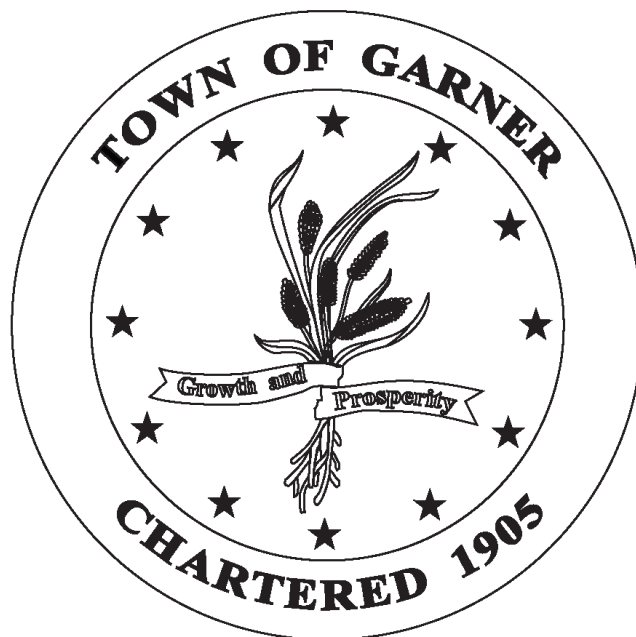


Town of Garner



Town Council Meeting September 6, 2022

Garner Town Hall
900 7th Avenue
Garner, NC 27529

Town of Garner
Town Council Regular Meeting Agenda
September 6, 2022

This regular meeting of the Council will be conducted at 7:00 p.m. in the Garner Town Hall located at 900 7th Avenue, Garner.

Mask Policy: All staff and visitors, including people who are fully vaccinated, have the option to wear face coverings while inside Town facilities and during Town Council meetings. All persons should practice social distancing, when possible, in Council Chambers.

- A. CALL MEETING TO ORDER/ROLL CALL: Mayor Ken Marshburn

The Council will call for a brief recess at 9:00 p.m.

- B. PLEDGE OF ALLEGIANCE: Mayor Ken Marshburn

- C. INVOCATION: Mayor Ken Marshburn

- D. PETITIONS AND COMMENTS

This portion of the meeting is to receive comments from the public on items not included in this agenda. Citizens should sign up with the Town Clerk to speak prior to the start of the meeting. The Board is interested in hearing your concerns but may not take action or deliberate on subject matter brought up during the Petitions and Comments segment. Topics requiring further investigation will be referred to the appropriate town officials or staff and may be scheduled for a future agenda.

- E. ADOPTION OF AGENDA

- F. PRESENTATIONS

1. Recognize Garner Baseball Inc. 8U State Champions.....Page 5
Presentation: Mayor Ken Marshburn

The GBI 8U All Star Team won the Tarheel League State Championship. They finished the All Star Summer with a 13-1 record!

2. Presentation of new ISO rating for Garner Fire-Rescue by Matt Poole, Fire Chief and Mike Causey, NC Commissioner of Insurance and State Fire Marshal.....Page 6

An ISO fire rating is a score provided to fire departments and insurance companies by the Insurance Services Office. The score reflects how prepared a community and area is for fires and other emergencies. The highest PPC score an area can receive from ISO is a 1 and the lowest is a 10.

3. Proclamation recognizing September 2022 as Preparedness Month.....Page 7

This Proclamation is a Nationwide Initiative to raise awareness of the importance of all-hazard preparedness for individuals, businesses, and communities.

G. CONSENT

1. 2022 Resurfacing Contract - Change Order #2 (Park Avenue).....Page 9
Presenter: Chris Johnson, Town Engineer

To approve change order #2 on the 2022 Resurfacing Contract for more extensive milling and paving required on Park Avenue, which was the last street completed on the contract.

Action: Consider authorizing Town Manager to execute Change Order #2 with Daniels, Inc.

2. Surplus Property.....Page 13
Presenter: David Beck, Finance Director

Replacement of vehicles and equipment per the VERT adopted plan is ongoing and as assets are cycled out of service, we would like to declare them surplus property so they may be sold.

Action: Consider adopting Resolution (2022) 2501

3. Council Meeting Minutes.....Page 16
Presenter: Stella Gibson, Town Clerk

Minutes from the 7/26, 8/1, and 8/16/2022 Council meetings and from the special meeting with GVFR on 8/17/2022.

Action: Consider approving minutes

4. Construction Manager at Risk for Yeargan Park Phase 1.....Page 33
Presenter: Maria Munoz-Blanco, PRCR Director

Resolution to authorize the use of the Construction Manager at Risk (CMAR) method for the construction of Yeargan Park Phase 1.

Action: Consider approval of resolution to authorize using Construction Manager at Risk method for Yeargan Park, approve Resolution (2022) 2502.

5. Caddy Road Public Safety Station ILA and Lease.....Page 37
Presenter: John Hodges, Asst. Town Manager

The Town of Garner will enter into an interlocal agreement (ILA) with Wake County to guide cost-share, construction, ownership and operation of the Caddy Road Public Safety Facility that will house Garner Fire Station 5. Council approval of the ILA will also authorize Wake County to award the bid for construction of the facility.

Action: Consider approving (2022) 2504 authorizing the Interlocal Agreement

6. Budget Amendment – ARP.....Page 72
Presenter: David Beck, Finance Director

Town Council authorized the use of supplanted ARP funding for retention bonus payments to eligible full-time Town and Fire Department employees during the 8/30 work session. This amendment moves the ARP funds into the general fund and each departmental budget. Retention bonus payments are subject to tax withholding, LGERS retirement contributions, and the Town's 401K contribution. This follows the same tax and retirement treatment we use for longevity bonus payments.

Action: Consider adopting Ordinance (2022) 5142

7. ARP Guidelines and Priorities Framework.....Page 75
Presenter: Jodi Miller, Asst. Town Manager

During the FY22-23 budget process, Council requested that staff prepare a framework for determining uses and priorities for the Town's American Rescue Plan (ARP) funding. The proposed draft framework includes guidelines for funding decisions and an evaluation rubric for determining priorities. Council discussed the framework and rubric during the August 30, 2022 work session.

Action: Consider approving the proposed ARP guidelines and priorities framework

8. Holiday Schedule – 2023.....Page 81
Presenter: Rodney Dickerson, Town Manager

Holiday Schedule for 2023 calendar year typically follows the State holiday schedule. The Town of Garner is adding Juneteenth to its holiday schedule. It will usually be recognized on June 19th or on a Monday or Friday when June 19 falls on a weekend. Town Hall and offices will be closed on the Juneteenth Holiday. A floating holiday to be used at full-time employee discretion will also be added.

Action: Consider approving Resolution (2022) 2503 setting the 2023 Holiday Schedule

H. PUBLIC HEARINGS

1. Contiguous Annexation Petition # ANX-22-08, Rollman Farms.....Page 83
Presenter: Gaby Lontos-Lawlor, Senior Planner

Voluntary contiguous annexation (ANX-22-08) petition submitted by ARS Garner - Old Stage Development, LLC to bring 63.759 +/- acres into the Town's primary corporate limits, and including 1.650 +/- acres of right-of-way for a total of 65.409 +/- acres.

Action: Consider adopting Ordinance (2022) 5141

I. NEW/OLD BUSINESS

1. Walters Buffaloe Development Agreement.....Page 91
Presenter: Terri Jones, Town Attorney

Pulte Home Company LLC has proposed a Development Agreement as a condition of approval of the Walters Buffaloe conditional rezoning, CZ-MP-21-12. The Development Agreement proposes to address road infrastructure along the White Oak and Bryan Road corridor to support public roadway widening improvements and a traffic signal at the intersection of White Oak and Bryan Road.

Action: Consider setting a public hearing

J. COMMITTEE REPORTS

K. MANAGER REPORTS

- The CLUE Steering Committee Meeting will be on September 7 at 5:00 p.m.
- The Connect Conference is on September 8
- The next outdoor movie at the Rec Center will be 'Encanto' on September 9 at 7:45 p.m.
- The Night Market will be on September 23 from 5:00 p.m. to 9:00 p.m.

L. ATTORNEY REPORTS

M. COUNCIL REPORTS

N. CLOSED SESSION

O. ADJOURN

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2022		
Subject: Garner Baseball Inc. 8U State Champions		
Location on Agenda: Presentations		
Department: Administration		
Contact: Rodney Dickerson, Town Manager		
Presenter: Mayor Ken Marshburn		
Brief Summary: GBI 8U All Star Team won the Tarheel League State Championship. They finished the All Star Summer with a 13-1 record.		
Recommended Motion and/or Requested Action: Recognize Accomplishment		
Detailed Notes:		
Funding Source: n/a		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations:		
Attachments Yes: <input type="radio"/> No: <input checked="" type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	RD	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2022		
Subject: Presentation of new ISO Rating for Garner Fire-Rescue		
Location on Agenda: Presentations		
Department: Administration		
Contact: Jodi Miller, Asst. Town Manager		
Presenter: Matt Poole, Fire Chief and Mike Causey, NC Commissioner of Insurance and State Fire Marshal		
Brief Summary: An ISO fire rating is a score provided to fire departments and insurance companies by the Insurance Services Office. The score reflects how prepared a community and area is for fires and other emergencies. The highest PPC score an area can receive from ISO is a 1 and the lowest is a 10.		
Recommended Motion and/or Requested Action: No action required; presentation only.		
Detailed Notes:		
Funding Source: n/a		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations:		
Attachments Yes: <input type="radio"/> No: <input checked="" type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	JM	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: December 20, 2022 		
Subject: Proclamation for Garner Preparedness Month		
Location on Agenda: Presentations		
Department: Police		
Contact: Chief Lorie Smith		
Presenter: Mayor Ken Marshburn		
Brief Summary: Nationwide Initiative to raise awareness of the importance of all-hazard preparedness for individuals, businesses, and communities.		
Recommended Motion and/or Requested Action: No action needed; presentation only.		
Detailed Notes:		
Funding Source: n/a		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations:		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	LS	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

PROCLAMATION

GARNER PREPAREDNESS MONTH 2022

WHEREAS, Garner is 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, Garner has experienced severe weather; and

WHEREAS, every community, business, family, and individual in Garner 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 Garner 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, Garner residents should know and understand the risks for their area and plan accordingly; and

WHEREAS, Garner recommends residents include the safety of their pets and/or livestock 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, Wake County, and Garner residents to be disaster ready.

NOW, THEREFORE, I, Ken Marshburn, Mayor of the Town of Garner, do hereby proclaim the month of September 2022, as

PREPAREDNESS MONTH

in the Town of Garner 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.

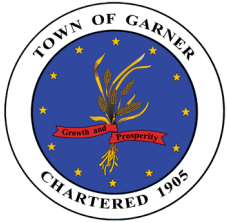


In Witness Whereof, I have hereunto set my hand and caused the Great Seal of the Town of Garner, North Carolina, to be affixed the 6th day of September 2022.

Ken Marshburn
Mayor Ken Marshburn

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2022		
Subject: 2022 Resurfacing Contract - Change Order #2 (Park Avenue)		
Location on Agenda: Consent		
Department: Engineering		
Contact: Chris Johnson, Town Engineer		
Presenter: Chris Johnson, Town Engineer		
Brief Summary: To approve change order #2 on the 2022 Resurfacing Contract for more extensive milling and paving required on Park Avenue, which was the last street completed on the contract.		
Recommended Motion and/or Requested Action: Consider authorizing Town Manager to execute Change Order #2 with Daniels, Inc.		
Detailed Notes: Due to unforeseen field conditions, Park Avenue required extensive pavement milling (up to 4.5" thick) and 3" resurfacing (vs. 1.5" estimated) to ensure high quality and longevity of the final product. Since this is a unit cost contract, the final pay application also requires final reconciliation of all pay items to reflect actual quantities. Several quantities were less than estimated, which helped offset some the extra work on Park Avenue, however, a change order for \$53,803.71 is required prior to final payment to Daniels, Inc. Since this amount is higher than the budget contingency previously approved, this change order must be approved by Council prior to execution.		
Funding Source: General Fund		
Cost: \$53,803.71	One Time: <input checked="" type="radio"/>	Annual: <input type="radio"/> No Cost: <input type="radio"/>
Manager's Comments and Recommendations: 		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	CJ	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		



Town of Garner

900 7th Avenue • Garner, North Carolina 27529
Phone (919) 772-4688 • Fax (919) 662-8874 • www.GarnerNC.gov

ENGINEERING DEPARTMENT MEMORANDUM

DATE: August 22, 2022

TO: John Hodges - Assistant Town Manager

FROM: Chris Johnson, PE - Town Engineer

RE: **2022 Annual Resurfacing Project (ENG2022-01) – Change Order #2 (Final)**

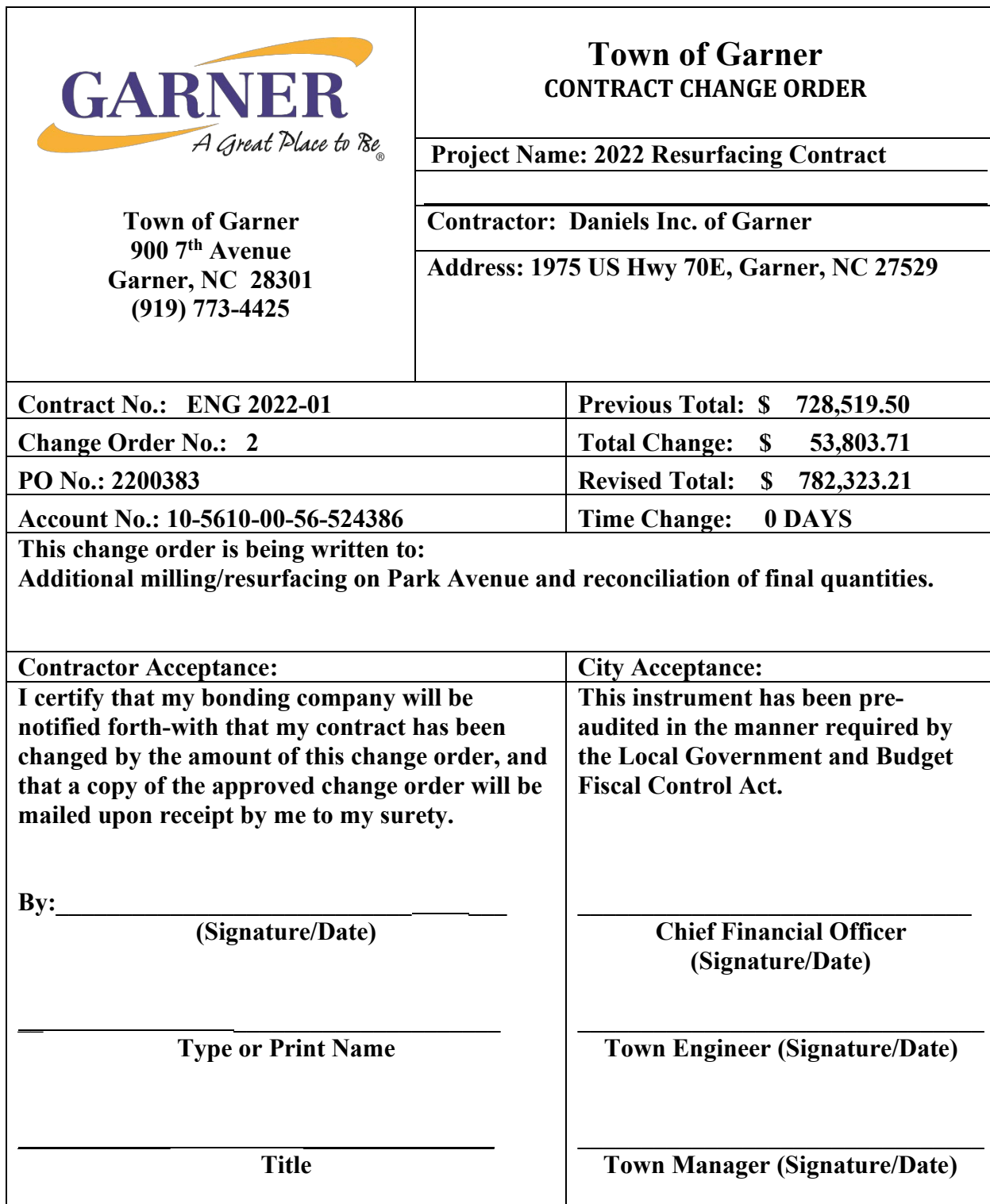
The 2022 Annual Resurfacing Contract was previously awarded to Daniels, Inc. of Garner on February 22, 2022. The original contract included 21 streets and Daniel's contract was executed in the amount of \$707,619.50. Council also approved a 3.4% construction contingency in the amount of \$24,059, if needed. Town Council also approved Change Order #1 in June 2022 in the amount of \$20,900 for the installation of speed tables in Hunters Mark Subdivision in conjunction with the Town's Traffic Calming Program.

All work has been completed on the Annual Resurfacing Contract, however, the last street on the resurfacing contract (Park Avenue) encountered unforeseen conditions that required thicker asphalt removal/replacement than originally estimated. Field conditions indicated sections of Park Avenue had been previously resurfaced (without milling the original pavement), which likely led to premature reflective cracking in the newer pavement layer(s). There were also portions of Park Avenue that had 2-3" pavement drops/lips at the existing curb and gutter, which presents a safety issue for vehicle tires that exit the pavement area. Therefore, Town staff directed Daniels to mill all asphalt (3" below concrete gutter) and resurface with 3" asphalt mix, which was 1.5" thicker than originally estimated, in an effort to ensure the final product was of high quality and improve the integrity/longevity of the new pavement installed. This led to an additional \$11,375 in pavement milling and ~\$60,000 in extra asphalt on Park Avenue, which was the largest/longest street in the 2022 contract.

Since this project was bid as a unit cost contract, the final payment application also requires a final reconciliation based on actual quantities installed. Aside from the Park Avenue overruns, the remaining line item quantities in the contract were overall less than originally estimated, which led to project savings to offset the extra work required on Park Avenue. A copy of the final estimate (and change order) is attached for reference. Based on the final pay application estimate, change order #2 is required in the amount of \$53,803.71. Since this amount is higher than the original construction contingency previously approved by Council (\$24,059), this change order requires Council approval prior to Town Manager executing the amendment.

STAFF RECOMMENDATION

Approve Change Order #2 in the amount of \$53,803.71 and authorize Town Manager to execute Change Order #2 with Daniels, Inc. of Garner to allow final payment and closeout of the project.



Progress Estimate

For (contract): 2022 Annual Street Resurfacing										Application Number: 4									
Application Period:										Application Date:									
A										B	C	D	E	F	G	H	I	J	K
Bid Item No.	Item		Bid Quantity	Unit Price	Bid Value	Previously Completed Quantity	D	E	F	G	H	Total Completed and Stored to Date (D + F + G)	J	K					
	Description	Balance to Finish (B - I)																	
1	Mobilization		1	\$ 15,000.00	\$ 15,000.00	1	\$ 15,000.00				1	\$ 15,000.00	100.0%	\$	-				
2	Pavement Milling (1.5" depth)		38230	\$ 1.75	\$ 66,902.50	31220	\$ 54,635.00	3,250.00	\$ 5,687.50		34470	\$ 60,322.50	90.2%	\$	6,580.00				
3	Pavement Milling (3" depth)		4100	\$ 2.25	\$ 9,225.00	13109	\$ 29,495.25				13109	\$ 29,495.25	319.7%	\$	(20,270.25)				
4	1.5" S9.5B Bituminous Surface Course (Resurfacing)		3270	\$ 97.00	\$ 317,190.00	3085.02	\$ 299,246.94				3085.02	\$ 299,246.94	94.3%	\$	17,943.06				
5	3" S9.5B Bituminous Surface Course (Resurfacing)		680	\$ 108.00	\$ 73,440.00	1749.59	\$ 188,955.72				1749.59	\$ 188,955.72	257.3%	\$	(115,515.72)				
6	Pavement Removal & Replacement (2.5" Type S9.5B)		4330	\$ 20.15	\$ 87,249.50	2137	\$ 43,060.55				2137	\$ 43,060.55	49.4%	\$	44,188.95				
7	Pavement Removal & Replacement (1.5" Type S9.5B, 2.5" I19.0C)		1490	\$ 32.25	\$ 48,052.50	469	\$ 15,125.25				469	\$ 15,125.25	31.5%	\$	32,927.25				
8	Manhole Adjustment		39	\$ 100.00	\$ 3,900.00	1	\$ 100.00				1	\$ 100.00	2.6%	\$	3,800.00				
9	Water Valve Replacement		68	\$ 50.00	\$ 3,400.00	20	\$ 1,000.00				20	\$ 1,000.00	29.4%	\$	2,400.00				
10	Incidental Aggregate Base Course		50	\$ 38.50	\$ 1,925.00	0	\$ -				0	\$ -	0.0%	\$	1,925.00				
11	Incidental Aggregate Base Course Type B25.0C		100	\$ 100.00	\$ 10,000.00	0	\$ -				0	\$ -	0.0%	\$	10,000.00				
12	Incidental Geotextile Fabric		100	\$ 9.95	\$ 995.00	0	\$ -				0	\$ -	0.0%	\$	995.00				
13	Remove/Replace Curb and Gutter		165	\$ 100.00	\$ 16,500.00	553.5	\$ 55,350.00				553.5	\$ 55,350.00	335.5%	\$	(38,850.00)				
14	Remove/Replace Curb Ramp		14	\$ 2,200.00	\$ 30,800.00	14	\$ 30,800.00				14	\$ 30,800.00	100.0%	\$	-				
15	Remove/Replace Sidewalk		140	\$ 74.00	\$ 10,360.00	143	\$ 10,582.00				143	\$ 10,582.00	102.1%	\$	(222.00)				
16	4" Thermoplastic Markings (90 MIL)		0	\$ -	\$ -	0	\$ -				0	\$ -		\$	-				
17	4" Thermoplastic Markings (120 MIL)		0	\$ 1.90	\$ -	150	\$ 285.00				150	\$ 285.00		\$	(285.00)				
18	24" Thermoplastic Markings		68	\$ 10.00	\$ 680.00	10	\$ 100.00				10	\$ 100.00		\$	580.00				
19	Traffic Control		1	\$ 12,000.00	\$ 12,000.00	1	\$ 12,000.00				1	\$ 12,000.00	100.0%	\$	-				
Change Order #1																			
20	Install Asphalt Speed Table (including Thermoplastic Sharps Arrows)		0	\$ 4,250.00	\$ -	4	\$ 17,000.00				4	\$ 17,000.00	100.0%	\$	-				
21	30x30 "Speed Humps" Yellow Warning sign w/ 18x24 "20 mph" yellow rectangular placard, and standard U-channel Steel Post		0	\$ 700.00	\$ -	2	\$ 1,400.00				2	\$ 1,400.00	100.0%	\$	-				
22	Traffic Control		0	\$ 2,500.00	\$ -	1	\$ 2,500.00				1	\$ 2,500.00	100.0%	\$	-				
										\$ 707,619.50	\$ 776,635.71	\$ 5,687.50	\$ 782,323.21	\$	(53,803.71)				

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2022		
Subject: Surplus Property		
Location on Agenda: Consent		
Department: Finance		
Contact: David C. Beck, Finance Director		
Presenter: David C. Beck, Finance Director		
Brief Summary: Replacement of vehicles and equipment per the VERT adopted plan is ongoing and as assets are cycled out of service we would like to declare them surplus property so they may be sold.		
Recommended Motion and/or Requested Action: Consider adopting Resolution (2022) 2501		
Detailed Notes:		
Funding Source: N/A		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations:		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	DCB	
Finance Director:	DCB	
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

RESOLUTION NO. (2022) 2501

RESOLUTION AUTHORIZING DISPOSITION OF SURPLUS PERSONAL PROPERTY

WHEREAS, pursuant to N.C.G.S. 160A-265 municipalities are authorized to dispose of personal property.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Garner:

That the Town Manager is hereby authorized to sell the following items as provided by G.S. 160A-266:

Asset Tag #	Year	Make/Model	Vin/Serial #
341	2007	Ford F-450 Altec Bucket Truck	1FDXF46P47EB34074

AND BE IT FURTHER RESOLVED by the Garner Town Council that the Town Manager is hereby authorized to sell these items by private sale at a negotiated price as provided for by G.S. 160A-267.

