or before 5:00pm (EST) on the expiration date of the Investigation Period or the Title Approval Date, as the case may be, as provided in this Section 3.5. If the Termination Notice is timely given, then the Deposit shall be returned to Purchaser and this Agreement shall be null and void and have no further force or effect and neither party hereto shall thereafter have any further rights or liability hereunder, except as to those matters that by their very nature survive, or that expressly survive, the expiration or termination of this Agreement. In the event no Termination Notice is timely given, then the Deposit shall become non-refundable (except as otherwise provided by this Agreement), Purchaser shall be deemed to have accepted the Property "AS IS," "WHERE IS" and WITH ALL FAULTS, and Closing shall occur on the Closing Date, subject to the terms and conditions of this Agreement.

Seller may terminate this Agreement (and in such event the Escrow Agent shall return the Deposit to the Purchaser) if Seller is not satisfied, in its sole discretion, with the results of any Phase I or other environmental assessment or investigation of the Property (whether conducted by or on behalf of either Seller or Purchaser). Seller shall be entitled to exercise its termination option until the later of: (i) the expiration date of the Investigation Period; or (ii) ten (10) business days after Seller's receipt of such environmental assessment report(s). If Seller's Termination Notice is timely given, neither party hereto shall thereafter have any further rights or liability hereunder, except as to those matters that by their very nature survive, or that expressly survive, the expiration or termination of this Agreement.

3.6 Regulatory Authorizations. Purchaser expressly understands, acknowledges, and agrees that the consummation of any definitive sale of the Property by Seller to Purchaser is expressly conditioned upon and subject to Seller having received all consents, authorizations, and approvals that Seller, in its sole discretion, determines are necessary to be obtained from any federal, state, and/or local governmental agencies or authorities, including without limitation, approval of the North Carolina Utilities Commission (the "**Regulatory Authorization**"). Seller shall use commercially reasonable efforts to obtain the Regulatory Authorization to the extent any of the foregoing are applicable, in a timely manner. Notwithstanding the foregoing, Seller shall have no liability whatsoever to Purchaser and/or any prospective purchaser of the Property, and the Purchaser agrees, to the extent allowed by applicable laws, to hold the Seller harmless from and against any and all claims, costs, losses, damages and/or expenses howsoever arising out of or in connection with the failure or inability of Seller to obtain the Regulatory Authorization in a timely manner or at all. If the Regulatory Authorization is not obtained for any reason, then Seller may terminate this Agreement upon written notice to Purchaser. In the event this Agreement is terminated by Seller pursuant to this Section 3.6, this Agreement shall be deemed null and void and have no further force and effect (except as to those matters that by their very nature survive, or that expressly survive, the termination of this Agreement), each party shall be relieved of its respective obligations hereunder, and the Deposit shall be returned to the Purchaser.

4. Representations and Warranties.

4.1 By Seller. Seller hereby makes the following representations and warranties to Purchaser, which shall also be true as of the Closing Date:

4.1.1 The person(s) signing this Agreement and all closing documentation on behalf of Seller is (are) fully authorized to do so.

4.1.2 Seller has the full right and authority to enter into this Agreement and to consummate the transaction contemplated by this Agreement.

4.1.3 Seller is not a foreign person within the meaning of Sections 1445 and 7701 of the Internal Revenue Code of 1986, as amended.

4.1.4 This Agreement and all documents required hereby to be executed by Seller are and shall be valid, legally binding obligations of Seller, enforceable against Seller in accordance with their terms.

4.1.5 No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under Federal or State bankruptcy laws is pending against or contemplated by Seller.

4.1.6 Seller is the sole owner of the Property, subject to the Permitted Encumbrances.

4.2 **By Purchaser.** Purchaser hereby makes the following representations and warranties to Seller, which shall also be true as of the Closing Date:

4.2.1 The person(s) signing this Agreement and all closing documentation on behalf of Purchaser is (are) fully authorized to do so.

4.2.2 Purchaser has the full right and authority to enter into this Agreement and to consummate the transaction contemplated by this Agreement.

4.2.3 This Agreement and all documents required hereby to be executed by Purchaser are and shall be valid, legally binding obligations of Purchaser, enforceable against Purchaser in accordance with their terms.

4.2.4 No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under Federal or State bankruptcy laws is pending against or contemplated by Purchaser.

4.2.5 Purchaser is purchasing the Property in its "AS IS" condition with no warranties by Seller as to access, zoning, merchantability, suitability, habitability or fitness for any particular use, except as otherwise set forth herein. Purchaser has not relied on any representations of Seller in Purchaser's determination of the condition of the Property to be sold to Purchaser under this Agreement.

4.2.6 If any mechanic's lien, materialmen's lien, contractor's lien or other order for the payment of money shall be filed against the Property by reason or arising out of any labor or material furnished or alleged to have been furnished to or for Purchaser or under any contract relating thereto in connection herewith, then within fifteen (15) days after the filing of any such lien, Purchaser shall cause the same to be canceled and discharged of record by bond or otherwise at Purchaser's expense. Purchaser shall defend, at Purchaser's sole cost and expense, any action, suit or proceeding which may be brought thereon or for the enforcement of any such lien or order. Purchaser shall pay any damages and discharge any judgment entered thereon, and to the extent allowed by applicable laws, shall defend, indemnify and hold harmless Seller from and against any claim or damage resulting therefrom. If Purchaser fails to perform Purchaser's obligations as set forth herein, then in addition to any other remedies available to Seller under this Agreement or otherwise, Seller may, at its option, discharge such lien, in which event Purchaser shall pay to Seller a sum equal to the amount of the lien discharged plus reasonable attorneys' fees, expenses and damages incurred by the Seller. The intent of this Section is to protect the Seller and the Property from any lien rights which may attach to the Property as a result of any non-payment or alleged non-payment on the part of Purchaser in connection with this Agreement.

4.2.7 To the extent allowed by applicable laws, Purchaser shall defend, indemnify and hold Seller and Seller's parent, affiliates, and their respective directors, officers, shareholders, employees, agents, and contractors harmless from and against any and all liabilities, losses, claims and damages (including without limitation reasonable attorneys' fees) incurred or suffered by Seller by reason of, resulting from, in connection with, or arising in any manner whatsoever out of the breach of any warranty or covenant or the inaccuracy of any representation of Purchaser contained herein. The representations of Purchaser made in this Agreement shall survive the Closing, delivery of the Deed, and any termination of this Agreement.

