



REGULAR AGENDA

OF

DECEMBER 4, 2017



CITY OF NORTH AUGUSTA

AGENDA: REGULAR CITY COUNCIL MEETING

December 4, 2017 – Municipal Center – 100 Georgia Avenue, 3rd Floor – 7:00 P.M.

CITIZEN COMMENTS: Citizens may speak to Mayor and City Council on each item listed on this agenda. Mayor Pettit will call for your comments prior to City Council discussing the matter. **Citizens wishing to address Mayor and City Council are required to submit a Speaker Form to the City Clerk before addressing Mayor and City Council.** Forms are provided on the credenza at the entrance to the Council Chambers. Citizen comments are limited to five minutes.

CITIZEN ASSISTANCE: Individuals needing special assistance or sign interpreter to participate in the meeting, please notify the Administration Department 48 hours prior to the meeting.

1. **CALL TO ORDER:**
2. **INVOCATION AND PLEDGE OF ALLEGIANCE:**
3. **ROLL CALL:**
4. **APPROVAL OF MINUTES:** Regular and study session meeting minutes of November 20, 2017
5. **COMMUNITY PROMOTION:** Recognition of Donation by North Augusta Rotary Club

UNFINISHED BUSINESS

None

NEW BUSINESS

6. **BOARDS AND COMMISSIONS:** Ordinance No. 2017-22 – An Ordinance Amending Chapter 6, Article V, Entitled “Building Codes Board of Appeals,” of the City Code of the City of North Augusta, South Carolina
 - A. Ordinance 2017-22, First Reading
 - B. Ordinance 2017-22, Second Reading
7. **FINANCE:** Resolution No. 2017-48 – A Resolution Authorizing the City Of North Augusta to Accept the Low Bid of McGrath Industries, LLC for the Outdoor Basketball Court Upgrade at Summerfield Park
8. **PUBLIC SAFETY:** Resolution No. 2017-49 – A Resolution to Authorize the North Augusta Department of Public Safety to enter into a Statewide Mutual Assistance and Support Agreement with the State of South Carolina for Emergency and Disaster/Response Recovery
9. **ZONING:** Ordinance No. 2017-23 – An Ordinance to Amend the Zoning Map of the City of North Augusta, South Carolina by Rezoning ±2.81 Acres of Land Owned by Carol Ann Bostick, Marsha Blandenburg, Patricia Kinard and Dorthy P. Kitchens and Located along W. Martintown Rd at the Corner of Observatory Avenue, Aiken County Tax Parcel #007-07-07-003, #007-07-07-001, #007-07-01-002 and an Abandoned Strip Extending from Clay Avenue to W. Martintown Road from R-14, Large Lot Single-Family Residential to R-7, Small Lot Single-Family Residential
 - A. Planning Commission Recommendation – Receipt by Council, Motion to Receive
 - B. Ordinance, First Reading
 - C. Ordinance, Second Reading
10. **FINANCE:** Resolution No. 2017-50 – A Resolution Authorizing the City to Enter Into a Contract with CEC, Development, LLC Related to Utilization of Solar Energy
11. **PRESENTATIONS/COMMUNICATIONS/RECOGNITION OF VISITORS:**
 - A. **Citizen Comments:** At this time, citizens may speak to Mayor and City Council regarding matters not listed on the agenda. **Citizens wishing to address Mayor and City Council are required to submit a Speaker Form to the City Clerk before addressing Mayor and City Council.** Forms are provided on the credenza at the entrance to the Council Chambers. Citizen comments are limited to five minutes.
 - B. **Council Comments**
12. **ADJOURNMENT:**

Interoffice Memorandum



TO: Mayor and City Council

FROM: B. Todd Glover, City Administrator

DATE: December 1, 2017

SUBJECT: Regular City Council Meeting of December 4, 2017

REGULAR COUNCIL MEETING

ITEM 5. COMMUNITY PROMOTION: Recognition of Donation by North Augusta Rotary Club

The City of North Augusta would like to recognize and thank the North Augusta Rotary Club for their donation of two defibrillators to the City of North Augusta.

ITEM 6. BOARDS AND COMMISSIONS: Ordinance No. 2017-22 – An Ordinance Amending Chapter 6, Article V, Entitled “Building Codes Board of Appeals,” of the City Code of the City of North Augusta, South Carolina

A. Ordinance 2017-22, First Reading

An ordinance has been prepared for Council’s consideration on first reading amending Chapter 6, Article V, entitled “Building Codes Board of Appeals,” of the City Code of the City of North Augusta.

