

**NORTH CAROLINA
PITT COUNTY**

**OFFER TO
PURCHASE AND CONTRACT**

THIS CONTRACT, made and entered into as of the ^{14th} day of ^{July} ~~June~~, 2022, by and between William J. Davis, Party of the First Part and hereinafter referred to as the "Buyer", and the City of Greenville, a municipal corporation, organized and existing under the laws of the State of North Carolina, Party of the Second Part and hereinafter referred to as the "City".

WITNESSETH:

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

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

1. **PURCHASE PRICE.** The purchase price of the Property is \$193,040.00. The foregoing purchase price, subject to adjustments and prorations in accordance with paragraphs 2, 4, and 5, shall be paid to the City at closing. The City and the Buyer understand that the foregoing purchase price subject to the aforementioned adjustments and prorations shall be the entire amount which the City will receive from the Buyer for the sale of the Property.

2. **DEPOSIT.** The Buyer shall deposit \$9,652.00, with the City Clerk of the City of Greenville as required by North Carolina General Statute §§ 160A-269. The deposit shall be in the form of cash, cashier's check, or certified check. In the event that any of the conditions of this contract are not satisfied or waived by the City prior to closing, or in the event of a breach of this contract by the City, then the earnest money shall be returned to the Buyer. In the event the Buyer breaches this contract, then the deposit shall be forfeited to the City. Otherwise, the deposit shall be paid to the City at the closing and applied against the purchase price.

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

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

5. **CLOSING COSTS.** The Buyer and the City acknowledge and agree that the Buyer shall be responsible for the cost of its own title examination and title insurance premiums,

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

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

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

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

8. **EXPIRATION OF OFFER.** The Buyer understands and agrees that the offer of

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

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

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

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

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

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

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

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

To City:

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

To Buyer:

William J. Davis
PO Box 1351
Greenville, NC 27835

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

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

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

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

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

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

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

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

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

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

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

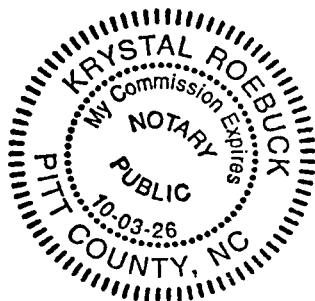
IN TESTIMONY WHEREOF, the Buyer has caused this instrument to be executed under seal, and the City has caused this instrument to be executed in its corporate name by the City.

BUYER:

By: William J. Davis (SEAL)
Name: William J. Davis
Title: Buyer

I, Krystal Roebuck, Notary Public in and for the aforesaid County and State, do hereby certify that William J. Davis, Buyer of 431 West 5th Street personally appeared before me on this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and official seal, this the 5th day of July, 2021. vr



Krystal Roebuck

Notary Public

My Commission Expires: 10-03-26

CITY OF GREENVILLE:

By: *Ann Wall* (SEAL)

Name: Ann Wall

Title: Greenville, NC City Manager

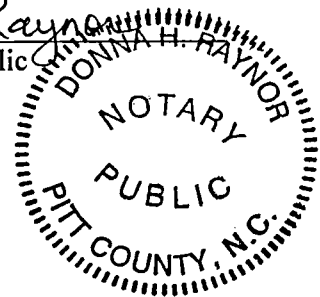
NORTH CAROLINA
PITT COUNTY

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

WITNESS my hand and official seal, this the 14th day of July, 2022.

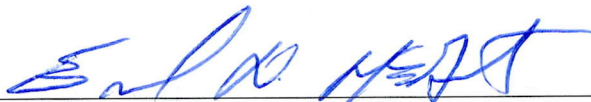
Donna H. Raynor
Notary Public

My Commission Expires: 12/25/2025



APPROVED AS TO FORM:

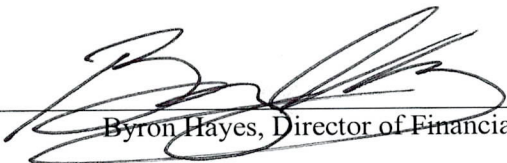
BY:



Emanuel D. McGirt, City Attorney

PRE-AUDIT CERTIFICATION:

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



Byron Hayes, Director of Financial Services

Date

7/14/22

Account Number _____

Project Code (if applicable) _____

EXHIBIT A
DESCRIPTION OF PROPERTY

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