Duly adopted this the 6th day of September 2022.

Ken Marshburn, Mayor

ATTEST: _____
Stella L. Gibson, Town Clerk

[illegible]

***SUBMIT FULLY EXECUTED FORM TO FINANCE DEPARTMENT**

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2022		
Subject: Council Meeting Minutes		
Location on Agenda: Consent		
Department: Administration		
Contact: Stella Gibson, Town Clerk		
Presenter: Stella Gibson, Town Clerk		
Brief Summary: Minutes from the 7/26, 8/1, and 8/16/2022 Council meetings and from the special meeting with GVFR on 8/17/2022.		
Recommended Motion and/or Requested Action: Consider approving minutes		
Detailed Notes: 		
Funding Source: n/a		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: 		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	SG	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

**Town of Garner
Work Session Meeting Agenda
July 26, 2022**

The Council met in a Work Session at 6:00 p.m. in the Ronnie S. Williams Council Chambers located at 900 7th Avenue.

CALL MEETING TO ORDER/ROLL CALL: Mayor Ken Marshburn

Present: Mayor Ken Marshburn, Mayor ProTem Elmo Vance, Council Members Kathy Behringer, Demian Dellinger, Phil Matthews, and Gra Singleton.

Staff Present: Rodney Dickerson-Town Manager, John Hodges-Asst. Town Manager, Jodi Miller-Asst. Town Manager, Maria Munoz-Blanco-PRCR Director, Megan Young-Recreation Superintendent, Katie Lockhart-Parks and Nature Superintendent, Forrest Jones-Public Works Director, David Beck-Finance Director, Rick Mercer-Communications Manager, Terri Jones-Town Attorney, and Ashley Knotts-Deputy Town Clerk

Jeff Triezenberg-Planning Director, Tony Beasley-Inspections Director, and Chris Johnson-Town Engineer attended remotely.

ADOPTION OF AGENDA

Motion: Behringer
Second: Matthews
Vote: 5:0

DISCUSSION/REPORTS

2021 Parks Bond Update

Presenter: Maria Munoz-Blanco, PCPR Director

Ms. Munoz-Blanco provided an update on the 2021 Parks Bond projects and discussed next steps with Council.

Action: No action taken

Proposed Extension of Solid Waste Contract with All-Star Waste Services 2022

Presenter: Forrest Jones, Public Works Director

Mr. Jones explained that the Town's contract with its current vender to provide solid waste services ends in the fall of 2022. Public Works staff proposes to renew the contract with the current vender due to uncertainty in the current market and the excellent service provided by the vender during the contract period.

Action: Consensus to move forward with renewing the contract.

Appointments and Liaison Policy

Presenter: Terri Jones, Town Attorney

The Parks, Recreation and Cultural Resources Advisory Committee recommended amendments to the Town's Parks and Recreation Ordinance, Chapter 12 of the Town Code of Ordinances regarding the role that the Mayor and Town Council should hold with respect to appointments to boards, commissions, and advisory committees.

Action: Place on a future agenda for approval.

Street Stub Completion Policy

Presenter: Jeff Triezenberg, Planning Director

Consideration for adoption of an official policy for objective circumstances under which a public street stub connection shall not be completed within the Town of Garner's jurisdiction and when alternative connections shall be made. This policy would establish standards which apply to all development and redevelopment within the Town and its extra-territorial jurisdiction (ETJ). The Policy is inclusive of purpose, need, standards and exemptions.

Action: Place on a future agenda for approval.

MANAGER REPORTS

- Pending Agenda Report
- National Night Out will be held on August 2nd from 5-8pm in the Cabela's parking lot.

COUNCIL REPORTS

Singleton

- Thanked Forrest Jones and the Public Works staff for their work removing the storm debris and asked to see how much was picked-up.
- Asked to add discussion of electric vehicles to the August Work Session agenda.

Behringer

- Stated some of the medians are broken and cracked on Vandora Springs Road at the off-ramp and at Hwy 50. Mr. Jones stated NC DOT is responsible for the medians, but he will reach out to them.

Dellinger

- Would like to see a "Welcome to Garner" sign down Hwy 401 and Ten Ten Rd.

Vance

- Complimented staff for their work on the improvements to Rand Mill Road as well as the additional parking. Thanked Congresswoman Ross for her hard work and making sure our needs are being met.

Council Member Matthews had nothing to report.

Motion: Singleton

Second: Dellinger

Vote: 5:0

ADJOURN: 8:32 p.m.

DRAFT

**Town of Garner
Town Council Regular Meeting Minutes
August 1, 2022**

The Council met in regular session at 7:00 p.m. in the Ronnie S. Williams Council Chambers located at Garner Town Hall, 900 7th Avenue.

CALL MEETING TO ORDER/ROLL CALL: Mayor Ken Marshburn

Present: Mayor Ken Marshburn, Mayor ProTem Elmo Vance, Council Members Demian Dellinger, Gra Singleton, Kathy Behringer and Phil Matthews

Staff Present: Rodney Dickerson-Town Manager, John Hodges-Asst. Town Manager, Jeff Triezenberg-Planning Director, Jodi Miller-Asst. Town Manager, Gaby Lontos-Lawlor-Senior Planner, Reginald Buie-Senior Planner, Alison Jones-Planner, David Beck-Finance Director, Terri Jones-Town Attorney, and Stella Gibson-Town Clerk

CALL MEETING TO ORDER/ROLL CALL: Mayor Ken Marshburn

PLEDGE OF ALLEGIANCE: Council Member Kathy Behringer

INVOCATION: Council Member Kathy Behringer invited Youth Pastor Jared Wickof of Hayes Chapel Christian Church to deliver the invocation.

PETITIONS AND COMMENTS

ADOPTION OF AGENDA

Motion: Vance
Second: Matthews
Vote: 5:0

PRESENTATIONS

CONSENT

Budget Transfer - Contracted Plat Review Services

Presenter: David Beck, Finance Director

Budget transfer for the cost of contracting out plat review services on a temporary basis that was approved by Council during the July 19 meeting. The cost will be covered by lapse salary and benefits due to departmental vacancies.

Action: Approve Ordinance (2022) 5135

Budget Amendment - CLUE Study

Presenter: David Beck, Finance Director

Budget amendment for the cost of the CLUE study contract that was approved by Council during the July 5 meeting. The cost will be covered by fund balance created through supplanting ARP dollars.

Action: Adopt Ordinance (2022) 5136

Lake Drive - Construction Administration and Materials Testing (SEPI)

Presenter: Chris Johnson, Town Engineer

To obtain Council approval for Statement of Work #3 with SEPI for construction administration and materials testing work required on the Lake Drive project.

Action: Approve Statement of Work #3 and authorize Town Manager to execute the agreement with SEPI.

Council Meeting Minutes

Presenter: Stella Gibson, Town Clerk

Council meeting minutes from June 21, June 28, July 5, and July 19, 2022.

Action: Approve minutes

Removal of Police Off-Duty Rates from Town's Fee Schedule

Presenter: Lorie Smith, Police Chief

Remove specific dollar amounts associated with police off-duty rates from the Town's Fee Schedule

Action: Remove the duty rates from the Town's fee schedule.

Liaison Policy

Presenter: Terri Jones, Town Attorney

The Mayor has traditionally selected Council Members to serve as liaisons to boards, commissions, and committees. A written policy is proposed to clarify the process and parameters of those appointments.

Action: Approve Resolution (2022) 2499

Amendment to Chapter 12 Parks and Recreation Ordinance

Presenter: Maria Munoz-Blanco, PRCR Director

The Parks, Recreation and Cultural Resources Advisory Committee has reviewed the ordinances related to its composition and responsibilities as outlined in Chapter 12 of the Garner Code of Ordinances and recommends to the Town Council a small number of amendments to clarify their responsibilities in support of parks and recreation in the Town of Garner.

Action: Adopt Ordinance (2022) 5111

Action: Approve Consent Agenda

Motion: Matthews

Second: Singleton
Vote: 5:0

PUBLIC HEARINGS

Contiguous Annexation Petition # ANX-22-07, 401 Assemblage

Presenter: Gaby Lontos-Lawlor, Senior Planner

Voluntary contiguous annexation petition (ANX-22-07) submitted by RTS VI 401 LLC, Future Development, LLC; 401 Apartment Phase 1, LLC; and 401 Apartment Phase 2, LLC to bring 267.128 +/- acres into the Town's primary corporate limits and including 5.8 +/- acres of intervening adjacent right-of-way for a total of 292.93 +/- acres.

Ms. Lontos-Lawlor explained that this request was in conjunction with the provision of public water and sewer for the recently approved 401 Assemblage project.

Mayor Marshburn closed the hearing.

Action: Adopt Ordinance (2022) 5137

Motion: Vance
Second: Matthews
Vote: 5:0

Tier 2 Conditional Rezoning # CZ-SP-21-02, Greenbrier Park

Presenter: Alison Jones, Planner II

Conditional zoning map amendment request (CZ-SP-21-02) submitted by Liberty Investment Partners to rezone 9.6 +/- acres from Service Business (SB C114), 6.1 +/- acres from Single-Family Residential (R-15) and 2.1 +/- acres from Single-Family Residential (R-20) to Multifamily Conditional (MF-1 C253) for the development of a multifamily residential community. The request offers architectural conditions and amenities along with a site plan. The 17.8-acre site is located at the northwest corner of Timber Drive and Grovemont Road and may be further identified as Wake County PIN(s): 1701535458, 1701537520, 1701536721, 1701539949, and 1701632572.

Collier Marsh provided an update of the changes since this project was previously heard, noting that they are prepared to develop the project with or without the connections based on Council's direction. Additional buffers and trees were also added as a separation between the existing homes and their project. Underground stormwater controls were added in the location requested by the neighbors.

Council Member Singleton voiced his concern regarding the density of the project versus the existing neighborhood, adding that this is an abrupt transition from multifamily as well as connecting to two roads. He added that he felt there was still opportunities for a mix of office and business corridor.

Council Member Behringer stated she had concerns about Cindy Drive, noting that the street is two blocks long and dead ends to a stub-out and to put all that traffic going through there as a main entrance off of Grovemont is not ideal.

- Jennifer McLaughlin, President of Greenbrier HOA, was supportive of project but concerned about street stubs and connectivity.
- Mark Sidwell was concerned about cut-thru traffic, buffers, erosion, and tree removal.
- Joe McCormick, was concerned about street stubs connecting to older neighborhoods.
- Judith Mathis, was concerned about the increase of traffic in a residential area that has no sidewalks as well as traffic.
- Sara Conner, was concerned about increase of traffic, stating a traffic calming circle would not be effective.
- James Kirkland, was concerned about access to Cindy Drive and first responder access.

Mayor Marshburn closed the hearing.

Action: Refer to Planning Commission for plan consistency review and recommendation.

Motion: Vance
Second: Behringer
Vote: 5:0

Special Use Permit Request # SUP-SP-22-02, INQ 4300

Presenter: Jeff Triezenberg, Planning Director

Special use permit (SUP-SP-22-02) request with accompanying site plan submitted by Tamar Jacobs for G&I X 4300 Fayetteville LLC to redevelop/reuse 172,068 square feet of commercial/flex space on 26.73 +/- acres located at 4300 Fayetteville Road (US 401), further identified as Wake County PIN # 1701177675, for Light Industrial Service, Flex Space, Manufacturing & Production (Indoor Only), Office, Medical Office, and Storage/Warehouse uses

Toby Coleman provided an overview of the project. Neil Gustafson, real estate appraiser, stated this development would not substantially injure the value of the adjoining properties and Kevin Dean, Traffic Engineer, stated the project will not cause undue traffic congestion and will not interfere with public safety and transportation services.

Mayor Marshburn closed the hearing.

Action: I find that application # SUP-SP-22-02 meets the Town's eight (8) criteria for special use permits as identified in Article 3.9.2.D.; therefore, I move that the Town Council approve SUP-SP-22-02, INQ 4300 with the four (4) site-specific conditions to be listed on the permit that will be prepared by staff.

Motion: Singleton
Second: Matthews

Council Member Dellinger said he was concerned that this project is the not the most revenue producing use of storage and warehouse space.

Vote: 5:0

NEW/OLD BUSINESS

Tier 2 Conditional Rezoning # CZ-MP-21-10, Bennett Assemblage

Presenter: Jeff Triezenberg, Planning Director

Tier 2 conditional zoning map amendment request (CZ-MP-21-10) submitted by RTS Development, LLC, to rezone 62.9 +/- acres from Single-Family Residential (R-40) to master planned Multifamily (MF-2 C249) Conditional which would be converted to Multifamily B (MF-B C249) Conditional upon adoption. The site is located along the west side of US 401 south of Midway Baptist Church and may be further identified as Wake County PIN # 0790118607.

Action: I move that the Town Council accept the Planning Commission's written statement regarding consistency of the zoning amendment request with adopted land use plans, detailed in Section VI of the staff report, as our own; and I further move that the Town Council adopt Ordinance No. (2022) 5138 approving rezoning CZ-MP-21-10, as the request is reasonable and in the public interest because it will likely create better neighborhood appearance by rear-loading driveways and using alleys, promoting walking in front of homes and allowing trash removal to be kept out of site and cluster townhomes, ancillary units, single-family attached and detached homes with similar design characteristics where they can live compatibly.

Motion: Vance
Second: Behringer

Council Member Dellinger stated that multi-family and mixed land use categories and the type of revenue they generate for the Town. Adding that the cost of delivery would exceed the revenue it generates. . Council Member Singleton added that single-family homes in Garner are evaluated less than in other parts of the County which puts the tax burden on single-family homeowners. The Town needs to look at commercial projects on the main roads.

Vote: 3:2

Council Members Singleton and Dellinger voted nay.

Tier 1 Conditional Rezoning # CZ-22-05, 2967 Benson Road

Presenter: Reginald Buie, Senior Planner

Conditional district rezoning request (CZ-22-05) submitted by Keith Roberts, Timmons Group, on behalf of Newhope Church, Inc. to rezone approximately 7.66 +/- acres from Single-Family Residential (R-20) to Neighborhood Commercial (NC C-266) Conditional District. The site is located at 2967 Benson Road and may be further identified as Wake County PIN 1619407373.

Action: I move that the Town Council accept the Planning Commission's written statement regarding consistency of the zoning amendment request with adopted land use plans, detailed in Section V of the staff report, as our own; and I further move that the Town Council adopt Ordinance No. (2022) 5139 approving rezoning CZ-22-05, as the request is reasonable and in the public interest because it will likely reflect a significant change in conditions or support a public policy established by the Town since the adoption of applicable land use plans.

Motion: Singleton
Second: Matthews
Vote: 5:0

Tier 2 Conditional Rezoning # CZ-MP-22-05, White Oak Storage

Presenter: Jeff Triezenberg, Planning Director

Tier 2 conditional zoning map amendment request (CZ-MP-21-05) submitted by Ball Rentals to conditionally rezone 2.76 +/- acres from Single-Family Residential (R-40) and Office and Institutional (O&I) to master planned Light Industrial (I-1 C262) Conditional for the construction of an approximately 94,500 s.f. enclosed self-storage facility. The site is located northeast of the intersection of Bryan and White Oak roads and may be further identified as Wake County PIN #'s 1720448247, 1720540378, 1720447491, and 1720449451.

Action: I move that the Town Council accept the Planning Commission's written statement regarding consistency of the zoning amendment request with adopted land use plans, detailed in Section VI of the staff report as our own; and I further move that the Town Council adopt Ordinance (2022) 5140 approving rezoning CZ-MP-22-05, as the request is reasonable and in the public interest because it will likely encourage redevelopment and reuse of existing sites and buildings that are complimentary to the surrounding area.

Motion: Matthews
Second: Vance
Vote: 5:0

COMMITTEE REPORTS

The Human Resources Committee recommended appointing Richard Squires and Robert Brewer to the Board of Adjustment with a term expiring on June 30, 2025.

Motion: Vance
Second: Dellinger
Vote: 5:0

Mayor Marshburn reported that the recipient of the James R. Stevens Service to Garner Award will be selected on Friday.

MANAGER REPORTS

- National Night Out will be held tomorrow from 5pm to 8pm in the Cabela's parking lot.
- Towne Players Summer Youth Theater Camp will be performing Moana Jr. from August 11-13 at the GPAC.

ATTORNEY REPORTS

- Will be attending the Municipal Attorney Conference next week.
- Appreciated the support of the Intern program. There is a possibility of another individual who would like to do an internship during the fall semester.

COUNCIL REPORTS

Vance

- Thanked Rodney and staff for their assistance in getting the dangerous telephone pole removed.

Dellinger

- Asked if staff could reach out to NC DOT or the City of Raleigh regarding the removal of signs.
- Asked when there will be tenants in the warehouse space on Jones Sausage Road across from Amazon. Mr. Hodges responded that Building 1 is complete and they have some potential tenants but none at this time. That building will also be submitted for several economic development projects. The second building is currently fully leased. The third building will start construction soon with a delivery date of 12 to 15 months.
- Stated it might be helpful during the next Work Session for Council to have a review and the Town's Human Resources Policies , employee evaluation process and retention policies and practices

Singleton

- Thanked Public Works for their work on the unprepared storm debris pick-up in addition to their regular workload. Adding that he would be interested in getting a report on how much was actually picked-up.

Matthews

- Stated he had received many favorable comments about the storm debris pick-up.

Marshburn

- Followed up on a previous discussion regarding electric vehicles and his mention of forming a committee who would keep Council informed of the latest information in that area. It was proposed that the committee would meet quarterly.
- Attended the Rhythm of Soul performance at the GPAC.

ADJOURN: 9:46 pm

**Town of Garner
Town Council Regular Meeting Minutes
August 16, 2022**

The Council met at 7:00 p.m. in the Ronnie S. Williams Council Chambers at Town Hall, located at 900 7th Avenue, Garner.

CALL MEETING TO ORDER/ROLL CALL: Mayor Ken Marshburn

PLEDGE OF ALLEGIANCE: Council Member Demian Dellinger

INVOCATION: Council Member Demian Dellinger

PETITIONS AND COMMENTS

ADOPTION OF AGENDA

Motion: Vance
Second: Behringer
Vote: 5:0

PRESENTATIONS

The 2002 James R. Stevens Service to Garner Award was presented to co-recipients Town Council Member Kathy Behringer and local businessman Jerry Jones. This award is our community's most prestigious recognition for public service rendered over an extended period of time.

CONSENT

Council Member Dellinger asked that the Street Stub Completion Policy be pulled from the Consent agenda for further discussion.

Contiguous Annexation Petition # ANX-22-08, Rollman Farms

Presenter: Gaby Lontos-Lawlor, Senior Planner

Voluntary contiguous annexation (ANX-22-08) petition submitted by ARS Garner - Old Stage Development, LLC to bring 63.759 +/- acres into the Town's primary corporate limits, and including 1.650 +/- acres of right-of-way for a total of 65.409 +/- acres.

Action: Approve Resolution (2022) 2500 setting Public Hearing for September 6, 2022.

On-Call Master Agreement and SOW # 1 (Yeargan Park Phase 1) - The John R. McAdams Company

Presenter: Maria Munoz-Blanco, PRCR Director

Presentation of the On-Call Master Agreement and Statement of Work # 1 with The John R. McAdams Company, Inc. ("McAdams") for the completion of 100% construction documents for Yeargan Park Phase 1.

Action: Approve Master Agreement and SOW#1 with McAdams and authorize the Town Manager to execute contracts.

September Meeting Date Change

Presenter: Rodney Dickerson, Town Manager

The Council typically approves a meeting change when the Managers are attending the ICMA Conference. We will not be attending this year so I recommend we change the second meeting in September back to Tuesday, September 20, 2022 instead of Thursday, September 22, 2022.

Action: Approve September 20, 2022 as the Town Council Meeting date.