Please see **ATTACHMENT NO. 6-A** for a copy of the proposed ordinance.

B. Ordinance 2017-22, Second Reading

Pending Council's passage of the ordinance on first reading, it is submitted for Council's consideration on second reading.

ITEM 7. FINANCE: Resolution No. 2017-48 – A Resolution Authorizing the City Of North Augusta to Accept the Low Bid of McGrath Industries, LLC for the Outdoor Basketball Court Upgrade at Summerfield Park

A resolution has been prepared for Council's consideration to authorizing the City of North Augusta to accept the low bid of McGrath Industries, LLC for the outdoor basketball court upgrade at Summerfield Park.

Please see **ATTACHMENT NO. 7** for a copy of the proposed resolution.

ITEM 8. PUBLIC SAFETY: Resolution No. 2017-49 – A Resolution to Authorize the North Augusta Department of Public Safety to enter into a Statewide Mutual Assistance and Support Agreement with the State of South Carolina for Emergency and Disaster/Response Recovery

A resolution has been prepared for Council's consideration to authorize the North Augusta Department of Public Safety to enter into a Statewide Mutual Assistance and Support Agreement with the State of South Carolina for Emergency and Disaster/Response Recovery.

Please see **ATTACHMENT NO. 8** for a copy of the proposed resolution.

ITEM 9. ZONING: Ordinance No. 2017-23 – An Ordinance to Amend the Zoning Map of the City of North Augusta, South Carolina by Rezoning ±2.81 Acres of Land Owned by Carol Ann Bostick, Marsha Blandenburg, Patricia Kinard and Dorthy P. Kitchens and Located along W. Martintown Rd at the Corner of Observatory Avenue, Aiken County Tax Parcel #007-07-07-003, #007-07-07-001, #007-07-01-002 and an Abandoned Strip Extending from Clay Avenue to W. Martintown Road from R-14, Large Lot Single-Family Residential to R-7, Small Lot Single-Family Residential

A. Planning Commission Recommendation – Receipt by Council, Motion to Receive

On November 16, 2017, after a duly advertised and convened public hearing, the Planning Commission considered a request by property owners Carol Ann Bostick, Marsha Blandenburg, Patricia Kinard and Dorothy P. Kitchens to rezone \pm 2.81 acres of land located along the W. Martintown Road at the corner of Observatory Avenue, and identified as Aiken County Tax Parcels: 007 07 07 003, 007 07 07 001, 007 07 01 002, and an abandoned strip extending from Clay Avenue to W. Martintown Road from R-14, Large Lot Single-Family Residential to R-7, Small Lot Single-Family Residential. The Planning Commission recommended on a vote of 5-2 that City Council deny the rezoning request of the property as proposed.

Receipt by Council by motion is in order.

B. Ordinance 2017-23, First Reading

An ordinance has been prepared for Council's consideration on first reading to amend the Zoning Map of the City of North Augusta, South Carolina by rezoning \pm 2.81 acres of land owned by Carol Ann Bostick, Marsha Blandenburg, Patricia Kinard and Dorthy P. Kitchens and Located along W. Martintown Rd at the corner of Observatory Avenue, Aiken County Tax Parcel #007-07-07-003, #007-07-07-001, #007-07-01-002 and an abandoned strip extending from Clay Avenue to W. Martintown Road from R-14, Large Lot Single-Family Residential to R-7, Small Lot Single-Family Residential.

Please see **ATTACHMENT NO. 9-B** for a copy of the proposed ordinance.

C. Ordinance 2017-23, Second Reading

Pending Council's passage of the ordinance on first reading, it is submitted for Council's consideration on second reading.

ITEM 10. FINANCE: Resolution No. 2017-50 – A Resolution Authorizing the City to Enter Into a Contract with CEC, Development, LLC Related to Utilization of Solar Energy

A resolution has been prepared for Council's consideration to authorizing the City to enter into a contract with CEC Development, LLC related to utilization of solar energy.

December 4, 2017

Please see **ATTACHMENT NO. 10** for a copy of the proposed resolution.

ATTACHMENT 6-A

ORDINANCE NO. 2017-22
AMENDING CHAPTER 6, ARTICLE V, ENTITLED
"BUILDING CODES BOARD OF APPEALS,"
OF THE CITY CODE OF THE
CITY OF NORTH AUGUSTA, SOUTH CAROLINA

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF, THAT:

- I. Chapter 6, Article V, entitled "Building Codes Board of Appeals," is hereby amended, and when amended shall read as follows:

ARTICLE V. BUILDING CODES BOARD OF APPEALS*

Section 6-27. Appointment of members; composition.