4.3 Brokers. Purchaser and Seller hereby confirm and agree that no broker has represented either party in this transaction. Each party hereby agrees, to the extent allowed by applicable laws, to indemnify and hold harmless the other party from and against any and all loss and liability resulting from or arising out of any claim that such party has consulted, dealt or negotiated with any other real estate broker, salesperson or agent in connection with the transaction. The indemnity of this Section 4.3 shall survive the Closing, delivery of the Deed, and any termination of this Agreement.

4.4 Information Purposes Only. Within ten (10) business days after the Effective Date, Seller shall provide Purchaser with copies of title documents and surveys of the Property (if any) in Seller's possession. The furnishing of any such title documents and surveys by Seller to Purchaser pursuant to this Agreement shall not be interpreted in any manner as a representation or warranty of any type or kind by Seller, any agent of Seller, or any officer, director, employee, or counsel of Seller or of any person or entity related in any way to Seller.

4.5 "AS IS" Sale/Environmental.

4.5.1 Purchaser acknowledges for Purchaser and any permitted assigns the following: (a) that this Agreement gives Purchaser a reasonable opportunity to investigate title to the Property and all aspects relating thereto, either independently or through agents and experts of Purchaser's choosing; and (b) that Purchaser will acquire the Property based upon Purchaser's own investigation and inspection thereof and without reliance on any statement or representation by Seller or its agents or counsel, except those express warranties and representations made in this Agreement. Except for the express warranties and representations made in this Agreement by Seller, Purchaser agrees that the Property shall be sold and Purchaser shall accept title to and possession of the Property at Closing "AS IS, WHERE IS, WITH ALL FAULTS" with no right of set-off or reduction in the Purchase Price and, except for any express warranties and representations made by Seller in this Agreement, such sale shall be without representation or warranty of any kind, express or implied, including, without limitation, warranty of income potential, operating expenses, access, uses, merchantability or fitness for a particular purpose (but specifically excluding the warranties regarding title in the Deed to be delivered by Seller to Purchaser), and Seller does hereby disclaim and renounce any such representation or warranty. Purchaser specifically acknowledges that Purchaser is not relying on any representations or warranties of any kind whatsoever, express or implied, from Seller as to any matters concerning the Property (except those expressly made in this Agreement and except for the warranties regarding title made in the Deed to be delivered by Seller to Purchaser), including, without limitation, the condition or the safety of the Property or whether the Property is in compliance with applicable Federal, State, or local laws, codes, regulations or ordinances. Purchaser further acknowledges and agrees that Seller shall be under no duty to make any affirmative disclosure regarding any matter (other than matters pertaining to future governmental action affecting the Property which actually becomes known to Seller prior to Closing) that may be known to Seller, except as specifically set forth herein and that Purchaser is not relying upon any representations made to it by any person whomsoever. Purchaser agrees and acknowledges that Purchaser's obligations hereunder shall remain in full force and effect with Purchaser having no right to delay the Closing or terminate this Agreement regardless of any facts or information learned by Purchaser after the Effective Date, except for Seller's material breach or default under this Agreement and except as expressly provided in this Agreement. Except as otherwise provided herein, the Purchaser hereby waives, and forever releases Seller from, any and all claims, liabilities and obligations of any nature whatsoever that directly or indirectly relate to the physical or environmental condition of the Property which may arise or be identified before or after the Closing Date.

4.5.2 Except as otherwise provided herein, Purchaser hereby releases Seller from, and waives all claims and liability against Seller for, any conditions whatsoever at the Property and further specifically releases Seller from, and waives all liability against Seller attributable to, the environmental

condition of the Property, including without limitation, the presence, discovery, or removal of any Hazardous Materials (as hereinafter defined) in, on, at, about, or under the Property, or for, connected with or arising out of any and all claims or causes of action based upon the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“**CERCLA**”), the Superfund Amendments and Reauthorization Act of 1986 (“**SARA**”), the Resource Conservation and Recovery Act (“**RCRA**”), the Toxic Substances Control Act (“**TSCA**”), the Clean Water Act, and the Clean Air Act as such acts may be amended from time to time, or any other Federal, State or local statutory or regulatory cause of action for environmental contamination at, in, from, or under the Property (collectively, the “**Hazardous Waste Laws**”). For purposes of this Agreement, the term “**Hazardous Materials**” shall mean any substance, chemical, waste, contaminant, pollutant, or other material that is or becomes regulated by any Federal, State, or local governmental authority because of its toxicity, infectiousness, radioactivity, explosiveness, ignitability, corrosiveness, or reactivity, including, without limitation, those substances regulated by the Hazardous Waste Laws, and also specifically including petroleum and petroleum products, lead and lead-based paint, asbestos and asbestos-containing materials. Except as otherwise provided herein, Seller makes no representations or warranties whatsoever to Purchaser regarding the presence or absence of any Hazardous Materials, including but not limited to, asbestos and asbestos-containing materials, petroleum and petroleum products, underground storage tanks, radon, lead-based paint, urea-formaldehyde, and PCBs, in, at, or under the Property.

4.5.3 Except as otherwise provided herein, Purchaser hereby acknowledges and agrees that it shall rely solely on the investigations, information, studies, and reports prepared by or through Purchaser regarding Hazardous Materials, including but not limited to, asbestos-containing materials, underground storage tanks, and PCBs, in, at, on, or under the Property.

4.5.4 The provisions of this Section 4.5 (and subsections thereof) shall expressly survive the Closing, delivery of the Deed, and any termination of this Agreement.