Action: Approve all Consent items with the exception of the Street Stub Completion Policy

Motion: Singleton

Second: Matthews

Vote: 5:0

PUBLIC HEARINGS

NEW/OLD BUSINESS

Wake BRT Southern Corridor Update

Presenter: Het Patel, City of Raleigh

Het Patel from the City of Raleigh presented a project update on the design for the Wake Bus Rapid Transit (BRT) Southern Corridor, including design, which has progressed through 5%, and the project's ratings package to the Federal Transit Administration (FTA) Small Starts program.

Council Member Singleton asked if there was sufficient contingency built into the plans and Mr. Patel responded that currently there is a 40% contingency. Mr. Patel added that there are 7 buses included in the project and they are moving toward alternative fueled buses and green energy. Mr. Patel also confirmed that all segments shown will be built simultaneously.

Council Member Dellinger asked about branding and naming of stations and Mr. Patel responded that there is a system standard process but there may be some future coordination.

Action: Receive as information.

Street Stub Completion Policy

Presenter: Jeff Triezenberg, Planning Director

Mr. Triezenberg presented the proposed policy for objective circumstances under which a public street stub connection shall not be completed within the Town of Garner's jurisdiction and when alternative connections shall be made. This policy establishes standards which apply to all development and redevelopment within the Town and its ETJ. The policy is inclusive of purpose, need, standards and exemptions. Mr. Triezenberg also reviewed the Town's Ordinance pertaining to delineation between temporary and permanent dead-ends.

Council Member Dellinger expressed concern regarding the first sentence of 'Section IV. Exemptions & Bicycle /Pedestrian Considerations' stating that it may cause some confusion.

Action: Adopt the Street Stub Completion Policy as presented with removal of the first sentence in the Section referenced above – 'Notwithstanding the requirement to satisfactorily resolve non-conformities'.

Motion: Dellinger
Second: Vance
Vote: 5:0

COMMITTEE REPORTS

The Human Resources Committee recommended removal of Rosemary Rochford from the Veterans Advisory Committee and appointing Don Searles. Mr. Searles will serve out Ms. Rochford's term which expires on June 30, 2023.

The Committee also recommended appointing Tony Derico to serve on the Senior Citizens Committee.

Action: Approve Recommendations
Motion: Dellinger
Second: Vance
Vote: 5:0

Mayor Marshburn stated tonight's presentation was the first iteration of the Stevens Service Award since it was handed over to the Town. This year the Committee followed the same process as in past years, however going forward, it is his intention to look at the structure of the Committee to determine if any type of restructure is needed.

MANAGER REPORTS

- Talk of the Town monthly update
- Holiday celebrations will take place on December 3rd and include a block party and tree lighting. A community group will host a parade between the two events.

Council Member Singleton reported that the Welcome to Garner sign on Hwy 50 by the Dempsey Water Plant is badly faded and needs to be replaced. He also thanked staff for addressing the safety concerns at Thompson Road and Timber Drive.

- A CLUE Steering Committee is being put together to include all members of the Council and Planning Commission. Four meetings are being proposed - October 18, November 14, and January 16 (two

before a Planning Commission meeting and two before a Council meeting). Staff is working with the consultant to schedule the kickoff meeting in September. There will be opportunities for break-out committees to discuss strategic items, etc. Council consensus to move forward with this direction.

ATTORNEY REPORTS

Ms. Jones introduced the Town's newest intern, Jamar Wilson.

COUNCIL REPORTS

Matthews

- Invited everyone to the showing of a documentary about the Wall that Heals on Sunday, August 21st at 3:00 p.m. at the GPAC.

Vance

- Expressed his appreciation for the removal of the dead tree limb that was on Old Garner Road.

Dellinger

- Recommended preparing a map showing what projects were in the pipeline and the name and number of units in the projects. Possibly include projects that are in Wake County. Adding that this would help to visualize where the projects are so they can be referenced with other projects. Mr. Hodges responded that there is a problem accessing the data that needs to be converted. Mr. Triezenberg added that staff is working to develop a GIS based online database which will be integrated into the Town's website. If the online program is not ready soon, staff will prepare a static map.
- Asked for a status on charts/graphs showing growth metrics.
- Asked the deadline for CLUE. Mr. Hodges responded it should be finished by the end of the calendar year, with reporting in the January/February timeframe.

Singleton

- Reported that at the bus stop on Garner Road in front of the GPAC, people waiting for the bus are sitting on the roots of old trees because there are no benches or covered areas. Mr. Hodges responded that Go Raleigh has a plan to add amenities at bus stops. We will check to see if anything is planned for this site.
- Expressed concern that at the stop at Vandora and Garner Road heading into Raleigh, the bus has difficulty getting parallel to the curb because the stop is too close to the intersection. The sidewalk in front of Vandora West needs to go further west so the bus can get straight allowing vehicles to pass.

Marshburn

- Thanked Public Works for removing the tree at Lake Benson Park trail.
- Reported receiving a condolence letter from the International Institute of Municipal Clerks Board of Directors on the death of former IIMC President Mary Lou Todd. IIMC will be making a donation to the IIMC Foundation to use toward furthering Clerk education and professional development.

Council Member Behringer had nothing to report.

ADJOURN: 8:39 p.m.

DRAFT

**Town of Garner
Town Council Special Meeting Minutes
August 17, 2022**

The Council met in a special session at 10:00 a.m. at the Garner Town Hall located at 900 7th Avenue.

CALL MEETING TO ORDER/ROLL CALL: Mayor Ken Marshburn

Present: Mayor Ken Marshburn, Mayor ProTem Elmo Vance, Council Members Demian Dellinger, Gra Singleton, Kathy Behringer and Phil Matthews

Staff Present: Rodney Dickerson-Town Manager, Sabrina Lewis-Human Resources Director, David Beck-Finance Director and Jodi Miller-Asst. Town Manager

Consultants: Greg Grayson, NC Fire Chief Consulting, John Mitchell and Matthew Yonz with JLM Actuarial, and Paul Sydor with IBA

Also Present: Matt Poole-Fire Chief, Buck Kennedy, MOU Committee Member, GVFR Board Members Steve Woodall, Joe Sample, Mark Wilson, Nancy Anderson, Stacy Kolacz, & Johnny Foster

CALL MEETING TO ORDER/ROLL CALL: Mayor Ken Marshburn

The Garner Town Council and Garner Volunteer Fire Rescue met in a joint session to discuss the benefits review analysis performed by the consultants.

ADJOURN: 12:00 PM

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2022 		
Subject: Construction Manager At Risk for Yeargan Park Phase 1		
Location on Agenda: Consent 		
Department: Parks, Recreation & Cultural Resources		
Contact: Maria Munoz-Blanco, Director of Parks, Recreation & Cultural Resources		
Presenter: Maria Munoz-Blanco, Director of Parks, Recreation & Cultural Resources		
Brief Summary: Resolution to authorize the use of the Construction Manager at Risk (CMAR) method for the construction of Yeargan Park Phase 1.		
Recommended Motion and/or Requested Action: Consider approval of Resolution (2022) 2502 to authorize using Construction Mgr. at Risk method for Yeargan Park		
Detailed Notes: Staff briefed the Town Council at the 07/26/2022 work session on the advantage of using the Construction Manager at Risk (CMAR) method for the construction of Yeargan Park Phase 1. The advantages of this method include the integration of design and construction during the design phase, including constructability analysis and the establishment of a Guaranteed Maximum Price (GMP) to facilitate the delivery of the project on budget. CMAR services are procured by RFQ based on demonstrated competence and qualification for the services required as prescribed in G.S. 143-64.31.		
Funding Source: n/a		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: 		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	MMB	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

August 29, 2022

To: Jodi Miller, Assistant Town Manager

From: Maria Munoz-Blanco, Director of Parks, Recreation & Cultural Resources (PRCR)

Re: Construction Manager at Risk (CMAR) Method for Yeargan Park Construction

On July 26, 2022, PRCR presented an update of the 2021 Park Bond Projects to the Town Council. As part of this presentation, staff sought the Town Council's direction on the possibility of utilizing the Construction Manager at Risk (CMAR) method for the construction of Yeargan Park. The presentation provided information regarding the CMAR's role in pre-construction and construction phases. Based on the information presented, the Town Council directed staff to proceed with using CMAR for the Yeargan Park project, with the next step in this process being an RFQ to identify a firm qualified to provide the services.

PRCR has drafted an RFQ to solicit firms interested in providing CMAR services to the Town for the construction of Yeargan Park. Prior to the issuance of the RFQ, pursuant to G.S. 143.128.1, the Town is required to consider the advantages and disadvantages of using this method compared to other construction delivery and determine that the CMAR method is the most advantageous. Following is a summary of the benefits of using the Construction Manager at Risk methodology:

Construction Manager at Risk (CMAR)	Design-Bid-Build (GC)
CMAR is selected based on qualifications.	General Contractor (GC) is selected based on lowest responsive, responsible bidder.
CMAR and first tier subs are prequalified.	No prequalification of GC or subs.
CMAR is an integral member of the project team during the design phase providing constructability reviews, estimates, and other value-added input regarding materials or design alternatives.	GC is not involved in the design of the project until after construction bids is awarded; does not provide pre-construction services such as constructability reviews.
CMAR provides a Guaranteed Maximum Price for the project.	GC provides the lowest bid, owner is responsible for costs outside the bid package (change orders).
CMAR provides input on planning and scheduling before construction begins.	GC does not provide input in planning.
Increased transparency as project costs are open-book from the CMAR.	One lump sum low bid, no open-book requirement.

Construction Manager at Risk (CMAR)	Design-Bid-Build (GC)
CMAR field team is selected and involved in the design/pre construction phase contributing to a smooth transition to construction.	GC field team does not have the familiarity with the project leading to a longer transition from design to construction as the field team learns project details after the bid has been awarded.
CMAR's involvement in the project from its early stages encourages the CM to have ownership in the project throughout all phases.	GC has ownership of project only for what is covered in the bid, has no involvement with the project prior to bid award.

Staff Recommendation

That the Town Council approve a Resolution authorizing the use of construction management at risk services in the best interest of the Yeargan Park project.

RESOLUTION NO. (2022) 2502

A RESOLUTION AUTHORIZING THE USE OF CONSTRUCTION MANAGEMENT AT RISK SERVICES
FOR THE YEARGAN PARK PROJECT

WHEREAS, N.C.G.S. § 143-128.1 authorizes the use of construction management at risk services only after the public entity has concluded that construction management at risk services is in the best interest of the project, and the public entity has compared the advantages and disadvantages of using the construction management at risk method for the given project in lieu of other authorized delivery methods; and

WHEREAS, the Town of Garner voters approved in November 2021 a Park Bond proposition to authorize the expenditure of \$35.5 million for new parks, park rehabilitation, and greenway construction; and

WHEREAS, Yeargan Park is one of the new park projects that will be constructed with the proceeds of the approved 2021 Park Bond proposition; and

WHEREAS, the proposed project is a complex project that will require careful coordination with the design team, robust project management, and detailed construction oversight; and

WHEREAS, the use of construction management at risk services is preferred over the other authorized delivery methods because the project will benefit from preconstruction services including the establishment of a Guaranteed Maximum Price (GMP), logistics planning, construction budget forecasting from current trades market, complex scheduling, warranty for all phases of work, and constructability design phase reviews for which services are best delivered by construction management at risk services.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF GARNER HEREBY RESOLVES that after the Town has compared the advantages and disadvantages of the construction management at risk method for the Yeargan Park project and for the reasons stated above, the Town Council of the Town of Garner hereby concludes that use of construction management at risk services is in the best interest of the project.

THIS RESOLUTION passed and adopted this 6th day of September 2022.

Ken Marshburn, Mayor

ATTEST: _____

Stella Gibson, Town Clerk

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2022 		
Subject: Caddy Road Public Safety Station ILA and Lease		
Location on Agenda: Consent 		
Department: Town Managers Office		
Contact: John Hodges, Assistant Town Manager		
Presenter: John Hodges, Assistant Town Manager		
Brief Summary: The Town of Garner will enter into an interlocal agreement (ILA) with Wake County to guide cost-share, construction, ownership and operation of the Caddy Road Public Safety Facility that will house Garner Fire Station 5. Council approval of the ILA will also authorize Wake County to award the bid for construction of the facility.		
Recommended Motion and/or Requested Action: Approve Resolution (2022) 2504 authorizing the Interlocal Agreement		
Detailed Notes:		
Funding Source: 2021 Public Safety and Services Facilities Bond Funds		
Cost: \$7,712,488	One Time: <input checked="" type="radio"/>	Annual: <input type="radio"/> No Cost: <input type="radio"/>
Manager's Comments and Recommendations:		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	JMH	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

RESOLUTION NO. (2022) 2504

**RESOLUTION AUTHORIZING AN INTERLOCAL AGREEMENT
FOR THE CADDY ROAD PUBLIC SAFETY FACILITY**

WHEREAS, the Town of Garner and Wake County have decided to design and construct a joint facility for Garner Fire Rescue, Wake County Emergency Medical Services, and the Garner Police Department at 7816 Caddy Road, property owned by the Town of Garner;

WHEREAS, the joint facility will be named Caddy Road Public Safety Station;

WHEREAS, Garner Fire Station 5 will be located at Caddy Road Public Safety Station;

WHEREAS, the Garner Police Department will have office space at Caddy Road Public Safety Station;

WHEREAS, pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes (NCGS), two or more units of local government may enter into an Interlocal Agreement with each other in order to execute any undertaking, which is defined as the joint exercise of any power, function, public enterprise, right, privilege, or immunity of local government;

WHEREAS, pursuant to NCGS § 160A-274, the Town is authorized to lease to any other governmental unit any interest in real or personal property it owns;

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Garner, North Carolina, hereby:

That the Interlocal Agreement For Funding, Construction, and Ground Lease for Caddy Road Public Facility and attached Ground Lease is ratified and the Town Manager is authorized to execute the Agreement and Lease.

Duly adopted this 6th day of July, 2022.

Ken Marshburn, Mayor

ATTEST:

Stella Gibson, Town Clerk

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**INTERLOCAL AGREEMENT FOR FUNDING, CONSTRUCTION, AND GROUND LEASE
FOR CADDY ROAD PUBLIC SAFETY**

This AGREEMENT, made and entered into this _____ day of _____, 2022 by and between **WAKE COUNTY**, a body politic and corporate of the State of North Carolina, hereinafter referred to as “Wake County” or “the County”, and **TOWN OF GARNER**, a Municipality of the State of North Carolina, hereinafter referred to as “Town of Garner” or “the Town”, with the County and the Town of Garner being jointly referred to herein as “Parties”.

WITNESSETH:

WHEREAS, Wake County EMS established a Master Plan for EMS Stations in 2008, updated in 2019, that includes co-locations of EMS units within fire stations as a first consideration when deploying ambulances, and

WHEREAS, Wake County, the Town of Garner, and the Town of Fuquay-Varina entered into a certain FUNDING AGREEMENT AND MEMORANDUM OF UNDERSTANDING (the “MOU”) dated March 8, 2021, to study and plan through the Schematic Design Phase a co-location of fire service by the Towns, and EMS services by the County in a public safety facility located along Caddy Road in unincorporated Wake County; and

WHEREAS, the Town of Fuquay-Varina determined at the conclusion of the study period and Schematic Design that a co-location of the Town of Fuquay-Varina fire services at a joint public safety facility on Caddy Road was not desirable; and

WHEREAS, the Wake County Board of Commissioners at its September 20, 2021 meeting, and the Town of Garner Council at its September 28, 2021 meeting approved the Schematic Design for the McCullers Public Safety project; and

WHEREAS, the MOU contemplated at the end of Schematic Design, that the Parties wishing to proceed with the Project (the “Remaining Parties”) would create an amendment to continue the project design phases through the bidding process; and

WHEREAS, the Parties determined during the Study Period and Schematic Design that Wake County will own and operate the facility, and the Town of Garner will retain ownership of the land, and each Parties’ interest and responsibilities will be further clarified in a future Interlocal Agreement (ILA) and/or lease agreement; and

WHEREAS, the Parties executed the FIRST AMENDMENT to the MOU dated March 29, 2022, which further defined the roles and responsibilities of the Parties and identified the project funding cost share to be sixty-nine percent (69%) Town of Garner and thirty-one percent (31%) Wake County; and

WHEREAS, the Parties now desire to proceed with the construction of the Caddy Road Public Safety project (hereinafter “Project”), clarify the funding procedures for the Project and responsibilities of the Parties; and

WHEREAS, the Parties now desire to agree upon the official name of the facility “Caddy Road Public Safety”; and

WHEREAS, the Parties desire to formerly enter into a Ground Lease between the Town (Lessor), and the County (Lessee) more formally provided for in Attachment A to this Interlocal Agreement; and

WHEREAS, the Town agrees to grant the necessary easements or other interest necessary to provide roadways, utilities, development buffers, or other requirements that may be necessary for the development of the leasehold parcel for a Public Safety use; and

WHEREAS, the parties enter this agreement pursuant to the authority of N.C.G.S. §160A-461 (Interlocal Cooperation), N.C.G.S. §160A-274 (lease for interest in real property) and resolution of their respective governing boards.

NOW THEREFORE, in consideration of the promises and mutual understandings, the Parties hereby agree to the following terms and conditions contained in this Interlocal Agreement accruing to the benefit of each of the Parties and other good and valuable consideration, receipt and sufficiency of which is acknowledged by the Town and the County, the Parties agree as follows:

ARTICLE 1 RECITALS AND PURPOSE

1.01 RECITALS

The Recitals are incorporated into this Agreement.

1.02 PURPOSE

The purpose of this Agreement is to set forth the agreement of the Parties to undertake the design and construction of the Public Safety Station on property owned by the Town. The County shall serve as lead agency under the public bidding and construction contracting pursuant to N.C.G.S. 143-128 & 129 and in accordance with schematic design plans approved by the Parties' governing authorities and the Plans and Specifications approved by both Parties. This Agreement addresses the cost, construction, ownership, naming, use, ground lease, future maintenance and other rights and responsibilities for the Project agreed upon by the parties and necessary to commence construction.

This Agreement also sets forth the agreement of the Parties for the Town to extend a fifty-year ground lease to County for the Public Safety site and execute certain zoning, street improvement, and infrastructure requirements necessary for County to Construct the Caddy Road Public Safety station; and for the County to undertake the design and construction of the Project on the Public Safety Site. This Agreement addresses the rights and responsibilities of the Parties for cost, infrastructure, construction, ownership, use, and future maintenance for the Project. A ground lease is incorporated herein as Attachment A and shall be independently executed by the Parties for the long-term lease of the Public Safety Site.

ARTICLE II DEFINITIONS

2.01 “Approved Change Order” means change orders for County components prepared and executed in accordance with Exhibit “C”.

2.02 “Approved Plans and Specs” means and refers to the plans and specifications to be prepared by the Architect and approved by the Parties and their regulatory capacities and other governmental authorities, as the same may be subsequently modified in accordance with this Agreement.

- 2.03 “Construction Documents”** means the written instruments executed by the County as lead agency, procurement agent and ‘Owner’ and the Contractor and includes contractor bidding requirements, contract forms, contract conditions (general, supplemental, and other), architectural and construction information, drawings, plans and specifications (as approved by Parties), addendum issued prior to issuing the contract, bid proposal with unit costs and Owner accepted alternates, and Contractor’s project schedule, all related to Project, which will be binding on the Contractor.
- 2.04 “Construction Agreement”** means the contract executed by and between the County and the Contractor.
- 2.05 “Construction Costs”** mean the labor, materials, and construction costs to construct the Project.
- 2.06 “Contractor”** means the person or entity with whom the County contracts for the construction of the Project.
- 2.07 “Design Costs”** mean the actual costs and expenses paid in connection with design, engineering, surveying, testing, inspections, construction administration, and close-out of the Project.
- 2.08 “Facility Name”** means the facility name agreed upon by the Parties and understood to be “Caddy Road Public Safety.” Parties agree that other building identification will be included in Project to identify the end-users, Garner Fire & Rescue or Garner Fire Department, Garner Police Department, and Wake County EMS.
- 2.09 “Final Completion of Project”** means the point at which the Contractor has, as determined by County and the architect and with the consent of Town: completed the Project. The Parties have taken beneficial occupancy of the Project; all punch lists have been completed; all as-built drawings, operation and maintenance manuals, warranties and other Project records have been delivered to the Parties; all waivers and releases have been negotiated and executed; all consents of surety to final payment have been delivered and the one-year guaranty and/or warranty period has expired.
- 2.10 “Fire Station”** means fire services portion of the Caddy Road Public Safety facility operated by Town of Garner or Garner Fire-Rescue. The approved interior layout of the Public Safety Station at the execution of this Agreement is attached as Exhibit “D” and incorporated herein by reference.
- 2.11 “Ground Lease”** means a ground lease incorporated into this ILA as Attachment A and in accordance with authority granted by N.C.G.S. 160A-274 by Town of Garner as lessor to Wake County as lessee for the Public Safety site, which shall include provision for all of the requirements set forth in Section 4.03 of this ILA, all of which shall be deemed essential and material to the Ground Lease.
- 2.12 “Operational Costs”** means the costs to operate, clean, maintain, repair and periodically service components of the Project. Operational Costs do not include capital improvements or replacements. Operational costs will be further defined and allocated in a Utilization Agreement.
- 2.13 “Public Safety Site”** means that area of the Project Site necessary to accommodate the Caddy Road Public Safety Station, consisting of the new Public Safety facility of approximately 16,816 square feet together with parking, driveways, stormwater management devices, landscaped buffers, and other appurtenances.

- 2.14 “Public Safety Lease Area”** means that area of the Public Safety site consisting of approximately 5.19 Acres and identified with Parcel Identification Number 0699175451 and further identified as 7816 Caddy Road, Raleigh, NC 27603 as shown on Exhibit “A” and Attachment A herewith.
- 2.15 “Project Costs”** means the Design Costs and the Construction Costs, including all costs related to permitting and utility connections, and project contingency. Garner’s share of Project Costs shall not exceed Approved Construction Budget without approval of Garner Town Council. Project costs also include agreed upon construction allowances, bid alternates and project contingency. County’s share of the Project Costs shall not exceed the approved project budget without approval of County Board of Commissioners.
- 2.16 “Project”** means the construction of the Public Safety Station as more fully described in Section 4.02.
- 2.17 “Project Site”** means area of Town property necessary to accommodate the Project as further described in Section 4.01 and on the approved site plan. The approved site plan at the execution of this Agreement is attached as Exhibit “A” and incorporated herein by reference.
- 2.18 “Substantial Completion” or “Beneficial Occupancy”** means that point at which the Project, as determined by the Architect, is sufficiently complete in accordance with the Contract Documents that it can be beneficially occupied by the Parties for their intended use, all necessary permits and permissions for beneficial occupancy and utilization having been obtained by the Contractor and guarantees and warranties commence.
- 2.19 “Work”** means all the work and services to be performed by Contractor, Architect, and Trade Contractors in designing and constructing the Project.