Notwithstanding any specific requirement within any standard code adopted by reference in this chapter, there is hereby established a board to be called the building codes board of appeals, whose duty shall be to hear and to render decisions on appeals resulting from the enforcement of these building-related codes adopted by this chapter. The board shall consist of five (5) members who are qualified by experience and training to pass on matters pertaining to building construction.

- II. All Ordinances or parts of Ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.
- III. This Ordinance shall become effective on third and final reading.

DONE, RATIFIED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, ON THIS _____ DAY OF _____, 2017.

First Reading _____

Robert A. Pettit, Mayor

Second Reading _____

Third Reading _____

ATTEST:

Donna B. Young, City Clerk

ATTACHMENT 7

RESOLUTION NO. 2017-48
A RESOLUTION AUTHORIZING THE CITY OF NORTH AUGUSTA
TO ACCEPT THE LOW BID OF MCGRATH INDUSTRIES, LLC
FOR THE OUTDOOR BASKETBALL COURT UPGRADE AT SUMMERFIELD PARK

WHEREAS, on November 21, 2016, the City approved funding for the Summerfield Park outdoor basketball court upgrade (PROJECT) during the 2017 budget process from the General Fund of \$31,040; and

WHEREAS, on March 8, 2017, the City was awarded State Funding by the SC Department of Parks, Recreation and Tourism for the PROJECT in the amount of \$24,382; and

WHEREAS, on November 17, 2017, sealed bids were received, publicly opened and read aloud for the PROJECT; and

WHEREAS, the low bid by McGrath Industries, LLC using 4 brick LED lights is in the amount of \$54,740; and

WHEREAS, the Mayor and City Council of the City of North Augusta find that the awarding of such bid for the PROJECT is in the best interest of the City.

NOW THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of North Augusta, South Carolina, in meeting duly assembled and by the authority thereof that McGrath Industries, LLC shall be awarded the contract for the PROJECT at a bid amount of \$54,740.

BE IT FURTHER RESOLVED that the funding sources for this contract shall be as follows:

General Fund Park	\$ 31,040.00
Improvements*	
Recreation Fund	\$ 12,000.00
Capital Projects Fund	\$ 11,700.00
Total	\$ 54,740.00

*As the PROJECT will not be completed by 12/31/2017, these unspent funds will be transferred to the Capital Projects Fund after year end and designated for the PROJECT.

BE IT FURTHER RESOLVED that the City Administrator and/or Director of Parks, Recreation and Tourism is authorized to execute any documents required for the entering into of this contract subject to approval by the City Attorney.

DONE, RATIFIED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, ON THIS 4TH DAY OF DECEMBER, 2017.

Robert A. Pettit, Mayor

ATTEST:

Donna B. Young, City Clerk

North Augusta



South Carolina's Riverfront

BID TABULATION

Org Code: 4300
 Project Code:
 Account:

Organization: City of North Augusta Parks, Recreation & Tourism
 Project Title: Summerfield
 4300-

BIDDERS :	Advanced Athletic Services	McGrath (TALBO)	
	Wadstock, GA	MARIETTA, GA	
BID ITEMS:			
Base Bid	76,960	42,988	
Alternate Bid	96,000 —	254,740 61,520	

BIDDERS :			
BID ITEMS:			
Base Bid			
Alternate Bid			

Karl Walker
 Payra Dewert

Summerfield Park Bid Opening
11.17.2017 (11:00 am)

	Date	Time	Name	Address	Company
1	11/17/17	11:00 am	Mc Grath Industries LLC (Michael Robinson)	4225 JVL Industrial Park Drive suite 504 Macon, GA 30066	Mc Grath Industries
2	11.17.2017	11 am	Karl Waldhauser	Po Box 6400 North Augusta, SC 29861	CITY OF NORTH AUGUSTA
3	11/17/17	11:00am	Rayna Dwens	PO Box 6400 North Augusta, SC 29861	City of North Augusta
4					
5					
6					
7					
8					
9					
10					

ATTACHMENT 8

RESOLUTION NO. 2017-49

A RESOLUTION TO AUTHORIZE THE NORTH AUGUSTA DEPARTMENT OF PUBLIC SAFETY TO ENTER INTO A STATEWIDE MUTUAL ASSISTANCE AND SUPPORT AGREEMENT WITH THE STATE OF SOUTH CAROLINA FOR EMERGENCY AND DISASTER RESPONSE/RECOVERY