5. Costs and Property Taxes.

5.1 Purchaser’s Costs. Purchaser shall pay the following costs of closing this transaction:

5.1.1 The fees and disbursements of Purchaser’s Agents and Purchaser’s counsel, inspecting architects, engineers, consultants, surveyors, and others engaged by Purchaser in connection with Purchaser’s investigation and inspection of the Property and the transaction contemplated hereunder;

5.1.2 The cost of any title insurance policy issued in connection with this transaction, whether pursuant to a title commitment or otherwise;

5.1.3 Any recording fees;

5.1.4 Any escrow fees and wiring fees;

5.1.5 Any fees and costs incurred for the preparation, approval, and recording of the Property Survey, and/or any other recombination/subdivision survey of the Property that may be required for Closing;

5.1.6 Any other expenses incurred by Purchaser or Purchaser’s Agents in inspecting or evaluating the Property or otherwise complying with Purchaser’s obligations under this Agreement;

5.1.7 The cost of preparing the Deed and any documents for Closing;

5.1.8 The cost of the Phase I environmental site assessment pursuant to Section 3.1 hereof;

5.1.9 The cost of the Appraisal; and

5.1.10 The fees and disbursements of Seller's counsel and all other agents or representatives acting on behalf of Seller with respect to this Agreement and the transaction contemplated hereunder.

5.2 Real Estate Transfer and Property Taxes. The Seller shall be responsible for payment of (i) all real estate transfer, stamp, excise, or documentary taxes; and (ii) all ad valorem real estate taxes with respect to the Property for the year of Closing (and payment of any past due ad valorem real estate taxes with respect to the Property, if any) when such taxes become due and payable. Seller's obligation to pay such ad valorem real estate taxes shall survive the Closing and delivery of the Deed.

6. Condemnation. If, prior to Closing, any of the Property or any access to the Property is taken under power of eminent domain and such taking in Purchaser's commercially reasonable judgment has a material adverse impact on the Intended Use of the Property, Purchaser may elect to terminate this Agreement by giving written notice of its election to Seller within fourteen (14) days after receiving notice of such taking. If Purchaser fails to give such written notice within such 14-day period, this transaction shall be consummated on the date and at the Purchase Price provided for in Section 2 hereof, and Seller shall assign to Purchaser Seller's portion of any condemnation award for the Property. If Purchaser elects to terminate this Agreement pursuant to this Section 6, then the Escrow Agent shall return the Deposit to the Purchaser.

7. Notices. Any notice required or permitted to be given hereunder shall be deemed to be given when (a) actually delivered; (b) three business days from the date deposited in the U.S. Mail and sent certified or registered mail, return receipt requested; or (c) one business day after pickup by a nationally recognized overnight express service under a next day guaranteed delivery service, in either case addressed to the parties at their respective addresses referenced herein. If to Purchaser: John Schifano, Town Attorney, Town of Holly Springs, N.C., 128 S. Main Street (or P.O. Box 8), Holly Springs, N.C. 27540. If to Seller: Kevin Lee, Duke Energy Progress, 410 South Wilmington Street, Mail Code: NCRH16, Raleigh, N.C. 27601, with a copy to: David Berry, Smith Anderson, Wells Fargo Capitol Center, 150 Fayetteville Street, Suite 2300, Raleigh, N.C. 27601 (or P.O. Box 2611, Zip 27602-2611). Either party may use a substitute address from time to time upon giving notice in writing to the other party.

8. Closing.

8.1 Seller's Deliveries. At Closing, Seller shall deliver the following original documents, each executed and, if required, acknowledged:

8.1.1 A special warranty Deed to the Property, subject to the Permitted Encumbrances and restrictive covenants as set forth in this Agreement and reserving the Distribution Easement as set forth in this Agreement;

8.1.2 Subject to the terms and conditions of this Agreement, a FIRPTA affidavit, lien waiver affidavit, and such other affidavits or certificates as may be reasonably required by a title company (and in form(s) approved by Seller) to issue a title policy for the Property;

8.1.3 A closing statement to be prepared by Purchaser and mutually agreed upon by the parties; and

8.1.4 Such other certificates, documents, statements or agreements as may be reasonably requested by Purchaser or its counsel to consummate the Closing.

8.2 Purchaser's Deliveries. At Closing, Purchaser shall pay Seller that portion of the Purchase Price as set forth in Section 2 herein and shall deliver the following original documents, each executed, and if required, acknowledged:

8.2.1 A closing statement to be prepared by Purchaser and mutually agreed upon by the parties; and

8.2.2 Such other certificates, documents, statements or agreements as may be reasonably requested by Seller or its counsel to consummate the Closing.

8.3 Possession. Purchaser shall be entitled to possession of the Property upon conclusion of the Closing, subject to the Seller's rights reserved in the Deed.

9. Default.

9.1 Purchaser Default. If Purchaser shall be in material breach of or material default under this Agreement beyond any applicable grace or cure period, the Deposit shall be delivered to Seller and Seller shall have all other rights and remedies provided at law or in equity as a result of Purchaser's material breach or material default under this Agreement, including the right to terminate this Agreement.

9.2 Seller Default. If Seller shall be in material breach of or material default under this Agreement beyond any applicable grace or cure period, the Deposit shall be delivered to Purchaser and Purchaser shall have all other rights and remedies provided at law or in equity as a result of Seller's material breach or material default under this Agreement, including the right to terminate this Agreement.

10. Miscellaneous.

10.1 Entire Agreement. This Agreement, together with the exhibits attached hereto, all of which are incorporated by reference, is the entire agreement between the parties with respect to the subject matter hereof, and no alteration, modification, or interpretation hereof shall be binding unless in writing and signed by both parties.

10.2 Severability and Survivability. If any provision of this Agreement or application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law. The covenants contained in this Agreement which by their terms, or which by their very nature, require their performance after the expiration or termination of this Agreement shall be enforceable notwithstanding the Closing, delivery of the Deed, or any termination of this Agreement.

10.3 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws and judicial decisions of the State of North Carolina.

10.4 Assignability. Purchaser shall not assign its rights under this Agreement without first obtaining the Seller's prior written consent, such consent to be given or withheld in Seller's sole discretion. Seller may assign its rights under this Agreement without the prior consent of Purchaser. Any assignment in contravention of this provision shall be void. No permitted assignment shall release the Purchaser from any obligation or liability under this Agreement. Any permitted assignee shall be deemed to have made any and all representations and warranties made by its assignor hereunder, as if the assignee were the original signatory hereto.

10.5 Successors Bound. This Agreement shall be binding upon and inure to the benefit of Purchaser and Seller and their respective successors and permitted assigns.