ARTICLE III TERM, AMENDMENT, TERMINATION, AND NOTICE

- 3.01 Term.** This Agreement shall become effective upon the properly authorized execution of the Agreement by both Parties and shall continue in effect for five (5) years or until the Final Completion of Project whichever comes first (“Term”). The Parties may agree to an earlier termination in writing with the approval of and execution by their respective Managers when all responsibilities of this Agreement have been completed or replaced with superseding documents.

The term of the Ground Lease incorporated herein as Attachment A will survive the term of the ILA.

- 3.02 Amendment.** This Agreement may only be amended by a writing signed by the Parties. To propose an amendment to Agreement, either Party may submit the proposed amendment and the reasons for the proposed amendment in writing to the other Party per the Notice provisions in this Article III. If the Parties agree to the proposed amendment, a written amendment to Agreement shall be executed. The Parties may enter into amendments that do not have financial implications for either Party with the approval of and execution by their respective Managers. All other amendments shall require approval by the respective governing boards of the Parties.

3.03 Termination. This Agreement may be terminated by either Party upon breach of this Agreement by the other Party, provided that the non-breaching Party has notified the breaching Party in writing and provided sixty (60) days from the notification to allow the breaching Party to cure the breach. If the breach remains uncured after sixty (60) days, or any reasonable mutual extensions thereof, the non-breaching Party may terminate this Agreement upon ten (10) days written notice. In the event of breach, the Parties shall be entitled to such legal or equitable remedies as may be available, including specific performance.

3.04 Notice. Any notice required by this Agreement shall be in writing and delivered to the Parties at the following addresses:

For Wake County: Wake County Manager
Wake County Justice Center
301 S. McDowell St.
Raleigh, NC 27601

With a copy to Wake County Attorney
Wake County Justice Center
301 S. McDowell St.
Raleigh, NC 27601

For Town of Garner: Town Manager
Town of Garner
900 7th Avenue
Garner, NC 27529

With a copy to Town Attorney
c/o Town of Garner
900 7th Avenue
Garner, NC 27529

3.05 MOU Superseded. Upon the execution and delivery of this Agreement, this Agreement shall constitute the definitive Agreement between the Parties regarding all matters relating to the Project, including the MOU dated March 08, 2021, as amended is hereby terminated.

3.06 Survival of Terms Upon Termination. Those obligations concerning enforcement of warranties and representations which by their nature should survive the termination of this Agreement, as well any other documents executed in accordance with the terms and conditions herein shall survive the termination of this Agreement.

ARTICLE IV OWNERSHIP OF THE PROJECT SITE

4.01. Town Property. Town owns in fee simple the property located at 7816 Caddy Road, Raleigh, NC 27603 consisting of 5.19 acres and further identified as McCullers Walk Future Development Phase 3, Sheets 5 and 6 of 7, as shown on Book of Maps 2019, Page 208 and 209, Wake County Registry, and bearing Wake County Real Estate ID# 0441273 and PIN 0699175451.

4.02 Description of Project. The Town and County desire to construct a shared Fire, Police, and EMS facility consisting of an approximate 16,816 square feet building with two and a half (2.5) full apparatus bays for Town apparatus and one and a half (1.5) full bays for Wake EMS along with related sitework providing approximately forty (40) parking places on property, driveways, sidewalks, road improvements, stormwater control measures, retaining walls, and landscaping. The Town of Garner Fire Department will utilize 11,070 dedicated square feet with a building pad available for 1,718 square feet of expansion space, The Town of Garner Police Department will utilize 412 square feet, and WAKE EMS will utilize 4,395 dedicated square feet. The Fire Department, Police Department, and EMS will share 3,301 square feet.

4.03 County as Lead Agency and Procurement Agent.

- A. Agency created. This agreement confirms that the Parties appointment of Wake County as its sole agent to procure, design and construct the Project through final completion. County has served as the lead agency for all bidding and procurement requirements and shall continue to serve as lead agency for design and construction of the Project. The County is the designated “Owner” in construction documents. The Town, as a project partner, shall have full access, at reasonable times and in a reasonable manner to all Construction Documents and agreements related to the Project.
- B. The County is responsible for applying for and pursuing all permits and other approvals necessary for construction of the Project.
- C. The Project shall conform to the approvals granted by the Town of Garner and Wake County and by their governing boards and shall be designed and constructed to meet all requirements of the North Carolina State Building Code, the approved site plan and all other applicable laws and regulations.
- D. The County shall ensure that Town representatives are and remain closely involved in the final design and construction processes, with regard to Town components to the Project.
- E. The Town shall be named as an additional insured (except Worker’s Compensation and Employer’s Liability insurance) on all insurance policies obtained or maintained in connection with the Project. The County shall require a copy of all Certificates of Insurance received by County and evidencing such coverages to be delivered to the Town. County shall ensure that the Construction Documents and its contracts with the Contractor to purchase and maintain insurance as is appropriate for the Work being performed for the duration of the Project, and that such insurance requirements are imposed by Contractor on their Trade Contractors, subcontractors, and consultants.

4.03 Indemnification. Any indemnification of County in Construction Documents or any other agreement in connection with Project shall also run to and indemnify the Town.

4.04 Ownership of Design Documents. As the County will own the Public Safety Station, the County shall retain ownership and use of the design work product for the Public Safety Station, and all areas included within the Project Site including parking and storm water control devices, landscaping, driveways, sidewalks, retaining walls, and other appurtenances, including but not limited to paper and electronic copies of drawings, renderings, plans, specifications, and Owner Maintenance Manuals. The County shall retain ownership and use of the design work product commissioned by the County for the remainder of the site under the County’s ownership and control, including but not limited to paper and electronic copies of drawings, renderings, and plans.

ARTICLE V PROJECT FUNDING

- 5.01 Acceptance of Bid Proposal.** The County received Bid Proposals on August 4, 2022. The Construction Cost for the Project is \$10,225,330 based on the approved plans and specs, unit costs, and agreed upon alternate bid items accepted by both parties. for the Project Cost Summary, including a list of accepted alternate bid items, is attached hereto as Exhibit “B” and incorporated herein by reference.
- 5.02 Shared Cost Basis** shall be the cost of the Construction plus other Project Costs as defined in 2.13 for a total of \$11,174,330 (See Exhibit B).
- 5.03 The County Commitment.** On March 29, 2022, the County and the Town entered into the First Amendment to Funding Agreement and Memorandum of Understanding Between Wake County, Town of Garner, and Town of Fuquay Varina wherein the funding allocations for the Parties were determined. The County’s portion of the funding obligation is 31% of the Project Costs or \$3,461,842 and will be paid as appropriated by the Wake County Board of Commissioners. The County will be the contracting party on the Construction Agreement and will make payments in a progress payment format to Contractor, withholding retainage as specified therein.
- 5.04 The Town Commitment.** The Town’s portion of the funding obligation is 69% of the Project Costs or \$7,712,488 as appropriated by the Town. Town shall make payments to the County for its portion of the Project Costs, with 50% of the Town’s Project Costs due and payable within Sixty (60) days of the execution of this ILA by both parties and the remaining 50% of the Town’s Project Costs due before June 30, 2023. The County shall provide monthly reporting of each Parties’ obligation for the given payment request period and accounting for all payments received and paid to date on behalf of the Parties.

The Project Costs include an allowance for the Town of \$174,700 for furniture, fixtures, and equipment (FF&E), and an allowance for the County of \$75,300 for furniture, fixtures, and equipment as described in Article 5.05.

Upon Final Completion of the Project, the Town and County will reconcile all allowances, change orders, contingencies, sales tax reimbursements, etc, to determine a final project cost. Final resolution of the Project Costs basis that results in either an increase or decrease in the Town’s and County’s commitment shall be reconciled with the final payment.

This Section 5.04 will survive the Term as defined in Section 3.01.

- 5.05 Furniture and Equipment.** The County will procure and install all furniture and equipment that is not otherwise provided directly to the Project by the Parties in accordance with the allowances outlined a Project Costs in 5.04.
- 5.06 Radio Alerting System.** This system is for the exclusive use of the Fire Department. The system will be paid on behalf of the Town using the Town’s FF&E allowance as provided in 5.04.
- 5.07 Electronic Security.** The County electronic security standard for Public Safety Facilities is card access only for the exterior of the building as well as the EMS medical storage room, and the costs for Electronic Security are incorporated in the Project Costs to be shared by the Parties.

- 5.08 Bi-directional Amplification System (BDA)** shall be accounted for by the Parties within each Parties' FF&E allowance using the Project's cost allocation formula of 69% Town and 31% County if it is determined that a BDA system is required after a survey of the constructed station.
- 5.09 Payment of Project Costs.** All Project Costs shall be paid by County, in its capacity as Lead Agency, in accordance with the funding terms unless other payment arrangement are approved in writing by both Parties.
- 5.10 Sales Tax.** The Contractor shall maintain all tax records during the life of the project and furnish the County with a complete list of all taxes paid by taxing authorities, invoice number, date, amount, etc.

The County will track the project sales tax and submit for all refundable sales tax. The Parties agree to allocate the refundable sales tax 69% to the Town and 31% the County.

ARTICLE VI

PUBLIC SAFETY STATION OWNERSHIP, CONTROL, RIGHTS OF USE, NAMING AND SIGNAGE

- 6.01 Ownership.** Once the Project is operational, the County will have ownership of the Public Safety Station.
- 6.02 Control.** The County shall have administrative and security control over the Public Safety Station. The Parties will cooperate on matters of mutual concern, including such matters as hours of operation, maintenance of common shared areas and other matters which may arise.
- 6.03 Rights of Use.** Prior to occupancy of the Public Safety Station, the parties shall enter a Utilization Agreement providing for the Town's use of a portion of the Public Safety Station for Fire and Police services ("Utilization Agreement"). The Utilization Agreement shall provide for a term of not less than fifty (50) years from Substantial Completion by the County and shall address the terms and conditions associated with the Town's access, operation and maintenance of the Fire and Police services within the Public Safety Station. The Town's Operational Costs associated with the Utilization Agreement shall be calculated proportionate to Town's use and occupancy of the Public Safety Station and shall be limited to sharing the costs of maintenance, repairs and operations. There shall be no rental payment due from the Town. Neither party may change the term expectation or add additional financial responsibilities for either party without the approval of both governing authorities.
- 6.04 Naming and Signage.** The Parties agree that the formal name of the Public Safety Station shall be, "Caddy Road Public Safety Station." The naming convention shall be approved by both Parties' boards and shall appear on presentation materials, public communications, and future building signage and monument signage according to County's sign standards and included in Project Costs.

In addition to the facility name, "Caddy Road Public Safety Station," which will be prominently placed on the building and monument signage by the County, the Town may, with County's written approval, incorporate Fire and Police signage on the building that identifies the service providers and company numbers in keeping with municipal approvals for such signage together with applicable ordinances which will be the responsibility of the Town.

ARTICLE VII
EXHIBITS AND RELATED DOCUMENTS

7.01 Exhibits

The following exhibits are attached hereto and incorporated by reference into this Agreement as if fully set forth herein:

- A. Exhibit "A" Project Site Plan
- B. Exhibit "B" Project Cost Summary
- C. Exhibit "C" Construction Scope Change Procedures
- D. Exhibit "D" Public Safety Station Building Plan

ARTICLE VIII
OTHER PROVISIONS

- 8.01 No Third-Party Beneficiaries.** This Agreement 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.
- 8.02 Ethics Provision.** The Parties acknowledge and shall adhere to the requirements of N.C.G.S. 133-32, which prohibits the offer to, or acceptance by any state or local employee of any gift from anyone with a contract with the governmental entity or from a person seeking to do business with the governmental entity.
- 8.03 Governing Law, Venue.** The Parties acknowledge that this Agreement shall be governed by the laws of the State of North Carolina. Venue for any disputes arising under this Agreement shall be in the courts of Wake County, North Carolina.
- 8.04 Entire Agreement.** The terms and provisions herein contained constitute the entire agreement by and between the Parties hereto and shall supersede all previous communications, representations, or agreements, either oral or written between the Parties hereto with respect to the subject matter hereof.
- 8.05 Severability.** If any provision of this Agreement shall be determined to be unenforceable by a court of competent jurisdiction, such determination will not affect any other provision of this Agreement.
- 8.06 Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.
- 8.07 Representations and Warranties.** The Parties each represent, covenant and warrant for the other's benefit as follows:
- A. Each Party has all necessary power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement, and this Agreement has been authorized by Resolution spread upon the minutes of each Party's governing body. This Agreement is a valid and binding obligation of each Party.
 - B. Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated by this Agreement, results in a breach of the terms, conditions and provisions of any agreement or

instrument to which either Party is now a party or by which either is bound or constitutes a default under any of the foregoing.

- C. To the knowledge of each Party, there is no litigation or other court, or administrative proceeding pending or threatened against such Party (or against any other person) affecting such Party's rights to execute or deliver this Agreement or to comply with its obligations under this Agreement. The Party's execution and delivery of this Agreement, and its compliance with its obligations under this Agreement, does not require the approval of any regulatory body or any other entity the approval of which has not been obtained.

- 8.08 Dispute Resolution.** Notwithstanding any other provision of this Agreement, either Party may contest any decision, action or inaction of the other Party, or an alleged failure of the other Party to comply with the terms of this Agreement. In the event of conflict or default that might arise for matters associated with this Agreement, the Parties agree to informally communicate to resolve the conflict. If any such dispute cannot be informally resolved, then such dispute, or any other matter arising under this Agreement, shall be subject to resolution in a court of competent jurisdiction. Such disputes, or any other claims, disputes or other controversies arising out of, and between the Parties shall be subject to and decided exclusively by the appropriate General Court of Justice of Wake County, North Carolina.
- 8.09 No Waiver of Non-Compliance with Agreement.** No provision of this Agreement shall be deemed to have been waived by any Party hereto unless such waiver shall be in writing and executed by the same formality as this Agreement. The failure of any Party hereto at any time to require strict performance by the other of any provision hereof shall in no way affect the right of the other Party to thereafter enforce the same. In addition, no waiver or acquiescence by a Party hereto of any breach of any provision hereof by another Party shall be taken to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.
- 8.10 Governing Law.** The Parties intend that this Agreement be governed by the law of the State of North Carolina.
- 8.11 Assignment.** No Party may sell or assign any interest in or obligation under this Agreement without the prior express written consent of the other Parties.
- 8.12 Liability of Officers and Agents.** No officer, agent or employee of any Party will be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents or employees will be deemed to execute such documents in their official capacities only, and not in their individual capacities. This section will not relieve any such officer, agent, or employee from the performance of any official duty provided by law.
- 8.13 Electronic Version of Agreement.** Any Party may convert a signed original of the Agreement to an electronic record pursuant to a North Carolina Department of Natural and Cultural Resources approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record of the Agreement shall be deemed for all purposes to be an original signed Agreement.
- 8.14 Iran Divestment Act.** The Parties hereby certify that they, and all permitted subcontractors, if any, are not on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58.
- 8.15 Divestment from Companies Boycotting Israel.** Any organization defined under NCGS 147-86.80(2), Divestment from Companies Boycotting Israel, shall not engage in business totaling more than \$1,000 with any company/business, etc. that boycotts Israel. A list of companies that

boycott Israel is maintained by the NC Office of State Treasurer, pursuant to NCGS 147-86.81(a)(1). Any company listed as boycotting Israel is not eligible to do business with any State agency or political subdivision of the State.

- 8.16 Non-Discrimination.** The Parties hereby agree not to discriminate in any manner on the basis of race, natural hair or hairstyles, ethnicity, creed, color, sex, pregnancy, marital or familial status, sexual orientation, gender identity or expression, national origin, or ancestry, marital or familial status, pregnancy, National Guard or veteran status, religious belief or non-belief, age, or disability with reference to the subject matter of this Agreement. The Parties agree to comply with the provisions and intent of Wake County Code of Ordinances Chapter 34 adopted October 18, 2021, as applicable pursuant to Town of Garner Resolution (2022) 2496 adopted July 5, 2022.
- 8.17 Headings.** Section and paragraph headings contained in this Agreement are solely for the convenience of the Parties and shall not affect in any way the meaning or interpretation of this Agreement.
- 8.18 Regulatory Authority.** Nothing in this Agreement shall restrict or inhibit a Party's police powers or regulatory authority.
- 8.19 Further Actions.** The Parties agree to cooperate fully and execute any and all further documents and to take all further actions that may be necessary to give full force and effect to the intent of this Agreement.

IN TESTIMONY WHEREOF, WAKE COUNTY and THE TOWN OF GARNER, through their authorized officers and by their own hands has hereunto set forth their hands and seals of the day and year first above written.

WAKE COUNTY

By: _____

Title: County Manager

Date: _____

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

Wake County Finance Director or designee

TOWN OF GARNER

By: _____

Title: Town Manager

Date: _____

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

Town of Garner Finance Director or designee

Approved as to form:

Town Attorney

EXHIBIT A Project Site Plan

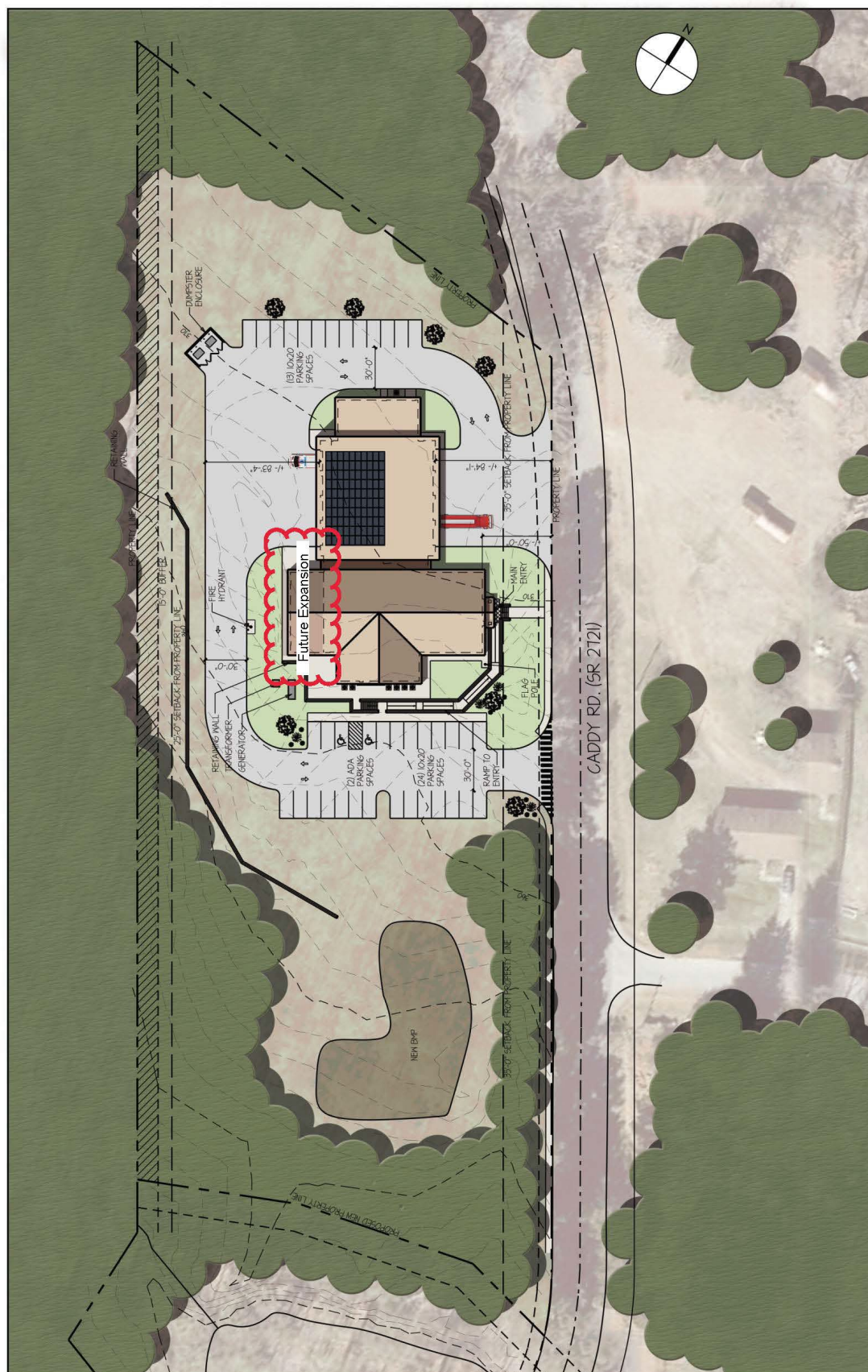


EXHIBIT B
Project Cost Summary

Caddy Road Public Safety Station

16,816 Square Feet

BUDGETARY SUMMARY OF PROJECT COST

August 8, 2022

A. Construction

Building Construction & Site Costs (Notes 1 & 2) 10,225,330

Total - Construction & Site Costs \$ 10,225,330

B. Furniture Fixtures & Equipment (FF+E) 250,000

Includes Furniture, Fixtures, Equipment, Automation, Alerting, AV, Etc. (Notes 3 & 4)

E. Professional Services 699,000

(Includes surveying, architectural, engineering, security & roof consulting,
material testing and third-party special inspections)

Subtotal - FF&E/Automation/Professional Services \$ 949,000

Total Project Costs \$ 11,174,330

Garner Fire @ 69% \$ 7,712,488
Wake County EMS @ 31% \$ 3,461,842

Notes:

1. Building Construction Budget includes site development, landscaping, signage, and permit fees.
2. Building Construction Budget includes \$431,985 for "Owner's Contingency."
3. FF&E Budget includes an allowance of \$174,700 for Town of Garner related FF&E items.
4. FF&E Budget includes an allowance of \$75,300 for Wake County related FF&E items.
5. Construction Costs include Alternate 2—Bi-Folding Doors at Front & Aluminum Doors at Back; Alternate 5—Installing Solar PV Array; and, Alternate 6—Providing EV Dual Port Charging Station

EXHIBIT C

Construction Scope Change Procedures

C-1 Introduction. This Exhibit shall set forth the rights and obligations of the Parties with respect to construction scope change procedures for the construction and installation of the Components to the Project. The County, in its capacity as lead agency, will represent the Parties as owner of the Components. The County will enter into Construction Contracts as “Owner” with authority to approve payment requests as well in executing various construction agreements and other documents upon the Town’s consent and approval as provided in Agreement. From time to time, during the course of construction of the Project, certain modifications to the Approved Plans and Specs may become necessary, based on the following various factors:

- 1) Field Orders for Minor Variations
- 2) Changes requested by the Parties
- 3) Governmental Requirements (i.e. permit inspection required modifications)
- 4) Unforeseen Site Conditions
- 5) Conflicts in the Approved Plans and Specifications
- 6) Other construction circumstances (i.e. material shortage, alternative assembly method, etc.)
- 7) Fees by Utility Companies (i.e. power, gas, water, fiber, etc.) outside the construction contract but necessary to completion of the Project.