WHEREAS, as amended on June 3, 2016, South Carolina Code Annotated Section 23-20-10, et seq, provides for contractual agreements between and among state, county, municipal and local law enforcement agencies for the purpose of providing the proper and prudent exercise of public safety functions across jurisdictional lines; and

WHEREAS, the Director of Public Safety for the City of North Augusta has recommended to the Mayor and City Council that he believes that it is in the best interest of the City and its citizens to allow his department to enter in to such agreement(s). This would allow the City to be better prepared for the purposes of securing to the City of North Augusta, as well as assisting other cities and counties by way of mutual aid in the event of natural disaster, disorder, special events, emergency situations, and any other law enforcement activities; and

WHEREAS, the North Augusta Department of Public Safety has been approached by the State of South Carolina requesting a mutual aid agreement related to emergency and disaster response/recovery; and

WHEREAS, the Mayor and City Council, after reviewing this matter, have determined that the entering into of such agreement is beneficial to the City of North Augusta and its citizens, as well as other jurisdictions and their citizens; and

WHEREAS, the afore cited law specifically provides that if a law enforcement agency is to enter in to such agreement that such agreement must be approved by the local law enforcement's Chief Executive Officer; and

WHEREAS, pursuant to Section 5-9-30 of the Code of Laws of South Carolina as amended, etc., the Mayor under the Mayor/Council form of government, is the Chief Administrative Officer of the municipality; and

WHEREAS, the Mayor has indicated his approval of the Department of Public Safety entering into this mutual aid agreement with the State, but would desire that the Council also indicate their approval of such action.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of North Augusta, in meeting duly assembled and by the authority thereof, that:

1. The City, by and through the Department of Public Safety, is specifically authorized to enter into a mutual aid agreement with the State of South Carolina in accordance with the agreement that is attached hereto, identified as "Exhibit A" and incorporated by reference.
2. John C. Thomas, Director of Public Safety is authorized to execute such document on behalf of the City.

DONE, RATIFIED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE
CITY OF NORTH AUGUSTA, SOUTH CAROLINA, ON THIS THE 4TH DAY OF DECEMBER, 2017.

Lark W. Jones, Mayor

ATTEST:

Donna B. Young, City Clerk

EXHIBIT A

**STATE OF SOUTH CAROLINA
STATEWIDE MUTUAL AID AGREEMENT
FOR
EMERGENCY AND DISASTER RESPONSE/RECOVERY**

THIS AGREEMENT IS ENTERED INTO BETWEEN THE STATE OF SOUTH CAROLINA AND BY AND AMONG EACH COUNTY, MUNICIPALITY, POLITICAL SUBDIVISION, STATE AGENCY, AND EMERGENCY SERVICE ENTITY THAT EXECUTES AND ADOPTS THE TERMS AND CONDITIONS CONTAINED HEREIN, BASED UPON THE FOLLOWING FACTS:

WHEREAS, the South Carolina Constitution, Article VIII, Section 13, provides that any county, incorporated municipality, or other political subdivision may agree with the State or with any other political subdivision for the joint administration of any function and exercise of powers and the sharing of the costs thereof; and

WHEREAS, the South Carolina Code of Laws, Section 25-1-450, requires that State, county, and municipal governments shall cooperate in developing and maintaining a plan for mutual assistance in emergencies; and

WHEREAS, the South Carolina Code of Laws, Section 6-11-1810, provides that any municipality, fire district, fire protection agency, or other emergency service entity may provide mutual aid assistance, upon request, from any other municipality, fire district, fire protection agency, or other emergency service delivery system in South Carolina at the time of a significant incident such as fire, earthquake, hurricane, flood, tornado, hazardous material event, or other such disaster; and

WHEREAS, the State of South Carolina is geographically vulnerable to hurricanes, tornadoes, flooding, other natural disasters, and technological or other hazards that in the past have caused severe disruption of essential human services and severe property damage to public roads, utilities, buildings, parks, and other government-owned facilities; and

WHEREAS, the Parties to this Agreement recognize that additional personnel and equipment may be needed to mitigate further damage and restore vital services to the citizens of the affected community should such disasters occur; and

WHEREAS, to provide the most effective mutual aid possible, each Participating Government intends to foster communications with the personnel of the other Participating Government by visits, compilation of asset inventories, exchange of information, and development of plans and procedures to implement this Agreement;

NOW, THEREFORE, the Parties hereto agree as follows:

SECTION 1. DEFINITIONS

A. AGREEMENT - the Statewide Mutual Aid Agreement for emergency and disaster response/recovery. Counties, municipalities, political subdivisions, state agencies, and emergency service entities of the State of South Carolina may become a party to this Agreement by executing a copy of this Agreement and providing a copy with original signatures and, when necessary, the authorizing resolution(s) to the State of South Carolina Emergency Management Division (hereinafter referred to as "SCEMD"). Copies of the Agreement with original signatures shall be filed and maintained at SCEMD in West Columbia, South Carolina.