10.6 Breach. Should either party be in material breach of or material default under or otherwise fail materially to comply with any of the terms of this Agreement, except as otherwise provided in this Agreement, the complying party shall have the option to cancel this Agreement upon ten (10) days written notice to the other party of the alleged breach and failure by such other party to cure such breach within such ten day period. The non-defaulting party shall promptly notify the defaulting party in writing of any alleged default upon obtaining knowledge thereof. The Closing Date shall be extended to the extent necessary to afford the defaulting party the full ten (10) day period within which to cure such default; provided, however, that the failure or refusal by a party to perform on the scheduled Closing Date (except in respect of a Pending Default by the other party) shall be deemed to be an immediate default without the necessity of notice; and provided further, that if the Closing Date shall have been once extended as a result of default by a party, such party shall be not be entitled to any further notice or cure rights with respect to that or any other default. For purposes of this Section 10.6, a "**Pending Default**" shall be a default for which (a) written notice was given by the non-defaulting party; and (b) the cure period extends beyond the scheduled Closing Date.

10.7 Captions. The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of this Agreement or the scope or content of any of its provisions.

10.8 Attorneys' Fees. In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs. The phrase "**prevailing party**" shall mean the party who receives substantially the relief desired, whether by dismissal, summary judgment, judgment, settlement, or otherwise.

10.9 No Partnership. Nothing contained in this Agreement shall be construed to create a partnership or joint venture between the parties or their successors in interest.

10.10 Time of Essence. Time is of the essence in this Agreement. In the event the last date for performance of any obligation or for giving any notice hereunder falls on a Saturday, Sunday, or legal holiday of the State of North Carolina, then the time of such period shall be extended to the next day which is not a Saturday, Sunday, or legal holiday of the State of North Carolina.

10.11 Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which as so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument. An executed counterpart delivered by email or facsimile transmission shall be deemed an original.

10.12 Tax Protest. If, as a result of any tax protest or otherwise, any refund or reduction of any real property or other tax or assessment relating to the Property during the period for which Seller is

responsible, occurs, Seller shall be entitled to receive or retain such refund or the benefit of such reduction, less equitable prorated costs of collection.

10.13 Review by Counsel. The parties acknowledge that each party and its counsel have reviewed and approved this Agreement, and the parties hereby agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

10.14 Tax Free/Like-Kind Exchange. Seller and Purchaser agree to cooperate with the other in the other's efforts (if any) to effect a tax-free like-kind exchange for the Property under Section 1031 of the Internal Revenue Code, provided and on the condition that the cooperating party shall incur no liability or expense and shall not be required to take title to any exchange property. It is acknowledged and agreed that, in order to effect such exchange, Seller and Purchaser shall have the right to make an assignment or assignments on part or all of its rights under this Agreement to a qualified intermediary.

10.15 Further Assurances. Each of the parties hereto agrees to perform, execute, acknowledge and deliver and cause to be performed, executed, acknowledged and delivered all such further acts, assignments, transfers and assurances as shall reasonably be requested of it in order to carry out this Agreement and give effect thereto. The parties hereto acknowledge that it is to their mutual benefit to effectuate an orderly and efficient transfer of the ownership as contemplated hereby. Accordingly, without in any manner limiting their specific rights and obligations set forth in this Agreement, the parties declare their intention to cooperate with each other in effecting the terms of this Agreement.

10.16 Escrow. The Escrow Agent receiving the Deposit and other funds is authorized and agrees by acceptance of them to deposit them promptly, hold same in escrow and, subject to clearance, disburse them in accordance with the terms and conditions of this Agreement. Failure of clearance of funds shall not excuse Purchaser's performance. If in doubt as to Escrow Agent's duties or liabilities under the provisions of this Agreement, Escrow Agent may, at Escrow Agent's option, continue to hold the subject matter of the escrow until the parties mutually agree to its disbursement, or until a judgment of a court of competent jurisdiction shall determine the rights of the parties or Escrow Agent may deposit with the clerk of the court having jurisdiction over the dispute. Upon notifying all parties concerned of such action, all liability on the part of Escrow Agent shall fully terminate, except to the extent of accounting for any items previously delivered out of escrow. Any suit between Purchaser and Seller where Escrow Agent is made a party because of acting as Escrow Agent hereunder, or in any suit wherein Escrow Agent interpleads the subject matter of the escrow, Escrow Agent shall recover reasonable attorney's fees and costs incurred with the fees and costs to be charged and assessed as court costs in favor of the prevailing parties. The parties agree that the Escrow Agent shall not be liable to any party or person for misdelivery to Purchaser or Seller of items subject to this escrow, unless such misdelivery is due to the willful breach of this Agreement or the negligence of Escrow Agent. Any notice to or demand to Escrow Agent shall be deemed given only upon actual receipt of written notice sent via hand-delivery (receipt acknowledged), via overnight delivery by a nationally recognized overnight express service, or by certified U.S. Mail, return receipt requested, postage prepaid and addressed to: David N. Bryan, P.A., Attorney at Law, P.O. Box 1238, Holly Springs, North Carolina 27540.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Purchaser and Seller, by authority duly given, have executed this Agreement on the dates set forth below.

PURCHASER:

TOWN OF HOLLY SPRINGS,
a North Carolina municipal corporation

By: _____

Name: Randy J. Harrington

Title: Town Manager

Date: _____

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

By: _____

Name: Antwan Morrison

Title: Finance Director

SELLER:

DUKE ENERGY PROGRESS, LLC,
a North Carolina limited liability company

By: _____

Name: Eric J. Rouse

Title: Director, Land Services

Date: _____

The Escrow Agent has executed this Agreement solely for the purpose of indicating its receipt of the Deposit and its acknowledgment of the terms of the escrow.

ESCROW AGENT:

David N. Bryan, P.A.