C-2 Field Orders for Minor Variations. Field Orders prepared by the Project Architect that do not require a change order and/or minor variations required to affect the construction of the Project or some part of portion thereof, shall not require pre-approval by the Town so long as the variation does not affect the functionality or intended use of the effected Town Component (for example, moving the location of an electrical outlet), or the aesthetics of the work and provide clarifications or interpretations of the Construction Documents. Field orders shall be handled as per the General Conditions of the Construction Contract and shall not invalidate the Contract Documents nor release the Contractor’s surety. Field Orders shall not alter the Contract Price and/or provide an extension to Contract Time. The County shall provide copies of all Field Orders issued by the Project Architect or County to the Town within five (5) days. Field orders that require a change order shall be handled according to Article C-4. Final project as-built drawings shall incorporate all changes.

C-3 Changes requested by the Town. The Town shall communicate any requested changes to the Approved Plans and Specifications to the County in writing. The County will then issue this request through the defined chain of communication to the Owner’s representative, ADW Architects, that has construction administration duties for the Project, and to the Contractor. As soon as reasonably practicable thereafter, the County shall provide the Town with an estimate from the Contractor of the adjustment, if any, in the total Construction Costs required by such Requested Change Order, and the extent of the adjustment, if any, on the Project Schedule of such Requested Change Order. County shall thereafter exercise reasonable efforts to complete negotiations of such change acceptable to the Parties as soon as reasonably practicable, but within the limits defined in County’s General Conditions for Construction, which are part of the Construction Contract Documents. If the Town then affirmatively elects, in writing, to proceed with a Requested Change Order, such changes shall be deemed an “Approved Change Order” and County shall then promptly direct the Contractor to make any needed changes to the Plans and Specifications. Costs of Town requested and implemented changes shall be borne by the Town.

C-4 Changes Resulting from Other Factors. The County shall communicate promptly, in writing, to the Town any changes to the Approved Plans and Specifications that are required by the circumstances described in Article C-1 Items 3-6, and any cost impacts, to the extent such costs can be defined. Time being of the essence for this construction project, it will be imperative for the

County to promptly respond to any time sensitive conditions that arise in this manner. Therefore, the Town shall respond within three (3) business days to the County's notification of change with approval or alternative direction. It will be incumbent upon the County to provide adequate information for the Town to respond. Should the Town fail to respond within (3) business days, the County shall act on behalf of the Town with an appropriate directive to the Construction Team. The County shall then promptly direct the Contractor to make any needed changes to the Construction Costs or Project Schedule. If County fails to provide notification of these changes to the Town within the timeframe given above then the County shall be responsible for such changes, including cost and time added, to the Construction Contract.

- C-5 Utility Installation Premiums.** The County shall communicate promptly to the Town with any additional costs related to utilities for the Project that are outside the construction contract and identified after the date of this Agreement. The Parties will respond promptly on how they each plan to pay for any utility fee that is identified as exceeding the seventy-five thousand dollar (\$75,000) allowance for such connections included in the Project Costs.
- C-6 Emergency Changes.** The County shall be permitted to make emergency changes to this scope of work which would otherwise compromise, in the opinion of County, or Project Team, the integrity or structural strength of the Project, provided that written notice of said changes and associated costs are forwarded to the Town as soon as practicable after notification of such changes of Town Components.
- C-7 Change Order Process.** The County, as lead agency shall review all change order requests with the Project Team on a monthly basis, and any change order request for Town Components shall be promptly presented (as per C-4) to the Town for review and approval. With Town approval, the County shall have the authority to execute change orders to the construction contract on behalf of the Town, for all Town Components. The Town is responsible for increased costs incurred pursuant to an Approved Change Order entered unless attributable to errors of the Project Team or the County or for failure to notify the Town as described in C-4 of this Exhibit.
- C-8 Contingency Funds for Approved Change Orders.** Funding for approved Change Orders for Town's Components shall be from the **Project Contingency**. Contingency being defined as follows:
- a) "Owner's" Contingency as defined in Article C-9 and shown in Exhibit "B" Note 2.
 - b) Project Contingency as defined in Article C10
 - c) As otherwise directed by County
 - d) If Change Orders exceed either party's proportional share of the project costs which are 69% Town and 31% County, as defined in Article C-1 Items 3-6, additional funding from that party will be required.
- C-9 Owner's Contingency.** "Owner's Contingency" is an amount reserved *within* the construction contract with the Contractor and shall be utilized in accordance with the construction agreement's general conditions and must be approved by County prior to utilization.
- C-10 Project Contingency.** Project Contingency is the funding reserved and controlled by the Parties *outside* of the construction contract to fund the cost of the change orders to the construction scope of work, as opposed to the Owner's Contingency, which is reserved within the Construction Contract.

EXHIBIT D Public Safety Station Building Plan

adwarchitects
environments inc.

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**McCULLERS
PUBLIC
SAFETY
BUILDING**

GARNER, NC

OVERALL FIRST FLOOR
PLAN

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PROJECT NO: 17064
REVISIONS:
1.00 10/11/21 10:00 AM

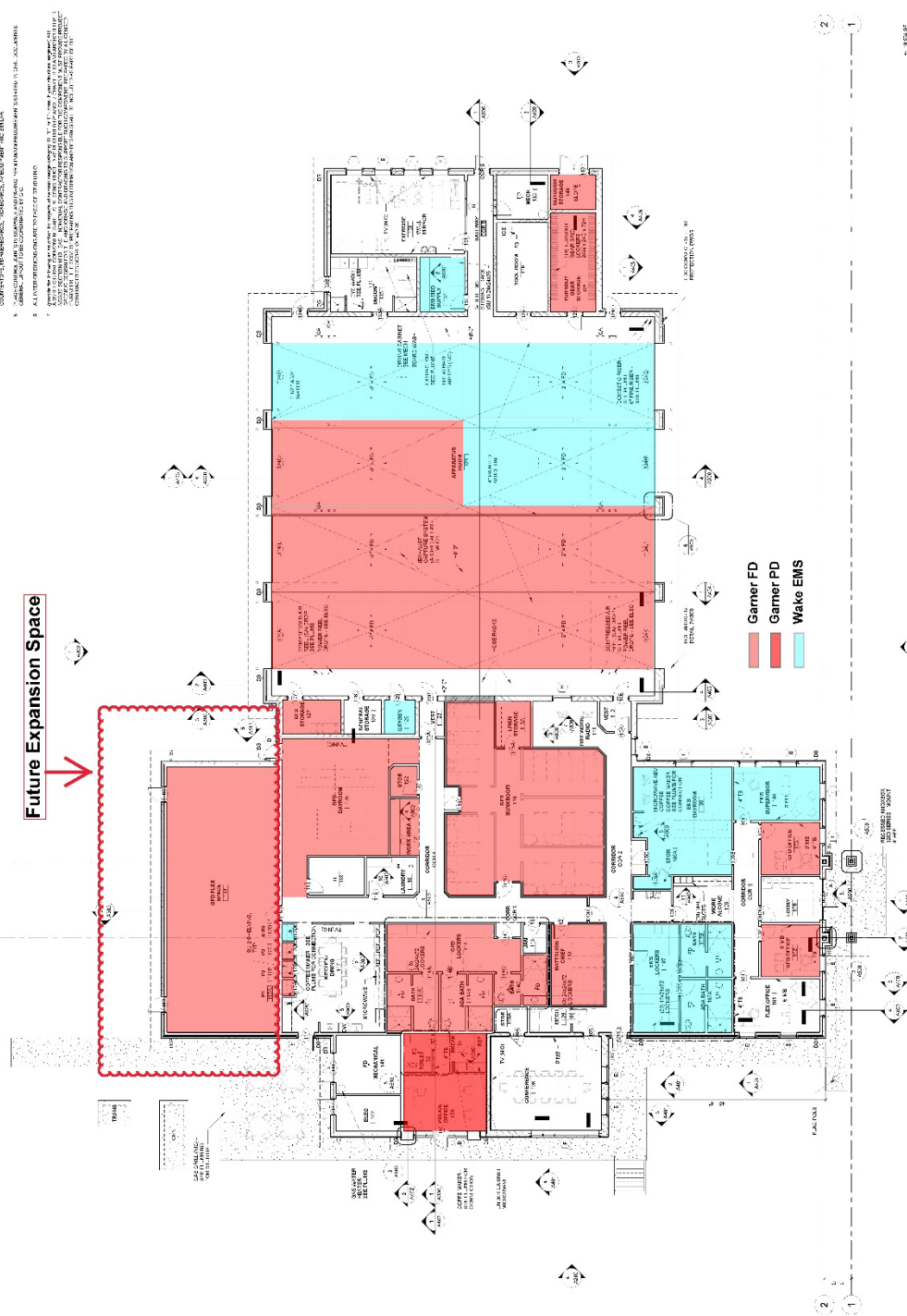
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GENERAL SHEET NOTES

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITIONS OF THE NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) CODES. THE LATEST EDITIONS OF THE AMERICAN INSTITUTE OF ARCHITECTS (AIA) CODES SHALL ALSO BE USED.
2. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING ALL NECESSARY EASEMENTS AND RIGHTS-OF-WAY FROM THE APPROPRIATE AGENCIES.
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Future Expansion Space



OVERALL FLOOR PLAN | 1/8" = 1'-0"

Attachment A

**GROUND LEASE
THE TOWN OF GARNER (LANDLORD)
AND WAKE COUNTY, NORTH CAROLINA (TENANT)**

THIS GROUND LEASE (the “Lease”) is made as of this ____ day of _____ 2022, (“the Effective Date”), by and between **WAKE COUNTY**, a public body politic and corporate of the State of North Carolina, hereinafter referred to as "the County/Tenant" and **TOWN OF GARNER**, a Municipality of the State of North Carolina, hereinafter referred to as “the Town/Landlord”); collectively referred to herein as “the Parties”.

RECITALS:

WHEREAS, in 2008, the Wake County Department of Emergency Medical Services (“EMS”) established a Master Plan for EMS Stations that includes co-location of emergency response units; and

WHEREAS, the current population, vulnerability data, and demand for service establish a clear need to deploy additional EMS resources in Garner, NC; and

WHEREAS, the Town and County recognize and value that the proposed co-location at 7816 Caddy Road, Raleigh, NC, is geographically well positioned to meet the established need for efficient delivery of EMS services to the community; and

WHEREAS, the Town of Garner owns a certain parcel of land consisting of 5.19 gross acres, and being identified as Wake County PIN#0699175451 (the “Leasehold Parcel”) as more particularly depicted on *Exhibit A* attached hereto and incorporated herein by reference and more particularly described as “Being that parcel consisting of 5.19 acres fronting on Caddy Road identified as “Future Development” on that Major Subdivision Plat for McCuller’s Walk Townhomes, Phase 3, Sheets 5 and 6 of 7, as shown on Book of Maps 2019, Page 208 and 209, Wake County Registry”; and

WHEREAS, the Town and County desire to construct and operate a new Public Safety station and related improvements (the “Station”) on the unimproved Leasehold Parcel, as depicted on *Exhibit B* (“Public Safety Station”) attached hereto, and the Town and County have consented to the same; and

WHEREAS, the Parties contemplate the County designing, constructing and maintaining ownership of the Station; and

WHEREAS, the Parties contemplate the Town entering into a ground lease with the County for the Leasehold Parcel, together with other agreements as may be necessary to facilitate the construction and operation of the Station; and

WHEREAS, the Town and County have budgeted funds for the planning, design, construction and operation of the Station for the purposes of providing EMS, Fire, and Police Services to the Garner, N.C. area; and

WHEREAS, the Parties desire to enter into a ground lease and confirm their rights and responsibilities; and

WHEREAS, the Town is authorized by N.C. Gen. Stat. § 160A-274 to lease its property to the County, and N.C. Gen. Stat. § 160A-274 authorizes the County to lease property from the Town.

NOW THEREFORE, for good and valuable consideration as expressed herein, the receipt and adequacy of which is hereby acknowledged, Town and County agree as follows:

1. Lease of Leasehold Parcel. Upon the terms and conditions set forth herein, Town hereby leases the Leasehold Parcel identified on *Exhibit A* attached hereto and its exclusive use to the County for the construction and operation of a Public Safety Station and all related improvements incumbent thereto for the provision of EMS, Fire, and Police services, together with exclusive rights of access. The Station shall be constructed by the County in the location depicted on *Exhibit B* and County hereby accepts the exclusive lease on the Leasehold Parcel identified on *Exhibits A & B* attached hereto. As of the date of this Lease, Town warrants that the Leasehold Parcel is not subject to any other leases or licenses currently in existence which are inconsistent with the construction and operation of the Station. This Ground Lease or any specific provision of this Ground Lease shall be unaffected by Town discontinuing its public safety use of the Premises during the Term.

2. Term. The term of the Lease (the “Term”) is fifty (50) years and shall commence on October 1, 2022 and terminate on September 30, 2072, unless sooner terminated in accordance with provisions of this Lease, subject to the renewal options in Paragraph 3 of this Lease.

3. Renewal Option. This Lease may be renewed for two (2) additional ten (10) year periods upon the same terms and conditions provided herein with the consent of both Parties. If the County desires to renew the Lease, it shall notify Town in writing of this desire no less than sixty (60) days prior to the end of the Term.

4. Rental. The annual rental for each year of the Term shall be one dollar (\$1.00) payable in advance on the date hereof and thereafter on October 1 of each year. The Town hereby acknowledges receipt of the annual rent for the first year of the Term, and the sufficiency of the consideration for this Lease given its joint public use.

5. Ownership of Improvements. The Parties agree that the purpose of the Lease is to facilitate the County’s design, construction and maintenance of the Station and the Leasehold Parcel; that such work, including the costs associated with surveys and permitting, will be funded by the Town and County as provided in the Interlocal Agreement executed concurrently with this Lease by the Parties; that the Station and all related improvements constructed by the County

will be owned by the County; and that, during the Term of the Lease, the Town and County will occupy the Station as a Public Safety Station to include EMS, Fire, and Police services.

6. Delivery of Land. Upon complete execution hereof, Town shall have delivered the Leasehold Parcel to County, and County shall have accepted delivery thereof. The Town represents and warrants that it has no actual knowledge of the presence or disposal on the Leasehold Parcel of hazardous or toxic waste or substances, except as in accordance with applicable law. The Town represents and warrants that has no actual knowledge regarding or relating to (i) the condition, suitability, value, marketability, or zoning of the Leasehold Parcel, (ii) the right to use the Leasehold Parcel for any particular purpose or in any particular manner, or (iii) the compliance of the Leasehold Parcel with applicable laws, ordinances, regulations, or orders of any governmental authority that would make the Property unsuitable for the Project and its intended purpose. Notwithstanding the above, Town hereby agrees to cooperate and assist the County with providing any and all studies, title policies, surveys, or other work product in its possession, and assist with all necessary permits required in association with the construction of the Station. As a condition of accepting this Lease, the County must be able to obtain a survey acceptable to the County and title insurance for its leasehold interest.

7. Construction. As soon as practicable after the Town and County approve and execute this Ground Lease and the Interlocal Agreement herewith, the County will commence construction of the Station, subject to Town's cooperation and responsibilities as provided herein. Upon completion of construction, and any future renovation of or improvements to the Station or Leasehold Parcel, County shall provide record drawings of said improvements to the Town.

8. Use of the Leasehold Parcel. County may use the Leasehold Parcel only for purposes of the construction and operation of a Public Safety Station, which shall include ancillary uses connected to County and Town emergency operations including but not limited to communication towers. For the term of this Lease, Town and County shall not use the Leasehold Parcel or knowingly permit the Leasehold Parcel to be used in violation of any applicable law, ordinance, regulation, or order of any governmental authority (including, but not limited to, zoning ordinances, building codes, and environmental laws), or in any manner that will constitute a nuisance.

9. Maintenance & Utilities. County shall, at its own expense, keep and maintain the Station and Leasehold Parcel in good order and repair and in a clean, safe, and sanitary condition during construction and operation of the Station and the cost allocation between the Town and County will be addressed in a Utilization Agreement between the Parties. County shall arrange and pay for, or cause to be paid for, all electricity, gas, water, sewerage, waste disposal, and other utilities and services required for the Station during the construction and operation of the Station and Town will be responsible for its proportion of the operational costs thereof as further defined in a Utilization to be agreed upon by both Parties.

10. Taxes. The County is exempt from *ad valorem* taxes. As of the date of this Lease, the Leasehold Parcel is also exempt from *ad valorem* taxation and shall remain exempt, provided the Leasehold Parcel remains eligible for constitutional exclusions and/or statutory exemptions under North Carolina law. To the extent that County's use of the Leasehold Parcel subjects Town to *ad*

valorem taxes with respect to the Leasehold Parcel, County shall pay or cause to be paid such *ad valorem* taxes and distribute the costs thereof to the Parties according to the Utilization Agreement if and when applicable. County shall pay or cause to be paid, when and as due, all fees of every kind or nature which are now or may hereafter be imposed or assessed upon or with respect to the Station or Leasehold Parcel during the Term hereof and will invoice the Town for its portion thereof according to the Utilization Agreement.

11. Insurance. Town shall maintain all appropriate or desired insurance coverages insuring the Leasehold Parcel or activities on the Leasehold Parcel until such time as the Lease is fully executed by the Parties. As of the Effective Date of this Lease, County shall maintain and require its contractors to maintain from the commencement of construction activities until the termination of this Ground Lease the following insurance, in standard form generally in use in the State of North Carolina, with a responsible and financially viable insurance company or companies authorized to do business in that State:

a. Liability Insurance. County shall, at its own expense, obtain commercial general liability insurance covering bodily injury, death and property damage with a single limit of at least One Million Dollars (\$1,000,000). The insurance required by this subparagraph shall (i) name The Town of Garner as an additional insured, (ii) contain a contractual liability endorsement, (iii) contain an endorsement requiring thirty (30) days written notice from the insurance company to the Town prior to the cancellation of the insurance or any change in coverage, scope, or limits.

b. Workers Compensation Insurance. Workers compensation insurance sufficient to comply with the applicable laws of the State of North Carolina.

c. Property Insurance. All risk insurance covering the Station in amounts mutually acceptable to the Parties, which acceptance by Town shall not be unreasonably withheld, conditioned or delayed (less the cost of foundations, footings, excavation and paving). The insurance required by this subparagraph shall contain an endorsement requiring thirty (30) days written notice from the insurance company to the Town prior to the cancellation of the insurance or any change in coverage, scope, or limits, and a waiver of any right of subrogation that the insurer may acquire against the Town.

d. Waiver of Subrogation. Each party shall cause each insurance policy obtained by it to provide that each insurance company waives all rights of recovery by way of subrogation against the other party in connection with any damage covered by any such policy to the extent permitted and only if permitted by the terms of such policy of insurance without compromising coverage otherwise available. Neither party shall be liable to the other for any damage caused by any risk covered under any insurance policy required by this Lease.

County may also elect at any time during the Term of this Lease not to carry the commercial general liability and property damage insurance required by Section 11, above, and to “self-insure” against such risks provided that (i) County has in effect a program of “self-insurance” against such risks, or uses a funded reserve as provided for in N.C.G.S. 153A-435, (ii) County has and maintains a Moody's Investors Service bond rating of “AAA,” and (iii) the failure to carry such insurance does not violate any law, statute, code,

act, ordinance, order, judgment, decree, injunction, rule, regulation, permit, license, authorization, or other requirement which is issued by any government or governmental agency with jurisdiction over the Station or which is applicable to County in the conduct of its business. If the County elects to “self-insure” as described above, then, on an annual basis, the County shall provide the Town with a letter of self-insurance. For purposes of this Section, County will require its contractors to carry the commercial general liability coverage during the course of construction.

12. Indemnity.

a. If allowed by North Carolina law and to the extent it does not operate as a waiver of sovereign immunity and is not inconsistent with County’s “Resolution Regarding Limited Waiver of Sovereign Immunity”, attached hereto as *Exhibit C*, County shall be responsible for damages arising out of or relating to County's ownership of the Station, County’s obligations under this Lease or any occurrence in, upon, or from the Leasehold Parcel caused by the negligence or willful misconduct of the County. However, the foregoing shall not apply to bodily injury, death, or property damage caused by Town’s, its agent’s, or invitee’s sole negligence or willful misconduct. Nothing in this section is intended to affect or abrogate the defense of sovereign or governmental immunity if otherwise available to Wake County.

b. If allowed by law and to the extent it does not operate as a waiver of sovereign immunity, Town shall be responsible for damages arising out of or relating to Town’s ownership of the Leasehold Parcel, Town’s obligations under this Lease or any occurrence in, upon, or from the Leasehold Parcel caused by the negligence or willful misconduct of Town. However, the foregoing shall not apply to bodily injury, death, or property damage caused by the County’s, its agent’s, or invitee’s sole negligence or willful misconduct. Nothing in this section is intended to affect or abrogate the defense of sovereign or governmental immunity if otherwise available to Town.