By: _____

Name: David N. Bryan

Title: _____

Date: _____

EXHIBIT A
(Preliminary Drawing of Property)

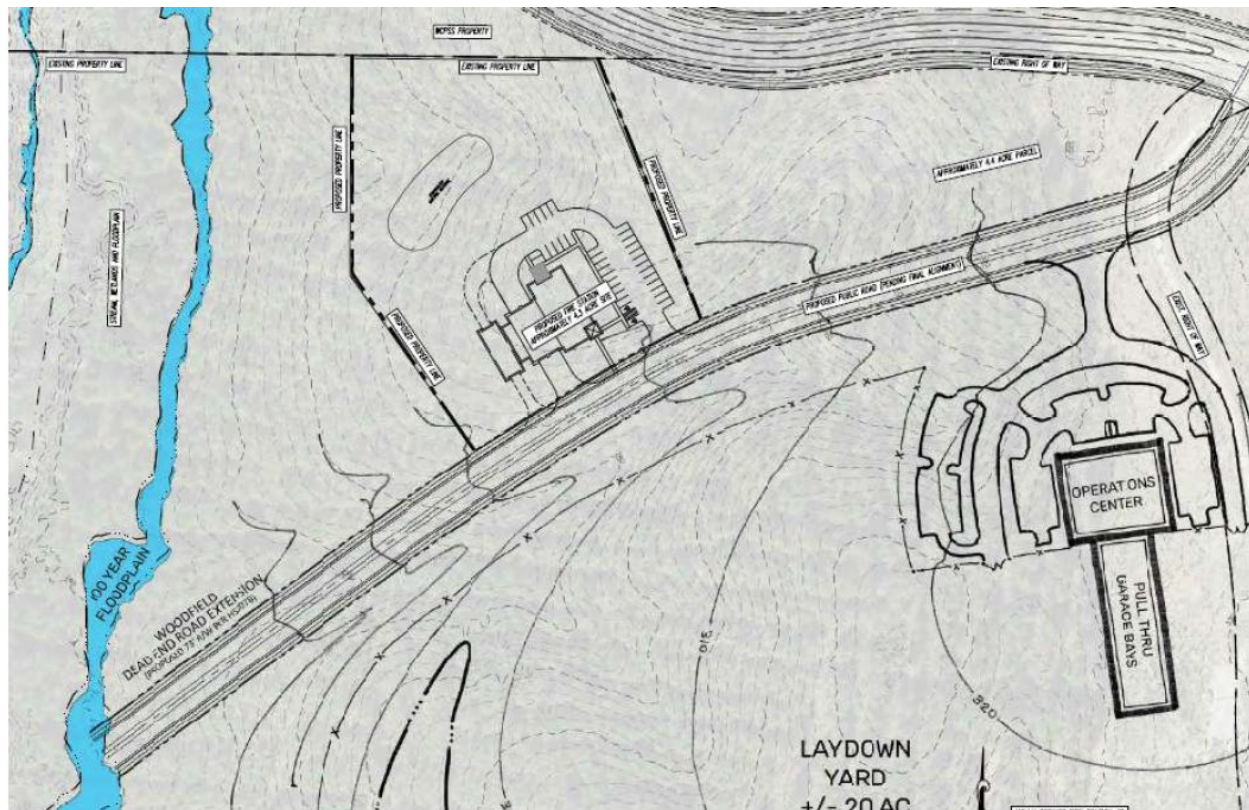


EXHIBIT B
(Reservation of Seller's Distribution Easement)

The Deed from Seller to Purchaser, Town of Holly Springs (hereinafter referred to as the “**Grantee**”) shall contain, in substantially the same form as set forth below, the following reservation of easement in favor of the Seller, Duke Energy Progress, LLC (hereinafter referred to as “**DEP**”):

Distribution Easement

SUBJECT TO AND FURTHER RESERVING unto Duke Energy Progress, LLC (“**DEP**”), its successors, licensees, and assigns from the Property hereinabove described on **Exhibit A** hereof the perpetual right, privilege, and non-exclusive easement, to construct, reconstruct, operate, patrol, maintain, repair, replace, relocate, add to, modify, and remove electric and communication lines including, but not limited to, all necessary supporting structures, and all other appurtenant apparatus and equipment for the transmission and distribution of electrical energy, and for technological purposes related to the operation of the electric facilities and for the communication purposes of Incumbent Local Exchange Carriers (collectively, “**Facilities**”). The Facilities may be both overhead and underground and located in, upon, over, along, under, through and across portion(s) of the Property within an easement area described as follows:

A strip of land thirty (30) feet in uniform width for the overhead portion of said Facilities and a strip of land twenty (20) feet in uniform width for the underground portion of said Facilities, lying equidistant on both sides of a centerline, which centerline shall be established by the center of the Facilities as installed, along with an area ten (10) feet wide on all sides of the foundation of any DEP enclosure/transformer, vault and/or manhole (hereinafter referred to as the “**Easement Area**”).

The rights reserved herein include, but are not limited to, the following:

1. DEP shall have the right of ingress and egress over the Easement Area, Property, and any adjoining lands now owned or hereinafter acquired by Grantee (using lanes, driveways, and adjoining public roads where practical as determined by DEP).
2. DEP shall have the right to trim, cut down, and remove from the Easement Area, at any time or times and using safe and generally accepted arboricultural practices, trees, limbs, undergrowth, other vegetation, and obstructions.
3. DEP shall have the right to trim, cut down, and remove from the Property, at any time or times and using safe and generally accepted arboricultural practices, dead, diseased, weak, dying, or leaning trees or limbs, which, in the opinion of DEP, might fall upon the Easement Area or interfere with the safe and reliable operation of the Facilities.
4. DEP shall have the right to install necessary guy wires and anchors extending beyond the boundaries of the Easement Area.
5. DEP shall have the right to relocate the Facilities and Easement Area on the Property to conform to any future highway or street relocation, widening, or alterations.

6. Grantee shall not place, or permit the placement of, any structures, improvements, facilities, or obstructions, within or adjacent to the Easement Area, which may interfere with the exercise of the rights reserved herein to DEP. DEP shall have the right to remove any such structure, improvement, facility, or obstruction at the expense of Grantee.
7. Excluding the removal of vegetation, structures, improvements, facilities, and obstructions as provided herein, DEP shall promptly repair or cause to be repaired any physical damage to the surface area of the Easement Area and Property resulting from the exercise of the rights reserved herein to DEP. Such repair shall be to a condition which is reasonably close to the condition prior to the damage and shall only be to the extent such damage was caused by DEP or its contractors or employees.
8. The rights reserved herein include the right to install Facilities wherever needed on the Property to serve future development on the Property and adjoining lands. Portions of the Facilities may be installed immediately, and other portions may be installed in the future as the need develops. Facilities installed in the future shall be installed at locations mutually agreeable to DEP and Grantee if they are to be located outside of the Easement Area. Upon any future installation of Facilities at mutually agreed locations, the Easement Area shall be deemed to include such future locations.
9. All other rights and privileges reasonably necessary, in DEP's sole discretion, for the safe, reliable, and efficient installation, operation, and maintenance of the Facilities.