13. Ownership of Improvements and Surrender. During the Term hereof, all Improvements located on the Leasehold Parcel shall be and remain the property of County. County agrees to maintain the Improvements in good condition and in compliance with state building and fire safety codes. Upon the expiration of this Lease or termination in accordance with the provisions herein, the Improvements shall remain with the property and become the sole and exclusive property of the Town, and Wake County shall have no continuing obligation for the removal, maintenance or repair of improvements. At the expiration of the lease, the County shall remove all personal property belonging to the County.

14. Encumbrances, Assignment and Subletting. County shall not assign this Lease or transfer, mortgage, encumber or sublet the Leasehold Parcel and Station without prior written consent from Town, which consent shall be in the Town’s sole discretion. The Town’s consent to any assignment or subletting on one occasion shall not waive Town’s right to require consent on subsequent occasions. No assignment or subletting by County shall constitute a release of

County's obligations hereunder, and County shall remain responsible for the full and faithful performance and observance of all of the covenants and conditions to be performed or observed by County hereunder.

15. Damage by Fire or Other Casualty. From the commencement of construction for a period of time through and including the remainder of the Lease, if any of the Improvements are damaged or destroyed by fire, earthquake, act of God, or other casualty (a "Casualty"), County shall either (i) repair and restore the affected Improvements to substantially the same condition as existed immediately prior to the Casualty, (ii) or raze the affected Improvements and surrender the Leasehold Parcel to Town. All property insurance proceeds payable with respect to the Improvements shall belong to and be the exclusive property of County and any costs arising for repairs or renovations will be allocated to the responsible parties as defined in the Utilization Agreement.

16. Condemnation. If all or any part of the Station or Leasehold Parcel, or any interest therein, are taken as a result of the exercise of the power of condemnation or eminent domain, including a conveyance in lieu of or in anticipation of the exercise of such power (a "Taking"), the Parties shall proceed in accordance with that condemnation agreement, and the rights and obligations of all affected Parties shall be governed thereby. All compensation awarded for any taking of the Station and related improvements constructed by the County shall be the property of the County and Town hereby assigns any such interest in said portion of an award to the County. All compensation awarded for any taking of the Leasehold Parcel owned by Town shall be the property of the Town and the County hereby assigns any such interest in said portion of an award to Town. Thereafter, if a Taking occurs and the Taking renders the Leasehold Parcel unsuitable for use as a Public Safety station, both Town and County shall have the option to terminate this Lease by delivery of written notice to that effect to the other party within sixty (60) days after the Taking. If the Lease is not terminated as a result of the Taking, County shall diligently repair and restore the remaining Premises as nearly as possible to their condition immediately prior to the Taking upon receipt of compensation and share costs with Town as provided in the Utilization Agreement.

17. Warranty. The Town warrants and covenants to the County that: (i) Town owns the Leasehold Parcel in fee simple, (ii) Town has the full right and authority to lease the Leasehold Parcel to County upon the terms and conditions set forth herein and has obtained the requisite approvals; (iii) County shall peacefully and quietly hold and enjoy the Leasehold Parcel on an exclusive basis for the full Term hereof and that Town will not interfere with the operation of the Station or lease, license, or use the Leasehold Parcel in any way that will interfere with the operation of the Station by the County during the term of this Lease, and (iv) Town will cooperate with the County in executing all such documents as may be required to construct the Station and all related improvements including but not limited to the Interlocal Agreement herewith and the Utilization Agreement.

18. Memorandum of Lease. Either party may, at any time and at their own expense, cause a memorandum of lease to be recorded in the office of the Register of Deeds for Wake County in a form prescribed by North Carolina law.

19. Other Agreements. Both parties agree to enter into any agreements that may be

requested by either Party that are reasonably necessary to preserve or effectuate rights hereunder or agreements required for the construction and operation of the Station and future development of the Town's property, including but not limited to subordination agreements, cross-access and access easements/agreements, right-of-way dedications, stormwater control measure easements, and utility easements.

20. Notices. Any notice or other communication given or made pursuant to this Lease shall be in writing and shall be deemed given if (i) delivered personally or by courier, (ii) faxed or delivered via electronic transmission (e-mail), (iii) sent by an overnight express delivery such as Federal Express, or (iv) mailed by registered or certified mail (return receipt requested), postage prepaid, to a party at its respective address set forth below (or at such other address as shall be specified by the party by like notice given to the other party):

If to Town: Town Manager
 Town of Garner
 900 7th Avenue
 Garner, NC 27529

Copy to: Town Attorney
 c/o Town of Garner
 900 7th Avenue
 Garner, NC 27529

If to County: Wake County
 PO Box 550
 Raleigh, NC 27602
 Attention: County Attorney's Office

Copy to: Wake County Facilities Design & Construction
 PO Box 550
 Raleigh, NC 27602
 Attention: Real Estate Project Manager

All such notices and other communications shall be deemed given on the date of personal or local courier delivery, delivery to overnight courier or express delivery service, or deposit in the United States Mail, and shall be deemed to have been received (i) in the case of personal or local courier delivery, on the date of such delivery, (ii) in the case of delivery by overnight courier or express delivery service, on the date following dispatch, and (iii) in the case of mailing, on the date specified in the return receipt therefore, and (iv) in the case of fax or e-mail, on the date of such delivery.

21. Force Majeure. If either party is delayed, hindered, or prevented from the performance of any act required under this Lease by reason of scarcity of labor or materials, strikes, fire, or any other reasons beyond its control, the performance of the act shall be excused for the period of delay, and the period for the performance of such act shall be extended for a period equal to the period of such delay.

22. Nature and Extent of Agreement. This Lease and its Exhibits incorporated herein by reference contain the complete agreement of the parties regarding the terms and conditions of the lease of the Leasehold Parcel. There are no oral or written conditions, terms, understandings or other agreements pertaining thereto which have not been incorporated herein. This instrument creates only the relationship of lessor and lessee between the parties as to the Leasehold Parcel; and nothing in this Lease shall in any way be construed to impose upon either party any obligations or restrictions not expressly set forth in this Lease or in an instrument incorporated herein by reference.

23. Severability and Conflicts. If any provision of this Lease or its application to any person or circumstance shall, to any extent, be deemed valid or unenforceable, the remaining provisions of this Lease, and the application of that provision to other persons or circumstances, shall not be affected.

24. Captions. The captions for each section in this Lease have been inserted only as a matter of convenience and for reference, and in no way define, limit or affect the scope or intent of that section.

25. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of North Carolina applicable to contracts made and to be performed therein.

26. Successors. This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

27. Amendment & Remedies Upon Breach. This Lease may not be amended except by written instrument duly executed by each of the parties and, if required by law or any operating procedure of either of the parties, approved by the governing body of each party. To the extent that either party breaches any material provision of this Lease, either party may, at its option, terminate this Lease, but not without providing at least sixty (60) days' notice in writing to the other party and a right to cure the alleged breach within sixty (60) days.

28. Counterparts. This Lease may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which shall be deemed to constitute one and the same document.

29. Venue. The parties agree that venue for the prosecution of any state court proceedings shall be Wake County, North Carolina, and any federal court proceeding shall be the Eastern District of North Carolina.

30. Non-appropriation. Town acknowledges that since County is a governmental entity, the construction and operation of a Station and all related improvements incumbent thereto are contingent upon the availability of public funding. The Parties acknowledge and agree that in the event public funds are unavailable and not appropriated for the completion of Construction or the operation of the Station under this Ground Lease, then this Lease shall automatically expire without penalty to Wake County thirty (30) days after written notice to Town of the unavailability and non-appropriation of public funds. It is expressly agreed that County shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Ground Lease but only as an emergency fiscal measure during a substantial fiscal crisis which affects generally all governmental operations. Non-appropriation shall include the reduction or elimination of third-party funding appropriated as revenue for the payment of funds required for Construction.

31. Utility and Other Easement Dedications. Town and County agree to work together to identify and grant utility easements and any other easements that may be necessary to the Leasehold Parcel for the development and construction and operation of the Public Safety station as described hereinabove.

(REMAINDER OF PAGE INTENTIONALLY BLANK)

IN TESTIMONY WHEREOF, WAKE COUNTY AND THE TOWN OF GARNER through their authorized officers and by their own hands has hereunto set forth their hands and seals of the day and year first above written.

WAKE COUNTY

By: _____
Sig Hutchinson, Chair

Attest: _____ [SEAL]
Yvonne C. Gilyard, Deputy Clerk to the Board

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, _____, Notary Public of the County of Wake and State of North Carolina, certify that Sig Hutchinson personally came before me this day and acknowledged that he is the Chairman of the WAKE COUNTY BOARD OF COMMISSIONERS, a body politic existing under the laws of the State of North Carolina, and that by authority duly given and as the act of the WAKE COUNTY, the foregoing instrument was voluntarily signed in its name by its Chairman, and voluntarily attested by its Deputy Clerk, Yvonne C. Gilyard for the purposes stated therein.

Witness my hand and seal, this _____ day of _____, 2022.

Notary Public

My Commission Expires:

[NOTARY SEAL]

TOWN OF GARNER

By: _____
Rodney Dickerson

Title: Town Manager

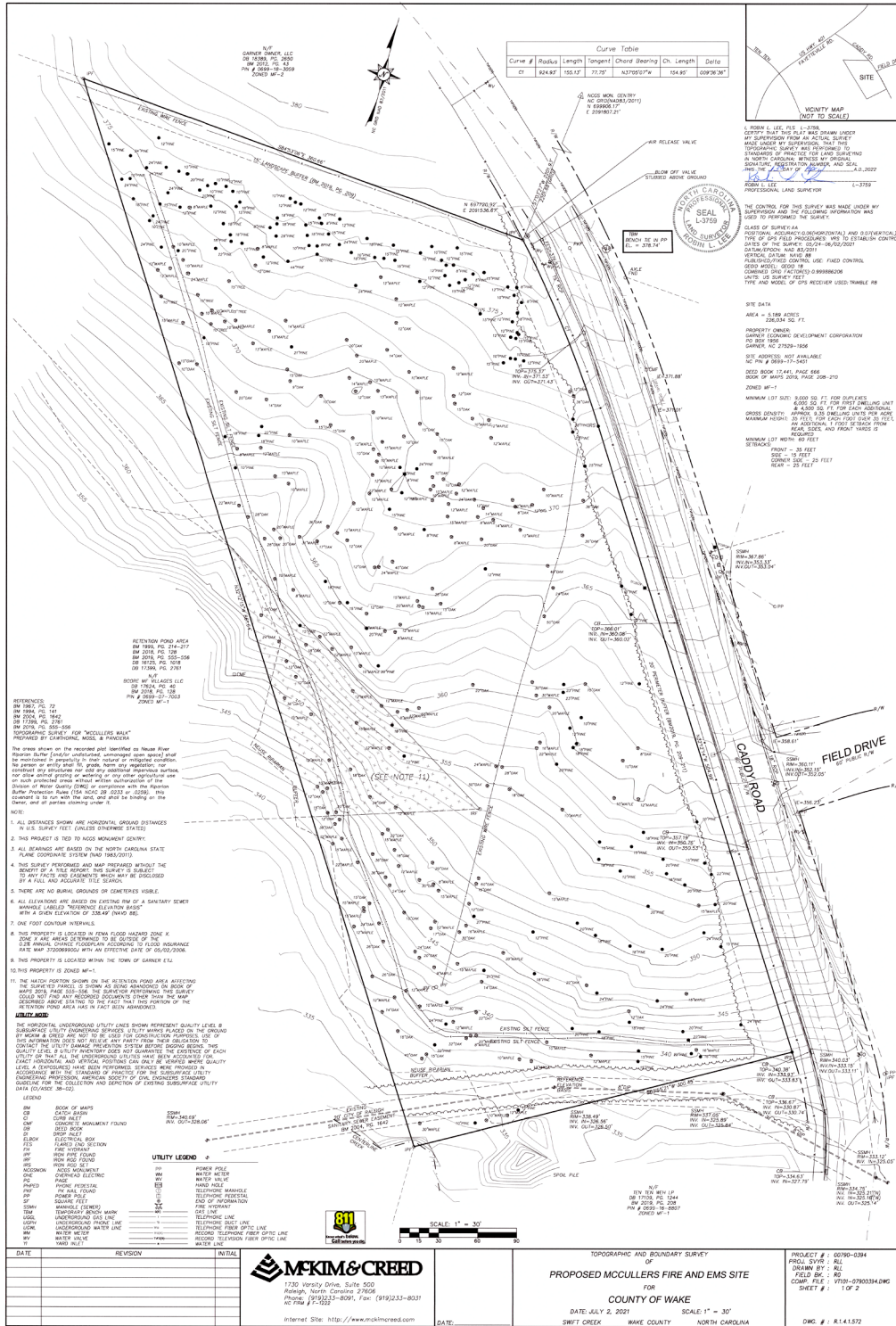
Attested by: _____
Town Clerk

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

Town of Garner Finance Director or Designee

Approved as to form: _____
Town Attorney

EXHIBIT A
LEASEHOLD PARCEL



adwardarchitects 10000 W. 10th Avenue Suite 100 Denver, CO 80202 Phone: 303.733.1313 Fax: 303.733.1314 Email: info@adwardarchitects.com Web: www.adwardarchitects.com		planning design construction		10000 W. 10th Avenue Suite 100 Denver, CO 80202 Phone: 303.733.1313 Fax: 303.733.1314 Email: info@adwardarchitects.com Web: www.adwardarchitects.com	
					
McGULLERS PUBLIC SAFETY BUILDING		GARNER, NC		A100	



EXHIBIT B (Continued)

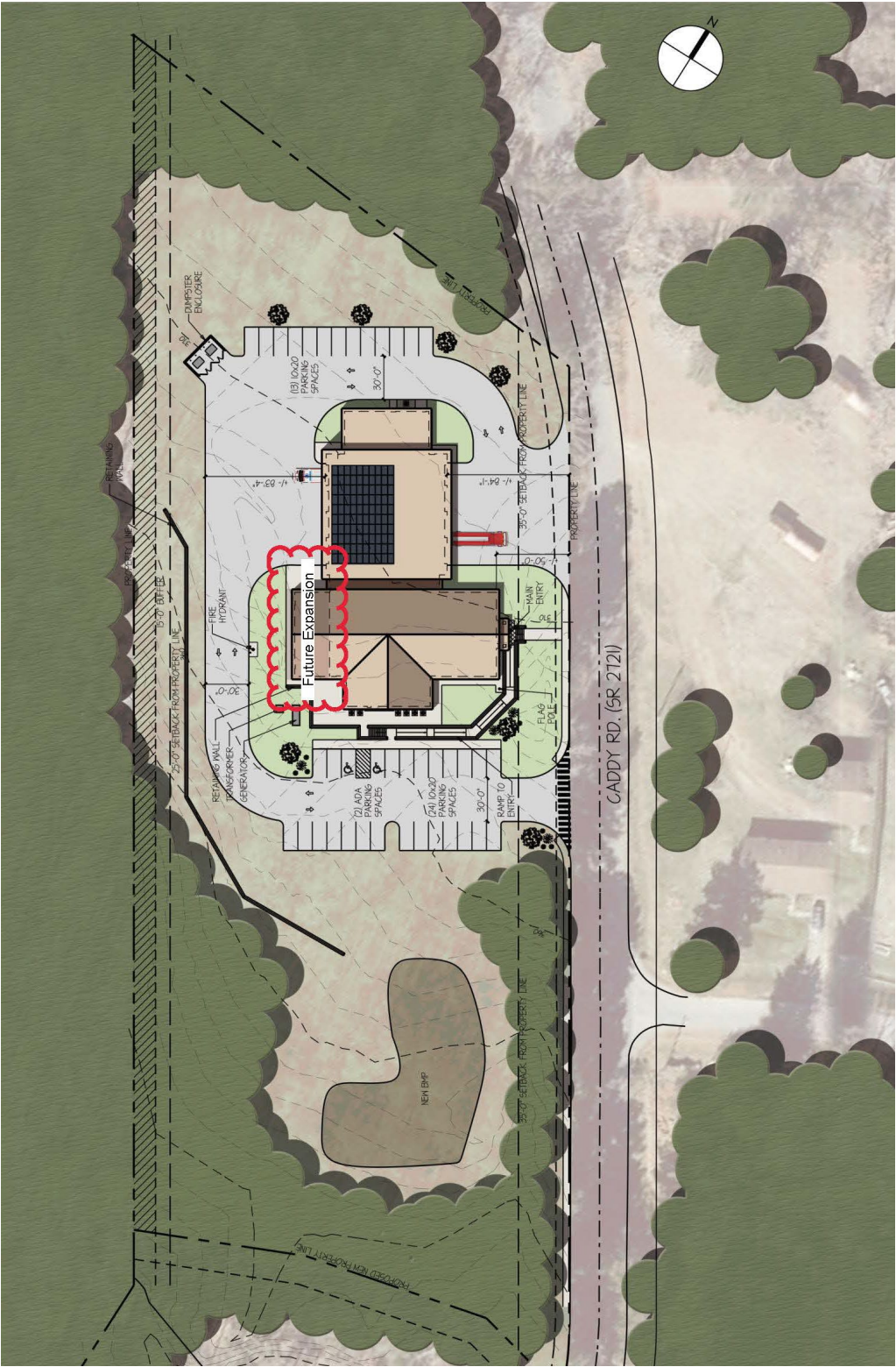


EXHIBIT C
“Resolution Regarding Limited Waiver of Sovereign Immunity”

Wake County Board of Commissioners October 6, 2003, states specifically that Wake County does not waive immunity for purposes of any legal proceeding. You may obtain a copy of the Resolution adopted by the Wake County Board of Commissioners at the following web site: <http://www.wakegov.com/general/commissioners/>, under “MEETING MINUTES & AGENDAS,” click on “Board’s Adopted Minutes.”

**RESOLUTION REGARDING
LIMITED WAIVER OF SOVEREIGN IMMUNITY**

WHEREAS, SL 2003-175, amending N.C. Gen. Stat. §153A-435(a), provides that a county may use a funded reserve instead of purchasing insurance against liability claims and may adopt a resolution that deems such a funded reserve to be treated as the purchase of insurance for purposes of N.C. Gen. Stat. §153A-435; and,

WHEREAS, Wake County has created such a funded reserve and desires to waive the County's governmental immunity to the limited extent provided in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE WAKE COUNTY BOARD OF COMMISSIONERS:

1. The County will waive sovereign immunity and immunity for public officials acting in their official capacity only, and only to the extent set forth herein.
2. This resolution applies only to claims arising on or after July 1, 2003.
3. This resolution is intended only to waive the County's immunity in the limited circumstances described herein. It is not intended to alter or expand the County's liability, to limit or waive available defenses, to waive immunity from certain types of damages, or to affect any principle of law other than waiver of sovereign immunity and immunity for public officials acting in their official capacities. The County retains the right to assert any affirmative or other defense to a claim. Notwithstanding the foregoing, for purposes of this Resolution only and only to the extent provided in this Resolution, the County waives the "public duty" defense for the County and for its officials acting in their official capacity.
4. The County will waive immunity only for those claims proximately caused by the negligence of the County or a County employee or official covered by R-85-99, "Resolution Establishing Uniform Standards Under Which Claims or Civil Judgments Sought or Entered Against County Officers and Employees Shall be Paid," as it is from time to time amended.
5. The County will pay only the following damages if proven to be proximately caused by the incident:
 - A. Property damage
 - B. Medical expenses
 - C. Chiropractic expenses or physical therapy expenses for not more than three consecutive months
 - D. Lost wages for time authorized out of work by physicians licensed to practice medicine in North Carolina when compensation for all or part of those wages is not available from other sources
 - E. Demonstrable out of pocket expenses, excluding attorney's fees

EXHIBIT C (Continued)

6. The County specifically does not waive immunity for claims or damages for pain and suffering or for any other element of damage not listed herein. The County will make no payment for diminution in value of motor vehicles.
7. In no event shall claims paid in any fiscal year pursuant to this Resolution exceed the amount budgeted in that fiscal year to the self insured funded reserve or any account established for that purpose. The Board of County Commissioners reserves the right to fund or not to fund such account annually in its sole discretion. The County Manager is directed to establish procedures governing the making of payments from this fund. Said procedures may include procedures regarding the timing and method of such payments and may include provisions requiring the pro-ration of claims in order to assure that payments in a fiscal year do not exceed available funds.
8. As a condition for the payment of any claims under this Resolution the Claimant must execute a complete release of the County and its employees, officials and/or agents in both their individual and official capacities for all elements of the claim.
9. Waiver of immunity pursuant to this Resolution is limited to the voluntary settlement of claims. Settlements are not available under this Resolution after the institution by Claimant of any legal proceeding regarding the claim against the County, its officials, employees, or agents.

RESOLUTION AMENDING R-85-99 REGARDING UNIFORM STANDARDS FOR PAYMENT OF CLAIMS INVOLVING COUNTY OFFICERS AND EMPLOYEES

WHEREAS, R-85-99 adopted on May 20, 1985, provides standards and procedures for the payment of claims and defense of lawsuits brought against County officers and employees; and

WHEREAS, the intent of that Resolution is to provide protection for employees of the Sheriff and Register of Deeds on the same terms and conditions as employees and officials of the County.

NOW, THEREFORE BE IT RESOLVED, that R-85-99, adopted on May 20, 1985, is hereby amended to clarify that the phrase "officers and employees" as used in that Resolution also applies to officers and employees employed by the Wake County Sheriff and Register of Deeds.

This Resolution shall be effective upon adoption, and shall serve to ratify any prior decision made by the County Manager and/or County Attorney to provide such coverage to officers and employees of the Sheriff and/or Register of Deeds under the provisions of R-85-99.