The terms DEP and Grantee shall include the respective successors and assigns of DEP and Grantee. The failure of DEP to exercise or continue to exercise or enforce any of the rights herein reserved shall not be construed as a waiver or abandonment of the right thereafter at any time, or from time to time, to exercise any and all such rights. DEP shall have quiet and peaceful possession, use and enjoyment of the Easement Area subject to and in accordance with the terms of this Reservation of Distribution Easement.



Holly Springs Town Council

Town Council Meeting Agenda Cover Sheet

Agenda Item#: 15.

New Business

Title: Condemnation Resolution - Holly Springs Rd. Widening East Right-of-Way and Arbor Creek Greenway

Strategic Priority Area: Safe & Friendly

Responsible & Balanced Growth

Engaged, Healthy, & Active Community

Staff Resource: John Schifano, Town Attorney, Tim Athy, Utilities and Infrastructure

Action(s):

Adopt Resolution 22-31 and 22-32 to authorize eminent domain action to acquire right-of-way and easements from various property owners for the Holly Springs Rd. Widening East Transportation Bond project, and the Arbor Creek-Middle Creek Greenway Project.

Explanation:

- The Town Council recently passed resolutions authorizing eminent domain actions against property owners on Holly Springs Road (East) and the Arbor Creek-Middle Creek Greenway. There were two property owners from each of these projects that were inadvertently omitted from the respective, previous resolutions.
- Multiple attempts, including written, verbal, and in-person meetings have been made with property owners and/or negotiations for these ROW and easement conveyances have not been successful with all property owners.
- The Town Attorney requests Town Council to authorize eminent domain to expropriate private property with payment of compensation for easement conveyances.
- If the resolution is passed, the Town Attorney will provide notice to the affected property owners and continue to work towards voluntary acquisition. If a settlement cannot be reached, the town will initiate civil lawsuits under North Carolina's "quick take" eminent domain process. Therefore, the construction of the project will not be delayed during the pendency of any lawsuits.

Background:

- On November 30, 2021, the Town Council passed resolution 21-27 authorizing eminent domain for the Arbor Creek-Middle Creek Greenway. There were 12 property owners on that resolution, and all but 3 have been settled since the resolution was passed. One was previously omitted, the Townes at Arbor Creek.
- On August 16, 2022, the Town Council passed a resolution authorizing eminent domain for the Holly Springs Road Widening project. One owner of an undeveloped parcel adjacent to the middle school was omitted, Jose & Marie Artega.

Funding Source(s):

Streets Capital Projects Fund & Parks and Recreation Capital Project Fund

Attachment(s):

1. Resolution 22-32 - HSRW II - Arteaga Exhibit A
2. Resolution 22-31- Arbor Creek Townes at Arbor Creek-Exhibit A



Resolution No. 22-32

Date Adopted: September 6, 2022

Effective Date: September 6, 2022

**RESOLUTION OF THE TOWN OF HOLLY SPRINGS TOWN COUNCIL
AUTHORIZING CONDEMNATION PURSUANT TO CHAPTERS 40A AND
136 OF THE NORTH CAROLINA GENERAL STATUTES AND SESSION
LAW 2005-57 (HOUSE BILL 393) TO ACQUIRE CERTAIN PROPERTY OF
THOSE PERSONS LISTED ON THE ATTACHED EXHIBIT "A"**

WHEREAS, the governing body of the Town of Holly Springs hereby determines that is necessary and in the public interest to acquire certain property owned by those persons listed on Exhibit "A" for the following public purpose: 1) opening, widening, extending or improving a public road known as Holly Springs Road; and;

WHEREAS, the proper officials or representatives of the Town of Holly Springs have been unable to acquire the needed interest in this property by negotiated conveyance; and;

WHEREAS, the Town is authorized pursuant to N.C. Gen. Stat §§ 40A and 136 utilizing the procedures contained within those statutes to acquire such interest in property for the public purpose heretofore stated;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HOLLY SPRINGS, NORTH CAROLINA:

1. The Town of Holly Springs shall acquire by condemnation, for the purposes stated above, the property and interest described on "Exhibit A"; and;
2. The attorneys representing the Town of Holly Springs are directed to initiate the necessary proceedings under Chapters 40A and 136 of the North Carolina General Statutes to acquire the property herein described; and;
3. This resolution shall take effect immediately.

Adopted by the Holly Springs Town Council on this, the ____ day of _____, 2022.

Town of Holly Springs by

Sean Mayefskie, Mayor

ATTEST:

Linda McKinney, Town Clerk



EXHIBIT A

Exhibit A, Page 1

Tract: **15**

Owner : Jose Arteaga
 Maria L. Arteaga

Owner Address: 7204 Applecreek Ct.
 Raleigh, NC 27610

Property Address: 10221 Holly Springs Road
 Holly Springs, NC 27540

A. Description of Entire Tract Effected By Taking:

PIN: 659534409

Tax ID: 0094999

Legal Description: BEING that approximate 3.05 acre tract known by the above Wake County PIN and TaxID, and being further described in a Deed found at Deed Book 17679, Page 1368, Wake County Registry.

B. Interest Acquired By Eminent Domain Description of Area Affected:

Legal Interest Conveyed: Right of Way for Streets

an interest in fee simple absolute in the lands of the Grantor(s) as described in the Legal Description for the purpose of constructing, maintaining, using, egress and ingress, removal of vegetation, sloping, grading, digging and earthwork, and all other activities incident to roadway construction and usage for a public roadway in perpetuity, including the placement of any and all utilities, said construction and maintenance to be performed in the sole discretion of the Town, according to the standards of the Grantee, as amended from time to time.