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2022		
Subject: Budget Amendment - Retention Bonuses		
Location on Agenda: Consent		<input type="checkbox"/>
Department: Finance		
Contact: David C. Beck, Finance Director		
Presenter: David C. Beck, Finance Director		
Brief Summary: Town Council authorized the use of supplanted ARP funding for retention bonus payments to eligible full-time Town and Fire Department employees during the 8/30 work session. This amendment moves the ARP funds into the general fund and each departmental budget. Retention bonus payments are subject to tax withholding, LGERS retirement contributions, and the Town's 401K contribution. This follows the same tax and retirement treatment we use for longevity bonus payments.		
Recommended Motion and/or Requested Action: Consider adopting Ordinance (2022) 5142		
Detailed Notes:		
Funding Source: Supplanted ARP funds		
Cost: \$1,018,035	One Time: <input checked="" type="radio"/>	Annual: <input type="radio"/> No Cost: <input type="radio"/>
Manager's Comments and Recommendations:		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	DCB	
Finance Director:	DCB	
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

ORDINANCE NO. (2022) 5142

ORDINANCE AMENDING ORDINANCE NO. (2022) 5130 WHICH ESTABLISHED THE OPERATING BUDGET

BE IT ORDAINED by the Town Council of the Town of Garner, North Carolina:

Section One. That the GENERAL FUND be amended as follows:

Revenue Amendment Request

ACCOUNT NUMBER	DESCRIPTION	PROJECT	CURRENT BUDGET	REVENUE CHANGE	REVISED BUDGET
10309000-472083	Tsf from Fund 23 ARP		\$ -	\$ 1,018,035	\$ 1,018,035

TOTAL REVENUE INCREASE (DECREASE) \$ 1,018,035.00

Expenditure Amendment Request

ACCOUNT NUMBER	DESCRIPTION	PROJECT	CURRENT BUDGET	EXPENDITURE CHANGE	REVISED BUDGET
See Attached Spreadsheet			\$ -	\$ 839,334	\$ 839,334
10531000-524353	Contract Services - GVFD		\$ 5,068,802	\$ 178,701	\$ 5,247,503
23411000-551000	Tsf to General Fund		\$ -	\$ 1,018,035	\$ 1,018,035
23411000-521000	Professional Services		\$ 10,009,331	\$ (1,018,035)	\$ 8,991,296

TOTAL EXPENDITURE INCREASE (DECREASE) \$ 1,018,035.00

Section Two. Copies of this ordinance shall be furnished to the Finance Director and the Town Clerk for their direction in the disbursement of the Town's funds and for public inspection.

Duly adopted this 6th day of September 2022.

Ken Marshburn, Mayor

ATTEST:

Stella L. Gibson , Town Clerk

**TOWN OF GARNER
RETENTION BONUSES
FY23 BUDGET**

	Department	510200 Bonus Awards	510500 FICA	Retirement	401K	510700 Total	Total Cost
4120 Total	Legal Services	3,000.00	229.50	364.20	150.00	514.20	\$3,744
4210 Total	Town Manager	12,750.00	975.38	1,547.85	637.50	2,185.35	\$15,911
4220 Total	Town Clerk	7,750.00	592.88	940.85	387.50	1,328.35	\$9,671
4230 Total	Human Resources	7,750.00	592.88	940.85	387.50	1,328.35	\$9,671
4250 Total	Communications	7,750.00	592.88	940.85	387.50	1,328.35	\$9,671
4410 Total	Finance Administration	18,500.00	1,415.25	2,245.90	925.00	3,170.90	\$23,086
4500 Total	Economic Development	0.00	0.00	0.00	0.00	0.00	\$0
4610 Total	Planning Administration	25,750.00	1,969.88	3,126.05	1,287.50	4,413.55	\$32,133
4700 Total	Building Inspections	49,000.00	3,748.50	5,948.60	2,450.00	8,398.60	\$61,147
4810 Total	Community Engineering	22,000.00	1,683.00	2,670.80	1,100.00	3,770.80	\$27,454
4910 Total	Information Technology	15,000.00	1,147.50	1,821.00	750.00	2,571.00	\$18,719
5110 Total	Police Administration	290,750.00	22,242.38	37,913.80	14,537.50	52,451.30	\$365,444
5600 Total	Public Works Administration	14,750.00	1,128.38	1,790.65	737.50	2,528.15	\$18,407
5610 Total	Streets	47,750.00	3,652.88	5,796.85	2,387.50	8,184.35	\$59,587
5625 Total	Public Grounds Management	59,250.00	4,532.63	7,192.95	2,962.50	10,155.45	\$73,938
5640 Total	Public Facilities Management	23,750.00	1,816.88	2,883.25	1,187.50	4,070.75	\$29,638
5650 Total	Fleet Management	11,500.00	879.75	1,396.10	575.00	1,971.10	\$14,351
5710 Total	Parks & Recreation Administration	6,750.00	516.38	819.45	337.50	1,156.95	\$8,423
5720 Total	Cultural Arts & Events	7,750.00	592.88	940.85	387.50	1,328.35	\$9,671
5740 Total	Youth & Athletics Programs	23,750.00	1,816.88	2,883.25	1,187.50	4,070.75	\$29,638
5741 Total	Adult & Senior Programs	7,500.00	573.75	910.50	375.00	1,285.50	\$9,359
5742 Total	Outdoor & Adventure	7,750.00	592.88	940.85	387.50	1,328.35	\$9,671
TOWN TOTALS		\$670,500.00	\$51,293.25			\$117,540.45	\$839,334
FIRE TOTAL							\$178,701
GRAND TOTAL							<u>\$1,018,035</u>

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2022		
Subject: ARP Guidelines and Priorities Framework		
Location on Agenda: Consent		
Department: Town Manager's Office		
Contact: Jodi Miller, Assistant Town Manager		
Presenter: Jodi Miller, Assistant Town Manager		
<p>Brief Summary:</p> <p>During the FY22-23 budget process, Council requested that staff prepare a framework for determining uses and priorities for the Town's American Rescue Plan (ARP) funding. The proposed draft framework includes guidelines for funding decisions and an evaluation rubric for determining priorities. Council discussed the framework and rubric during the August 30, 2022 work session.</p>		
<p>Recommended Motion and/or Requested Action:</p> <p>Council is requested to approve the proposed ARP guidelines and priorities framework.</p>		
<p>Detailed Notes:</p> <p>The draft ARP Guidelines and Priorities document has been developed based on examples and best practices from other communities and the GFOA. The packet of information contains two parts: 1. Proposed Guidelines and 2. A Draft Priority Scoring Rubric. Information provided in the Proposed Guidelines document has been drafted based on the Preliminary ARP Recommendations provided to Council in November 2021, direction provided by Council during the winter 2022 retreat, and Council's discussions during the FY22-23 budget process.</p>		
<p>Funding Source: n/a</p>		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
<p>Manager's Comments and Recommendations:</p> 		
<p>Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/></p>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:		
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		



TOWN OF GARNER AMERICAN RESCUE PLAN FUNDING FRAMEWORK FOR FUNDS USE

Approved Sept. 6, 2022

Overview

In March 2021, President Biden signed into law the American Rescue Plan (ARP) Act which allocates \$1.9 trillion for COVID-19 relief and economic recovery. Cities and towns in North Carolina will directly receive more than \$1.3 billion of the federal ARP funding. These funds will be provided in two distributions, the first of which was provided in spring 2021 and the second to be received approximately 12 months later. The four main allowable expenditure categories for ARP funding include:

1. Addressing the COVID-19 public health emergency and its negative economic impacts
2. Premium pay for eligible workers performing essential work during the pandemic
3. Necessary water, wastewater, and broadband infrastructure
4. Revenue replacement for lost revenue (including expanded authority for local governments to spend ARP monies on general government purposes)

Local governments have until December 31, 2024, to fully obligate ARP funds and until December 31, 2026 to fully expend them. Local governments must also stay within the parameters of state law authority and follow federal and state law budgeting, financial management, contracting, reporting, document retention, auditing, and other compliance requirements. Additional information on ARP and its guidelines can be found on the NC League of Municipalities' website at: [The American Rescue Plan | NC and the American Rescue Plan \(ncml.org\)](https://www.ncml.org/2021/03/25/the-american-rescue-plan-nc-and-the-american-rescue-plan/).

The long-awaited Final Rule guidance for ARP funds was issued by the U.S. Treasury at the beginning of 2022 ([Treasury Issues Final Rule for State and Local Fiscal Recovery Funds Program to Support the Ongoing COVID Response | U.S. Department of the Treasury](https://www.treasury.gov/press-releases/Pages/20220201)). Several concessions were granted which potentially ease local government reporting and compliance requirements. The most significant change from the Interim Rule to the Final Rule is a new standard allowance for revenue replacement. The Final Rule now gives local governments the option to either: 1. Use a default minimum lost revenue growth amount of \$10 million (standard allowance); or 2. Use the (slightly modified) lost revenue growth formula. Local governments must make a one-time irrevocable election to utilize either the revenue loss formula or the standard allowance. One of the impetuses behind U.S. Treasury's addition of the standard allowance option is to reduce the reporting and administrative burden on smaller governments. Local governments are now allowed to fully supplant local government revenues sources for any of the eligible general government services. The UNC School of Government interprets "general government services as expenditures for any government program, service, activity, or capital project that benefits its citizens, including all public enterprise operations."

The Final Rule allows the Town to take the full standard allowance of \$10 million and spend the entire allocation on general government services which are authorized by state law, subject to the grant award terms, and other compliance requirements. All expenditures made under the standard allowance are subject to ARP award terms, reporting requirements, and federal Uniform Guidance compliance obligations. This approach is comparable to the standard

deduction the IRS allows taxpayers to claim on their tax returns. Information on the Final Rule and the allowable standard allowance approach has been provided by the UNC School of Government at [American Rescue Plan Act of 2021: Coronavirus State & Local Fiscal Recovery Funds Final Rule - Spending Funds for General Government Purposes - Coates' Canons NC Local Government Law \(unc.edu\)](#).

This new flexibility also provides greater opportunity by opening up more strategic expenditure options. Garner has received approximately \$10,009,000 in total ARP funds. Since the lost revenue standard allowance of \$10 million may be spent on general government services it allows much more flexibility and latitude for the Town. The ARP monies can be used to supplant funds already in the Town's current year budget. Advantages to using this approach include not being constrained by the stringent ARP compliance requirements and spending deadlines that have been set by the U.S. Treasury. Additional projects can also be considered for funding that are not eligible under the current ARP guidelines. Town Council elected to use the standard allowance approach in spring 2022 and staff made U.S. Treasury aware of Council's determination in the April 2022 ARP required reporting. Documentation required for using the standard allowance strategy is ongoing with the Finance Department leading this effort.

To date Town Council has committed to use ARP funding on the following projects and studies:

- PFRM FY23 Funding: \$400,000
- CLUE Study: \$290,240
- Economic Development Site Assessments: \$150,000
- DFI Housing Affordability Workshop: \$10,350
- Cost of Municipal Services Study: TBD

In addition to the items above, the preliminary ARP funding recommendations that were provided to Council in November 2021 has been attached as a reference.

ICMA ARP Survey Research

The International City/County Management Association (ICMA) surveyed local government chief administrative officers (CAOs) in September 2021 about their priorities for utilizing the American Rescue Plan Act (ARPA)'s Local Fiscal Recovery Funds (FRF). Nearly 600 town, city, and county managers responded. Responses include local governments with populations ranging from less than 2,500 to over one million; two-thirds came from communities of 25,000 or fewer residents, which fall under the U.S. Treasury definition of "Non-entitlement Units" (NEUs, i.e., local governments typically serving a population of under 50,000). Direct FRF recipients include counties and metropolitan cities.

Key survey findings include:

- Infrastructure was the top investment priority for communities of all sizes.
- Approximately half of all respondents anticipate replacing lost public sector revenue.
- Within the infrastructure category, most anticipated projects and priorities concern water and sewer infrastructure.
- Nearly half of overall respondents anticipate hiring or designating coordinators

A summary of the survey results are available at [ICMA Survey Research: American Rescue Plan Act Local Fiscal Recovery Fund Spending Priorities | icma.org](https://www.icma.org/research/american-rescue-plan-act-local-fiscal-recovery-fund-spending-priorities).

Proposed Funding Guidelines

The following guidelines are proposed to assist Town staff in recommending and Town Council in making funding decisions for the Town's ARP allocation. The draft guidelines and priority rubric has been created based on examples and best practices used by other communities such as Wake County, Durham City and County, and Pueblo, Colorado. The proposed guidelines also follow the Government Finance Officers Association's (GFOA) Recommend ARP Guiding Principles available at [American Rescue Plan Spending: Recommended Guiding Principles \(gfoa.org\)](https://www.gfoa.org/american-rescue-plan-spending-recommended-guiding-principles).

Proposed Town of Garner Guidelines for ARP Funds Use

1. Project prioritization should support the Town's strategic, capital, comprehensive, and/or economic development plans, and other assessments endorsed by the Council.
2. Projects should reflect strategic, transformative data driven opportunities and solutions.
3. Identify strategic one-time projects and/or a financial sustainability strategy for projects that require ongoing operating and capital funding (ex. unfunded CIP projects).
4. Use ARP funding to fill funding gaps created by inflation increases and supply chain issues for CIP and bond supported projects (ex. Main Street-Rand Mill Road rehabilitation and parking project & Station 5 project)
5. Leverage ARP funds with federal, state and local community resources when feasible to optimize the overall allocation.
6. Collaboration and partnerships with governmental and community stakeholders strongly encouraged.
7. Preference given to projects within the Town's corporate limits.
8. Projects that include environmental sustainability goals, practices and/or elements given preference.
9. Opportunities to support and invest in the Town's Workforce given preference.
10. Return on investment should be considered when looking to invest in a project.
11. Performance metrics should be integrated into the project planning and implementation.
12. ARP related expenditures should be tracked and reported publicly.
13. A rubric should be established and used to evaluate and prioritize projects.

TOWN OF GARNER DRAFT ARP PRIORITY RUBRIC

Scores*	Aligns with Town Plans**	Data Driven	Evidence of Financial Sustainability	Supports CIP & 2021 Bond Initiatives	Leverages Other Funding	Collaboration & Partnerships	Town Limits	Environmental Sustainability	Town Workforce Investment	Return on Investment	Performance Evaluation
0	Does not align with existing plans	Does not provide data on need or opportunity	No funding identified for multi-year sustainability	Does not support the CIP and/or 2021 Bond initiatives	Does not leverage other funds	No collaboration and/or partnerships clearly identified	Not in Town limits	Negative environmental impact	Does not invest in Town workforce	No evidence of return on investment	Very difficult to evaluate performance data, metrics and report outcomes
2	Somewhat aligns with existing plans	Provides some data on need or opportunity	Possible funding identified for multi-year sustainability	Somewhat supports the CIP and/or 2021 Bond initiatives	May leverage other funds	Some collaboration and/or partnerships identified	Not in Town limits but within Town's ETJ	Neutral environmental impact	Somewhat invests in Town workforce	May demonstrate return on investment	Somewhat difficult to evaluate performance data, metrics and report outcomes
4	Aligns well with existing plans	Provides sufficient data on need or opportunity	Funding identified for multi-year sustainability or only one-time investment required	Fully supports the CIP and/or 2021 Bond initiatives	Leverages other funds	Extensive collaboration and/or partnerships identified	Within Town limits	Positive environmental impact	Fully invests in Town workforce	Clearly demonstrates return on investment	Easy to evaluate performance data, metrics and report outcomes

*Projects with highest "score" considered to be most impactful and highest priority.

**Plans include strategic, capital, comprehensive, and/or economic development plans, and other plans endorsed by Council.

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2022 		
Subject: Holiday Schedule		
Location on Agenda: Consent		
Department: Administration		
Contact: Rodney Dickerson		
Presenter: Rodney Dickerson		
<p>Brief Summary:</p> <p>Holiday Schedule for 2023 calendar year typically follows the State holiday schedule. The Town of Garner is adding Juneteenth to its holiday schedule. It will usually be recognized on June 19th or on a Monday or Friday when June 19 falls on a weekend. Town Hall and offices will be closed on the Juneteenth Holiday. Tow</p> <p>Town Council will also consider a Floating Holiday that each employee can take at their discretion.</p>		
<p>Recommended Motion and/or Requested Action:</p> <p>Approve Resolution (2022) 2503 setting the 2023 Holiday Schedule</p>		
<p>Detailed Notes:</p>		
<p>Funding Source: n/a</p>		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
<p>Manager's Comments and Recommendations:</p>		
<p>Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/></p>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:		
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

RESOLUTION NO. (2022) 2503

A RESOLUTION OF THE TOWN OF GARNER TOWN COUNCIL
ADOPTING THE 2021 HOLIDAY SCHEDULE

WHEREAS, the Town of Garner offers employee holidays on the same schedule as the State of North Carolina; and

WHEREAS, the North Carolina State Employee Holiday Schedule is as follows:

HOLIDAY	OBSERVANCE DATE	DAY OF WEEK
New Year's Day	January 2, 2023	Monday
Martin Luther King Jr.'s Birthday	January 16, 2023	Monday
Good Friday	April 7, 2023	Friday
Memorial Day	May 29, 2023	Monday
Juneteenth	June 19, 2023	Monday
Independence Day	July 4, 2023	Tuesday
Labor Day	September 4, 2023	Monday
Veteran's Day	November 10, 2023	Friday
Thanksgiving	November 23 & 24, 2023	Thursday & Friday
Christmas	December 25, 26, & 27, 2023	Monday, Tuesday & Wednesday
Floating	At employee discretion	

BE IT FURTHER RESOLVED that the Town of Garner Town Council adopts the above referenced holiday schedule for 2023.

THIS RESOLUTION passed and adopted this 6th day of September 2022.

Ken Marshburn, Mayor

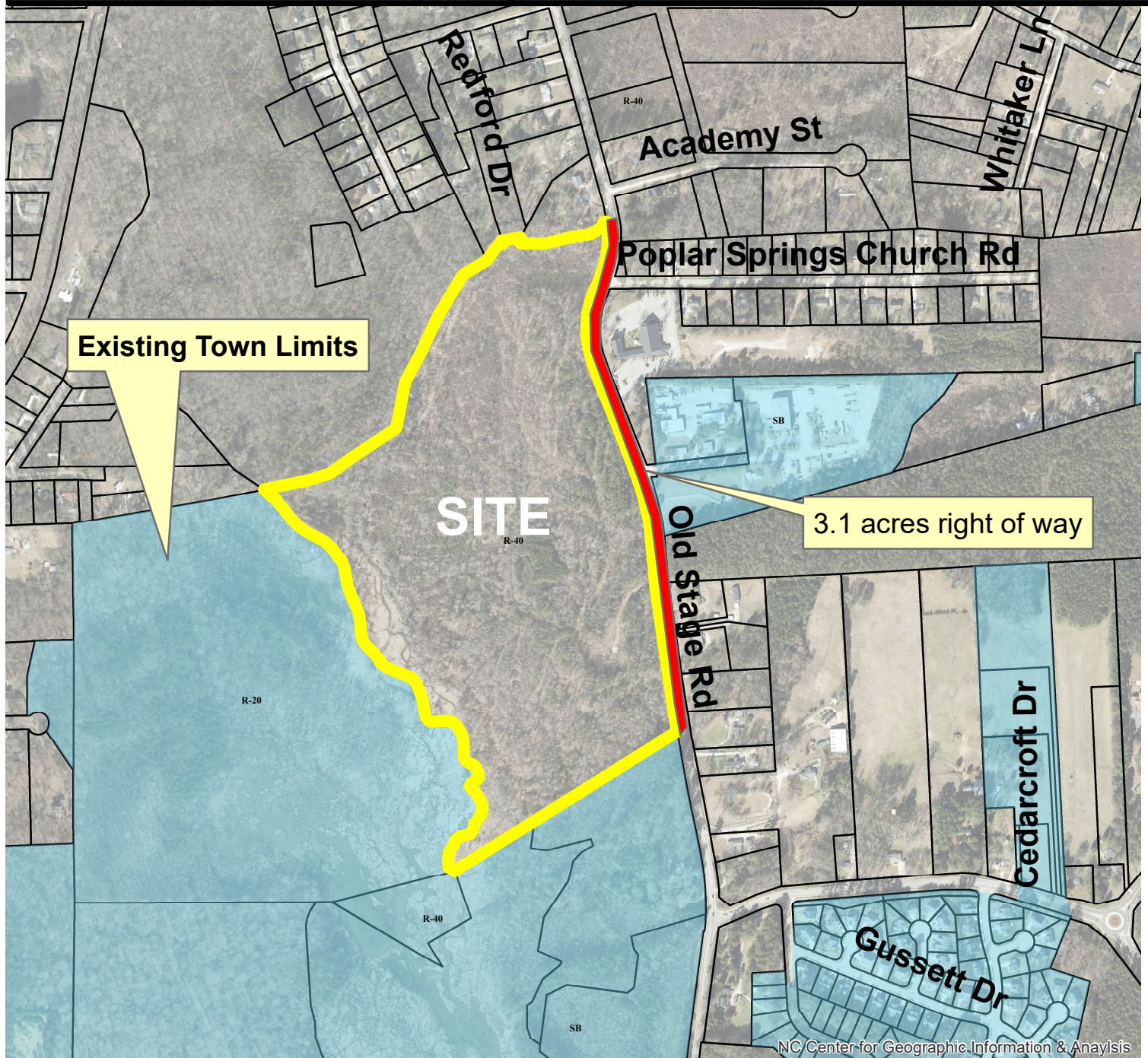
ATTEST: _____
Stella Gibson, Town Clerk

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2022		
Subject: Contiguous Annexation Petition # ANX-22-08, Rollman Farms		
Location on Agenda: Public Hearings		
Department: Planning		
Contact: Gaby Lontos-Lawlor, AICP; Senior Planner - Transportation		
Presenter: Gaby Lontos-Lawlor, AICP; Senior Planner - Transportation		
Brief Summary: Voluntary contiguous annexation (ANX-22-08) petition submitted by ARS Garner - Old Stage Development, LLC to bring 63.759 +/- acres into the Town's primary corporate limits, and including 1.650 +/- acres of right-of-way for a total of 65.409 +/- acres.		
Recommended Motion and/or Requested Action: Consider Adoption of Ordinance (2022) 5141		
Detailed Notes: This request is in conjunction with the provision of public water and sewer for Rollman Farms (CUD-Z-20-06), formerly known as Old Stage Townhomes, approved December 7, 2020, for 318 townhomes.		
Funding Source: n/a		
Cost: n/a	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
Manager's Comments and Recommendations: 		
Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:	JST	
Finance Director:		
Town Attorney:		
Town Manager:	RD	
Town Clerk:		

**Town of Garner
Planning Department**

**Annexation
ANX 22-08**



Project: Old Stage Townhomes
Owner: ARS Garner - Old Stage Development, LLC
Location: Old Stage Road
Area: 65.41 (62.31 Acres + 3.10 acres right of way)
Pin: 1700268588



NOT TO SCALE

0 500 1,000
Feet

Planning Department Memorandum

TO: Mayor and Town Council

FROM: Gaby Lontos-Lawlor, AICP; Senior Planner - Transportation

SUBJECT: *Contiguous Annexation Petition # ANX-22-08, Rollman Farms*

DATE: September 6, 2022

ANNEXATION APPLICATION: ANX-22-08

OWNERS: ARS Garner – Old Stage Development LLC

CONTIGUOUS / SATELLITE: Contiguous

LOCATION OF PROPERTY: West side of Old Stage Road, north of Vandora Springs Road, across from Sommerville Park Road and Poplar Springs Church Road

WAKE COUNTY PIN #: 1700268588

REAL ESTATE ID #: 0040931

AREA: 65.409 +/- acres (63.759 +/- acres & 1.650 +/- acres of adjacent right-of-way)

ZONING: Multifamily A (MF-A C231) Conditional

ASSOCIATED DEVELOPMENT PLAN: This petition follows a request for public water and sewer for Rollman Farms (CUD-Z-20-06), formerly known as Old Stage Townhomes, approved December 7, 2020, for 318 townhomes; Per the *Raleigh-Garner Merger Agreement*, an annexation petition is required for the extension of service.

RECOMMENDATION: Adopt annexation ordinance.

KEY DATES:

SET PUBLIC HEARING: August 16, 2022

PUBLIC HEARING: September 6, 2022

ANNEXATION EFFECTIVE: September 6, 2022

Return to:
Stella Gibson
Town of Garner
900 7th Avenue
Garner, NC 27520

ORDINANCE NO. (2022) 5141

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF GARNER,
NORTH CAROLINA

WHEREAS, the Town Council has been petitioned under G.S. 160A-31, as amended, to annex the area described herein; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of said petition; and

WHEREAS, the Town Clerk has certified the sufficiency of said petition, and a public hearing on the question of this annexation was held at the Town Hall at 7:00 p.m. on September 6, 2022, after due notice by publication on the Town website on August 22, 2022; and

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

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Garner, North Carolina:

Section 1. By virtue of the authority granted by G.S. 160A-31, as amended, the following described territory, is hereby annexed and made part of the Town of Garner as of September 6, 2022:

(ANX-22-08) Rollman Farms – Contiguous Annexation

Located on the westside of Old Stage Road; 63.76 +/- acres of Wake County PIN # 1700268588 or Real Estate ID 0040931; and including 1.65 +/- acres of remaining right-of-way within Old Stage Road along the property's frontage; totaling approximately 65.41 +/- acres.

Legal Description of Annexed Parcels: BEGINNING AT A POINT IN THE CENTERLINE OF OLD STAGE ROAD, HAVING NC GRID NAO 1983 (2011) COORDINATES OF N= 708,781.31 FEET, E= 2,103,038.80 FEET; THENCE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 558.36 FEET, SAID CURVE HAVING A CHORD BEARING OF SOUTH 01°10'51" WEST, 178.19 FEET TO A POINT; THENCE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 357.39 FEET, SAID CURVE HAVING A CHORD BEARING OF SOUTH 16°12'43" WEST, 72.85 FEET TO A POINT; THENCE SOUTH 22°03'42" WEST, 107.38 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT HAVING A RADIUS OF 381.65 FEET, SAID CURVE HAVING A CHORD BEARING OF SOUTH 05°53'32" WEST, 212.56 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT HAVING A RADIUS OF 643.23 FEET, SAID CURVE HAVING A CHORD BEARING OF SOUTH 16°04'06" EAST, 129.82 FEET TO A POINT; THENCE SOUTH 21°51'36" EAST, 426.54 FEET TO A POINT; THENCE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 1,854.83 FEET, SAID CURVE HAVING A CHORD BEARING OF SOUTH 19°21'11" EAST, 162.27 FEET TO A POINT; THENCE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 1,015.97 FEET, SAID CURVE HAVING A CHORD BEARING OF SOUTH 12°55'04" EAST, 139.19 FEET TO A POINT; THENCE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 1,257.40 FEET, SAID CURVE HAVING A CHORD BEARING OF SOUTH 07°07'01" EAST, 82.20 FEET TO A POINT; THENCE SOUTH 5°14'38" EAST, 182.84 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT HAVING A RADIUS OF 2,400.00 FEET, SAID CURVE HAVING A CHORD BEARING OF SOUTH 06°57'27" EAST, 143.55 FEET TO A POINT; THENCE SOUTH 8°40'17" EAST, 549.62 FEET TO A POINT; THENCE SOUTH 57°53'07" WEST, 32.90 FEET TO A POINT, SAID POINT BEING IN THE WESTERN RIGHT- OF-WAY OF OLD STAGE ROAD; THENCE SOUTH 57°53'07" WEST, 492.65 FEET TO AN IRON PIPE FOUND; THENCE SOUTH 57°52'25" WEST, 180.50 FEET TO AN IRON PIPE FOUND; THENCE SOUTH 57°47'57" WEST, 168.27 FEET TO AN IRON PIPE FOUND; THENCE SOUTH 57°52'23" WEST, 337.85 FEET TO A POINT; THENCE SOUTH 60°58'56" WEST, 33.89 FEET TO A POINT; THENCE THE FOLLOWING COURSES ALONG THE CENTERLINE OF A CREEK; THENCE NORTH 31°31'17" WEST, 28.42 FEET TO A POINT; THENCE NORTH 4°46'00" WEST, 27.55 FEET TO A POINT; THENCE NORTH 18°24'39" EAST, 90.67 FEET TO A POINT; THENCE NORTH 6°00'47" WEST, 21.85 FEET TO A POINT; THENCE NORTH 36°03'02" EAST, 23.51 FEET TO A POINT; THENCE SOUTH 78°07'09" EAST, 42.84 FEET TO A POINT; THENCE NORTH 51°08'03" EAST, 29.28 FEET TO A POINT; THENCE NORTH 19°12'44" WEST, 29.00 FEET TO A POINT; THENCE NORTH 3°05'46" EAST, 27.24 FEET TO A POINT; THENCE NORTH 63°59'54" EAST, 68.74 FEET TO A POINT;

THENCE NORTH 6°54'57" EAST, 24.43 FEET TO A POINT; THENCE NORTH 27°46'20" WEST, 107.34 FEET TO A POINT; THENCE NORTH 12°24'14" WEST, 270.79 FEET TO A POINT; THENCE NORTH 35°14'00" WEST, 60.31 FEET TO A POINT; THENCE NORTH 87°19'31" WEST, 100.29 FEET TO A POINT; THENCE NORTH 13°42'57" WEST, 61.96 FEET TO A POINT; THENCE NORTH 45°01'09" WEST, 88.36 FEET TO A POINT; THENCE NORTH 45°01'09" WEST, 11.33 FEET TO A POINT; THENCE NORTH 64°29'07" WEST, 109.07 FEET TO A POINT; THENCE NORTH 41°50'28" WEST, 44.11 FEET TO A POINT; THENCE NORTH 31°07'58" WEST, 224.76 FEET TO A POINT; THENCE NORTH 18°26'47" WEST, 82.87 FEET TO A POINT; THENCE NORTH 9°16'59" WEST, 205.00 FEET TO A POINT; THENCE NORTH 37°23'06" WEST, 69.23 FEET TO A POINT; THENCE NORTH 28°11'19" EAST, 37.51 FEET TO A POINT; THENCE NORTH 10°58'15" WEST, 34.30 FEET TO A POINT; THENCE NORTH 37°02'57" EAST, 17.89 FEET TO A POINT; THENCE NORTH 5°40'57" EAST, 38.81 FEET TO A POINT; THENCE NORTH 52°25'49" EAST, 35.63 FEET TO A POINT; THENCE NORTH 6°50'02" WEST, 44.61 FEET TO A POINT; THENCE NORTH 11°00'42" EAST, 44.78 FEET TO A POINT; THENCE NORTH 36°34'24" EAST, 78.65 FEET TO A POINT; THENCE NORTH 27°45'58" EAST, 39.03 FEET TO A POINT; THENCE NORTH 53°04'13" EAST, 33.01 FEET TO A POINT; THENCE NORTH 38°44'41" EAST, 45.33 FEET TO A POINT; THENCE NORTH 47°38'19" EAST, 40.43 FEET TO A POINT; THENCE NORTH 47°18'07" EAST, 49.00 FEET TO A POINT; THENCE NORTH 41°14'28" EAST, 30.43 FEET TO A POINT; THENCE NORTH 12°39'35" EAST, 32.84 FEET TO A POINT; THENCE NORTH 19°43'16" EAST, 27.85 FEET TO A POINT; THENCE NORTH 35°20'21" EAST, 33.93 FEET TO A POINT; THENCE NORTH 50°18'01" EAST, 23.00 FEET TO A POINT; THENCE NORTH 47°39'06" EAST, 4.06 FEET TO A POINT; THENCE NORTH 47°39'06" EAST, 32.82 FEET TO A POINT; THENCE NORTH 34°42'39" EAST, 27.57 FEET TO A POINT; THENCE NORTH 19°16'09" EAST, 23.20 FEET TO A POINT; THENCE NORTH 10°00'50" EAST, 33.86 FEET TO A POINT; THENCE NORTH 14°22'51" WEST, 36.00 FEET TO A POINT; THENCE NORTH 11°47'25" WEST, 20.36 FEET TO A POINT; THENCE NORTH 19°02'07" EAST, 20.06 FEET TO A POINT; THENCE NORTH 6°17'39" WEST, 27.85 FEET TO A POINT; THENCE NORTH 14°02'39" WEST, 19.77 FEET TO A POINT; THENCE NORTH 40°50'59" WEST, 23.34 FEET TO A POINT; THENCE NORTH 0°50'35" WEST, 14.82 FEET TO A POINT; THENCE NORTH 11°26'50" EAST, 18.68 FEET TO A POINT; THENCE NORTH 18°51'11" EAST, 16.23 FEET TO A POINT; THENCE NORTH 4°21'12" WEST, 20.11 FEET TO A POINT; THENCE NORTH 5°38'03" WEST, 31.10 FEET TO A POINT; THENCE NORTH 4°11'25" WEST, 26.74 FEET TO A POINT; THENCE NORTH 15°03'45" EAST, 32.73 FEET TO A POINT; THENCE NORTH 33°40'25" EAST, 20.50 FEET TO A POINT; THENCE NORTH 52°33'03" EAST, 29.39 FEET TO A POINT; THENCE NORTH 34°38'23" EAST, 22.25 FEET TO A POINT; THENCE NORTH 30°57'01" EAST, 16.59 FEET TO A POINT; THENCE NORTH 40°17'46" EAST, 16.86 FEET TO A POINT; THENCE NORTH 2°07'20" EAST, 17.67 FEET TO A POINT; THENCE NORTH 19°13'21" EAST, 15.23 FEET TO A POINT; THENCE SOUTH 72°15'55" EAST, 11.45 FEET TO A POINT; THENCE SOUTH

59°03'03"11 EAST, 20.34 FEET TO A POINT; THENCE NORTH 61°38'41" EAST, 12.39 FEET TO A POINT; THENCE NORTH 33°07'37" EAST, 11.97 FEET TO A POINT; THENCE NORTH 16°42'28"11 EAST, 18.20 FEET TO A POINT; THENCE NORTH 22°25'04"11 EAST, 30.94 FEET TO A POINT; THENCE NORTH 22°05'39"11 EAST, 23.79 FEET TO A POINT; THENCE NORTH 28°59'18" EAST, 30.15 FEET TO A POINT; THENCE NORTH 38°08'56"11 EAST, 42.76 FEET TO A POINT; THENCE NORTH 41°12'09"11 EAST, 44.03 FEET TO A POINT; THENCE NORTH 24°18'01"11 EAST, 20.19 FEET TO A POINT; THENCE NORTH 24°36'10"11 EAST, 28.29 FEET TO A POINT; THENCE NORTH 39°18'19"11 EAST, 18.59 FEET TO A POINT; THENCE NORTH 44°08'07" EAST, 20.04 FEET TO A POINT; THENCE NORTH 60°46'22"11 EAST, 30.52 FEET TO A POINT; THENCE NORTH 57°20'04"11 EAST, 27.46 FEET TO A POINT; THENCE SOUTH 88°42'48"11 EAST, 19.41 FEET TO A POINT; THENCE NORTH 56°19'30"11 EAST, 18.87 FEET TO A POINT; THENCE NORTH 47°58'39" EAST, 35.81 FEET TO A POINT; THENCE NORTH 38°56'36"11 EAST, 21.86 FEET TO A POINT; THENCE NORTH 21°38'33" EAST, 13.60 FEET TO A POINT; THENCE NORTH 13°44'20"11 WEST, 15.58 FEET TO A POINT; THENCE NORTH 28°37'27" WEST, 21.85 FEET TO A POINT; THENCE NORTH 24°12'21" WEST, 16.49 FEET TO A POINT; THENCE NORTH 13°14'51"11 EAST, 11.42 FEET TO A POINT; THENCE NORTH 61°16'28"11 EAST, 7.71 FEET TO A POINT; THENCE NORTH 80°26'43" EAST, 21.01 FEET TO A POINT; THENCE SOUTH 86°51'56" EAST, 31.89 FEET TO A POINT; THENCE SOUTH 82°20'58" EAST, 24.74 FEET TO A POINT; THENCE SOUTH 74°29'04"11 EAST, 28.52 FEET TO A POINT; THENCE SOUTH 38°28'13" EAST, 18.93 FEET TO A POINT; THENCE SOUTH 2°07'24" WEST, 11.78 FEET TO A POINT; THENCE SOUTH 42°50'30" EAST, 12.19 FEET TO A POINT; THENCE SOUTH 84°02'20" EAST, 14.69 FEET TO A POINT; THENCE NORTH 82°24'34" EAST, 26.40 FEET TO A POINT; THENCE SOUTH 82°17'29"11 EAST, 32.56 FEET TO A POINT; THENCE NORTH 80°48'17" EAST, 42.25 FEET TO A POINT; THENCE NORTH 76°27'51"11 EAST, 30.73 FEET TO A POINT; THENCE NORTH 80°42'43" EAST, 24.31 FEET TO A POINT; THENCE NORTH 72°03'13"11 EAST, 24.76 FEET TO A POINT; THENCE NORTH 70°26'22"11 EAST, 34.78 FEET TO A POINT; THENCE NORTH 85°04'32" EAST, 25.39 FEET TO A POINT; THENCE NORTH 84°27'17"11 EAST, 38.34 FEET TO A POINT; THENCE SOUTH 85°25'43" EAST, 27.35 FEET TO A POINT; THENCE NORTH 64°06'22"11 EAST, 8.48 FEET TO A POINT; THENCE NORTH 50°31'00"11 EAST, 20.91 FEET TO A POINT; THENCE NORTH 41°57'49"11 EAST, 23.16 FEET TO A POINT; THENCE NORTH 47°34'10" EAST, 24.23 FEET TO A POINT; THENCE NORTH 53°19'33"11 EAST, 7.11 FEET TO A POINT, SAID POINT BEING IN THE WESTERN RIGHT-OF-WAY OF OLD STAGE ROAD; THENCE NORTH 53°19'33" EAST, 9.43 FEET TO A POINT; THENCE NORTH 78°11'15"11 EAST, 21.81 FEET TO THE POINT OF BEGINNING. CONTAINING 2,777,358 SF/ 63.759 ACRES MORE OR LESS.

The above legal description does include half right-of-way along the property's frontage to the centerline. The annexed area includes an additional 1.65 +/- acres comprising the remaining adjacent right-of-way of Old Stage Road for a

total annexation area of approximately 65.41 +/- acres.

Section 2. Upon and after the 6th day of September 2022, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Garner and shall be entitled to the same privileges and benefits as other parts of the Town of Garner. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Garner shall cause to be recorded in the office of the Register of Deeds of Wake County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

Adopted this 6th day of September 2022.

Ken Marshburn, Mayor

ATTEST:

Stella Gibson, Town Clerk

Town of Garner
Town Council Meeting
Agenda Form

Meeting Date: September 6, 2022 		
Subject: Walters Buffalo Development Agreement		
Location on Agenda: Old/New Business 		
Department: Planning and Legal		
Contact: Terri Jones, Town Attorney		
Presenter: Terri Jones, Town Attorney		
<p>Brief Summary:</p> <p>Pulte Home Company LLC has proposed a Development Agreement as a condition of approval of the Walters Buffalo conditional rezoning, CZ-MP-21-12. The Development Agreement proposes to address road infrastructure along the White Oak and Bryan Road corridor to support public roadway widening improvements and a traffic signal at the intersection of White Oak and Bryan Road.</p>		
<p>Recommended Motion and/or Requested Action:</p> <p>Consider setting a public hearing</p>		
<p>Detailed Notes:</p> <p>Development agreements are authorized by Article 10 of Chapter 160D of the North Carolina General Statutes. Before entering into a development agreement, Town Council must conduct a legislative public hearing after providing public notice at least 10 days prior to the hearing date. Council will need to determine whether to provide notice in accordance with NCGS 160D-602 or UDO Section 4.4.6. A summary of the proposed terms and timeline is attached.</p>		
<p>Funding Source:</p> <p>n/a</p>		
Cost:	One Time: <input type="radio"/>	Annual: <input type="radio"/> No Cost: <input checked="" type="radio"/>
<p>Manager's Comments and Recommendations:</p> 		
<p>Attachments Yes: <input checked="" type="radio"/> No: <input type="radio"/></p>		
Agenda Form Reviewed by:	Initials:	Comments:
Department Head:		
Finance Director:		
Town Attorney:	TJ	
Town Manager:	RD	
Town Clerk:		



Town Attorney Memorandum

TO: Town Council

FROM: Terri Jones

DATE: August 31, 2022

SUBJECT: Walters Buffaloe Proposed Development Agreement

Walters Buffaloe, CZ-MP-21-12, is a Tier 2 conditional zoning map amendments request submitted by Pulte Home Company in November 2021 to conditionally rezone 131.2 +/- acres from Single-Family Residential (R-20) to master planned Multifamily (MF-1 C265) Conditional. The site is located along New Bethel Church Road and Win Road and may be further identified as Wake County PIN #s 1629806534, 1629803590, 1629805447 and portions of PIN #s 1629807999, 1629715058, 1629828615, and 1629518996.

The rezoning public hearing was June 21, 2022. The Planning Commission reviewed the rezoning on July 11, 2022, and August 8, 2022. The Planning Commission determined that the proposed rezoning is consistent with the Town's adopted land use plans and recommended approval to Town Council with certain additional caveats. One of the proposed conditions of approval includes a separate Development Agreement.

22. The developer will widen and/or restripe White Oak Road to provide a minimum of a four-lane cross section starting approximately 1,300 LF north of the Bryan Road intersection and continuing south through the Bryan Road intersection for approximately 1,000 feet before tapering back to a 2-lane section. Construction of these improvements are subject to a separate Developer Agreement with the Town for the White Oak Road Improvements that more fully addresses the following:
- Scope of the improvements
 - Timing for obtaining Certificates of Occupancy for homes prior to completion of the improvements
 - The Town's assistance with obtaining Right of Way
 - Reimbursement or cost-share from other developments benefitting from this improvement
 - Developer's obligations if the improvement cannot be constructed due to right of way or other constraints
 - Coordination with future traffic signal to be constructed by NCDOT or others

Pulte Home Company has proposed a Development Agreement which includes the following terms and timeline with some steps occurring concurrently:

- Approval and execution of Development Agreement by Town and Pulte
- Pulte designs the corridor road improvements and prepares Estimated Costs
- Pulte obtains title searches indicating all property owners and others with property interests in the tracts impacted by the road improvements and construction easements
- Pulte acquires necessary rights-of-way and easements on behalf of NCDOT or the Town
- Pulte acquires the Walters Buffalo tracts
- Town and/or NCDOT grant Pulte right to use any rights-of-way, easements, or other publicly owned property necessary for construction of the road improvements
- Pulte seeks participation of other developers within the corridor area to enter into Cost Share Agreements to dedicate necessary rights-of-way and easements and to pay a designated pro rata share of the Final Costs based on the number of trips generated from the other developers' projects
- Pulte commences construction of the corridor road improvements
- Pulte submits subdivision plats for up to 300 residential or townhouse lots
- Pulte completes construction of the corridor road improvements
- Pulte submits Final Costs to the Town
- Pulte submits subdivision plats for the remainder of the residential or townhouse lots
- Traffic Signal is installed by NCDOT
- Town agrees to compel other developers within the corridor area to dedicate necessary rights-of-way and easements and to pay a designated pro rata share of the Final Costs based on the number of trips generated from the other developers' projects
- Town collects corridor fee payments from other developers and remits those payments to Pulte (for a period of ten years after completion of the corridor improvements)

If Pulte is unable to acquire the necessary rights-of-way and easements, the Town will initiate and file condemnation actions. Pulte will pay the legal expenses and costs of the court cases, including settlements by consent judgment.

If necessary rights-of-way and easements are not acquired by November 15, 2023, Pulte will pay a fee in lieu in an amount equal to 35% of the estimated costs to perform the corridor improvements.

Estimated/Final Costs include the cost of acquisition of rights-of-way and easements (including title searches, recording and filing fees, legal services, and litigation expenses), construction materials, design, engineering, contractor labor, permits, wetlands mitigation, construction management, and testing and certification.

Council Action – Council is requested to provide feedback on the proposed terms, set a public hearing date, decide on the level of public notice (abutting property owners or 1000 feet radius), and direct staff to finalize the proposed agreement with Pulte.