Legal Description of area conveyed

BEING all that tract of land containing an area of +/- 0.12 acres (5,263 square feet) located in Holly Springs Township, Wake County, North Carolina; and bounded by lands owned by and/or in possession of persons as follows: on the west by lands of Wake County Board of Education (Deed Book 8326, Page 2621), on the north and east by the southern right-of-way line (width varies) of Holly Springs Rd., and on the south by other lands of Jose Arteaga and Maria L. Arteaga (Deed Book 17679, Page 1368), being more particularly described by bearings based on a survey entitled "Topographic Survey for 2018 Market Holly Springs Rd Road-Widening" prepared by Bass, Nixon & Kennedy Inc., Consulting Engineers and distances according to a survey entitled "Right-of-Way Dedication Plat of SR1152/Holly Springs Rd/Phase 2 for Town of Holly Springs" prepared by McKim & Creed, Inc. dated January 20, 2021 and being more particularly described as follows: COMMENCING at BL 2 having coordinates of Northing = 693,841.57 feet, Easting = 2,055,457.43 feet; thence as a tie line south 79 deg. 55 min. 45 sec. east 32.61 feet to calculated point, said point being the northwestern corner of the Sunset Ridge Association, INC property (Deed Book 17180, Page 902), said point being the POINT of BEGINNING; thence with the western property line of Sunset Ridge Association, INC property (Deed Book 17180, Page 902) south 07 deg. 06 min. 56 sec. east 4.69 feet to a calculated point; thence as a new line in the property of Jose Arteaga and Maria L. Arteaga (Deed Book 17679, Page 1368) along a curve to the right having a radius of 77055.00 feet, an arc length of 212.60 feet, and a chord bearing and distance of south 78 deg. 25 min. 00 sec. west 212.60 feet to a calculated point, said calculated point being in the western line of the Jose

Arteaga and Maria L. Arteaga property (Deed Book 17679, Page 1368); thence along the western line of the Jose Arteaga and Maria L. Arteaga property (Deed Book 17679, Page 1368) north 01 deg. 10 min. 58 sec. east 4.72 feet to a calculated point, said calculated point being in the existing southern right-of-way line (width varies) of Holly Springs Rd.; thence with the southern right-of-way line (width varies) of Holly Springs Rd. the following three calls: (1) north 01 deg. 19 min. 41 sec. east 20.51 feet to a calculated point, (2) north 78 deg. 14 min. 16 sec. east 208.95 feet to a calculated point, and (3) south 07 deg. 06 min. 56 sec. east 20.64 feet to a calculated point, the BEGINNING point.

SquareFoot:

5263

Legal Interest Conveyed: Temporary Construction Easement

a right, privilege, and easement, for a period of 365 days from the start of initial construction by the Town or its agents, for a temporary construction easement allowing for egress and ingress, removal of vegetation, sloping, grading, digging and earthwork, and all other activities incident to construction in the easement area, said easement area as described in the legal description.

Legal Description of area conveyed

BEING all that tract of land containing an area of +/- 0.05 acres (2,039 square feet) located in Holly Springs Township, Wake County, North Carolina; and bounded by lands owned by and/or in possession of persons as follows: on the east by lands of Sunset Ridge Association (Deed Book 17180, Page 902), on the south by other lands of Jose Arteaga and Maria L. Arteaga (Deed Book 17679, Page 1368), on the north by the new southern right-of-way line (width varies) of Holly Springs Rd, and on the west by lands of Wake County Board of Education (Deed Book 8326, Page 2621), being more particularly described by bearings based on a survey entitled "Topographic Survey for 2018 Market Holly Springs Rd Road-Widening" prepared by Bass, Nixon & Kennedy Inc., Consulting Engineers and distances according to a survey entitled "Right-of-Way Dedication Plat of SR1152/Holly Springs Rd/Phase 2 for Town of Holly Springs" prepared by McKim & Creed, Inc. dated January 20, 2021 and being more particularly described as follows:

COMMENCING at BL 2 having coordinates of Northing = 693,841.57 feet, Easting = 2,055,457.43 feet; thence as tie lines the following two calls: (1) south 79 deg. 55 min. 45 sec. east 32.61 feet to a calculated point, said calculated being the northwestern corner of the Sunset Ridge Association property (Deed Book 17180, Page 902), and (2) with the western line of the Sunset Ridge Association property (Deed Book 17180, Page 902) south 07 deg. 06 min. 56 sec east 4.69 feet to a calculated point, said calculated point being the POINT of BEGINNING; thence with the western line of Sunset Ridge Association property (Deed Book 17180, Page 902) south 07 deg. 06 min. 56 sec east 10.35 feet to a calculated point, said calculated point being in the eastern line of the Jose Arteaga and Maria L. Arteaga property (Deed Book 17679, Page 1368); thence along a new line in the property of Jose Arteaga and Maria L. Arteaga (Deed Book 17679, Page 1368) south 78 deg. 47 min. 54 sec. west 213.81 feet to a calculated point, said calculated point being in the western line of the Jose Arteaga and Maria L. Arteaga property (Deed Book 17679, Page 1368); thence along the western line of the Jose Arteaga and Maria L. Arteaga property (Deed Book 17679, Page 1368) north 01 deg. 10 min. 58 sec. east 9.12 feet to a calculated point in the new southern right-of-way line (width varies) of Holly Springs Rd.; thence with the new southern right-of-way line (width varies) of Holly Springs Rd. along a curve to the left having a radius of 77055.00 feet, an arc length of 212.60 feet, and a chord bearing and distance of north 78 deg. 25 min. 00 sec. east 212.60 feet to a calculated point, the BEGINNING point.

SquareFoot:

2039

C. Statement of Authority

The Town of Holly Springs hereby acquires the above described estates in the land of the defendant(s) pursuant to N.C.G.S. 40A-3(b)(1) for the opening, widening, extending, or improving roads, streets, alleys, and sidewalks.

Project Description: Road Widening from Flint Point to Sunset Lake Road



Resolution No. 22-31

Date Adopted: September 6, 2022

Effective Date: September 6, 2022

**RESOLUTION OF THE TOWN OF HOLLY SPRINGS TOWN COUNCIL
AUTHORIZING CONDEMNATION PURSUANT TO CHAPTER 40A OF THE
NORTH CAROLINA GENERAL STATUTES AND SESSION LAW 2005-57
(HOUSE BILL 393) TO ACQUIRE CERTAIN PROPERTY OF THOSE
PERSONS LISTED ON THE ATTACHED EXHIBIT "A"**

WHEREAS, the governing body of the Town of Holly Springs hereby determines that is necessary and in the public interest to acquire certain property owned by those persons listed on Exhibit "A" for the following public purpose: 1) Opening, widening, extending and improving a public sidewalk known as the Arbor Creek Middle Creek Greenway and; 2) Establishing, enlarging and improving parks, playgrounds and other recreational facilities known as the Arbor Creek Middle Creek Greenway, together with temporary construction easements as indicated in the legal descriptions; and;

WHEREAS, the proper officials or representatives of the Town of Holly Springs have been unable to acquire the needed interest in this property by negotiated conveyance;

WHEREAS, the Town is authorized pursuant to N.C. Gen. Stat. § 40A utilizing the procedures contained within that statute to acquire such interests in property for the public purpose heretofore stated;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HOLLY SPRINGS, NORTH CAROLINA:

1. The Town of Holly Springs shall acquire by condemnation, for the purposes stated above, the property and interest described on "Exhibit A"; and;
2. The attorneys representing the Town of Holly Springs are directed to initiate the necessary proceedings under Chapter 40A of the North Carolina General Statutes to acquire the property herein described.; and;
3. This resolution shall take effect immediately.

Adopted by the Holly Springs Town Council on this, the ____ day of _____, 2022.

Town of Holly Springs by

Sean Mayefskie, Mayor

ATTEST:

Linda McKinney, Town Clerk



EXHIBIT A

Project Descriptio

Exhibit A, Page 1

Tract: **0**

Owner : Arbor Creek KS, LLC

Owner Address: 209 Oxford Hills Rd.
Chapel Hill, NC 27514

Property Address: 101 Firefly Rd
Holly Springs, NC 27540

A. Description of Entire Tract Effected By Taking:

PIN: 0750127235

Tax ID: 0428893

Legal Description: BEING that approximate 1.49 acre tract known by the above Wake County PIN and TaxID, and being further described in a Deed found at Deed Book 16090, Page 1868, Wake County Registry.

B. Interest Acquired By Eminent Domain Description of Area Affected:

Legal Interest Conveyed: Greenway

a perpetual right and easement over the property described in the legal description attached hereto for wetlands, conservation, public active or passive greenspace, utility purposes, greenway, park, recreational, water shed, or land preservation purposes. Grantee shall have the right to grant easements or rights-of-way across the property for utilities, roadways, or other public purposes. Grantee shall have the right to promulgate rules and regulations for the use of the property by the public, provided the property is used for the purposes stated herein. Grantee, upon acceptance, shall assume liability for any tort occurring as a result of the public use of the easement area in the same manner as it would for its real property held in fee simple. Grantor further grants unto the Grantee reasonable access to the above-described property over any remaining contiguous property owned by Grantor for the purpose of developing and maintaining the greenway from time to time; provided, Grantee shall, to the extent possible, utilize existing roads for such purposes and shall repair any damage resulting from such access. Grantor further grants unto the Grantee the right to convey the management, ownership, or use of said easement to other entities, including but not limited to private land trusts, Grantors do hereby grant unto the Town a perpetual right and easement over the property hereinafter described for wetlands, conservation, public active or passive greenspace, utility purposes, greenway, park, recreational, water shed, or land preservation purposes. Grantee shall have the right to grant easements or rights-of-way across the property for utilities, roadways, or other public purposes. Grantor further grants unto the Grantee the right to convey the management, ownership, or use of said easement to other entities, including but not limited to private land trusts, the State of North Carolina, or the US Army Corp of Engineers.

Legal Description of area conveyed

COMMENCING at an Existing Iron Pipe (EIP) at the northeast corner of the Arbor Creek KS, LLC property. Thence, from said EIP N 81° 45' 49" W a distance of 7.32' to the POINT OF BEGINNING; thence S 12° 01' 58" W a distance of 42.07' to a point; thence along a curve to the left, said curve having a radius of 85.00', an arc length of 20.16', a delta angle of 13° 35' 24", with a chord bearing of S 18° 49' 40" E and a chord distance of 20.11' to a

point; thence S 25° 37' 22" E a distance of 27.99' to a point; thence along a curve to the right, said curve having a radius of 65.00', an arc length of 41.97', a delta angle of 36° 59' 50", with a chord bearing of S 07° 07' 27" E and a chord distance of 41.25' to a point; thence S 11° 22' 29" W a distance of 61.79' to a point; thence along a curve to the left, said curve having a radius of 185.00', an arc length of 91.10', a delta angle of 28° 12' 53", with a chord bearing of S 02° 43' 58" E and a chord distance of 90.18' to a point on the southern property line of Arbor Creek KS, LLC property; thence along said property line N 80° 19' 20" W a distance of 32.96' to a point; thence, leaving said line along a curve to the right, said curve having a radius of 215.00', an arc length of 91.15', a delta angle of 24° 17' 22", with a chord bearing of N 00° 46' 12" W and a chord distance of 90.46' to a point; thence N 11° 22' 29" E a distance of 61.79' to a point; thence along a curve to the left, said curve having a radius of 35.00', an arc length of 22.60', a delta angle of 36° 59' 50", with a chord bearing of N 07° 07' 27" W and a chord distance of 22.21' to a point; thence N 25° 37' 22" W a distance of 27.99' to a point; thence along a curve to the right, said curve having a radius of 115.00', an arc length of 27.28', a delta angle of 13° 35' 24", with a chord bearing of N 18° 49' 40" W and a chord distance of 27.21' to a point; thence N 12° 01' 58" W a distance of 53.15' to a point on the northern property line of Arbor Creek KS, LLC property; thence along said property line S 81° 45' 49" E a distance of 31.98' to the POINT OF BEGINNING and containing 8,533 Square Feet or 0.196 Acre on the property now or formerly owned by Arbor Creek KS, LLC in Holly Springs Township, Wake County, North Carolina, all as shown on that certain exhibit prepared by SEPI Engineering and Construction dated April 22, 2021 and entitled, "Real Estate Acquisition Plat of Arbor Creek Greenway for Town of Holly Springs for Arbor Creek KS, LLC."

SquareFoot:

8533

C. Statement of Authority

The Town of Holly Springs hereby acquires the above described estates in the land of the defendant(s) pursuant to N.C.G.S. 40A-3(b)(2) (3) for establishing, extending, enlarging, or improving sidewalks, greenways, and recreational facilities, to wit, a public greenway.