B. REQUESTING PARTY - the Participating Government entity requesting aid in the event of an emergency.

C. ASSISTING PARTY - the Participating Government entity furnishing equipment, services, and/or personnel to the Requesting Party.

D. AUTHORIZED REPRESENTATIVE - an employee of a Participating Government who is authorized in writing by that government to request, offer, or provide assistance under the terms of this Agreement. The list of Authorized Representatives for the Participating Government executing this Agreement shall be attached as Exhibit A and shall be updated as needed by each Participating Government.

E. **SCEMD** - the South Carolina Emergency Management Division, Office of the Adjutant General.

F. **EMERGENCY** - any occurrence, or threat thereof, whether natural or caused by man, in war or in peace, which results in or which may result in, substantial injury or harm to the population, or substantial damage to or loss of property.

G. **DISASTER** - any natural, technological, or civil emergency that causes or threatens damage of sufficient severity and magnitude that exceeds the capabilities of the local, county, or state governments.

H. **PARTICIPATING GOVERNMENT** - any county, municipality, political subdivision, state agency, or emergency service entity of the State of South Carolina which executes this Agreement and supplies a complete executed copy, as stated herein, to SCEMD.

I. **PERIOD OF ASSISTANCE** - the period of time beginning with the departure of any personnel of the Assisting Party, from any point, for the purpose of traveling to the Requesting Party in order to provide assistance, and ending upon the return of all personnel and equipment of the Assisting Party, after providing the assistance requested, to their residence or regular place of work, whichever occurs first. The Period of Assistance shall not include any portion of the trip to the Requesting Party or the return trip from the Requesting Party, during which the personnel of the Assisting Party are engaged in a course of conduct not reasonably necessary for their safe arrival at, or return from, the Requesting Party.

J. **WORK OR WORK-RELATED PERIOD** - any period of time in which both the personnel or equipment of the Assisting Party is being used by the Requesting Party to provide assistance and for which the Requesting Party will reimburse the Assisting Party. Specifically included within such periods of time are rest breaks after which the personnel of the Assisting Party shall return to active work within a reasonable time. Specifically excluded from such periods of time are breakfast, lunch, and dinner breaks.

SECTION 2. PROCEDURES

When a Participating Government either becomes affected by or is under imminent threat of a disaster or emergency, it may invoke emergency-related mutual aid assistance either by: 1) submitting, in writing, a request for mutual aid to the Assisting Party, 2) by orally communicating a request for mutual aid assistance to the Assisting Party or to SCEMD, followed as soon as practicable by written confirmation of said request, or 3) by submitting a resource request to SCEMD with the intent for SCEMD to facilitate coordination of mutual aid by matching available resources to the Requesting Party. Mutual aid shall not be requested by any Participating Government unless resources available within the stricken area are deemed inadequate by that Participating Government. Requests for State or Federal emergency response assistance shall be made in accordance with the State Emergency Operations Plan. All requests for mutual aid shall be transmitted by the Authorized Representative or the Director of the County Emergency Management Agency. Requests for assistance may be communicated either to SCEMD or directly to an Assisting Party.

A. REQUESTS DIRECTLY TO ASSISTING PARTY: The Requesting Party may directly contact the Authorized Representative of the Assisting Party and shall provide them with the information in Paragraph C below. All communications shall be conducted directly between Requesting Party and Assisting Party. Each party shall be responsible for keeping SCEMD advised of the status of the response activities.

B REQUESTS ROUTED THROUGH, OR ORIGINATING FROM SCEMD: The Requesting Party may directly contact SCEMD, in which case it shall provide SCEMD with the information in Paragraph C below. SCEMD may then contact other Participating Governments on behalf of the Requesting Party and coordinate the provision of mutual aid. SCEMD shall not be responsible for costs associated with such indirect requests for assistance, unless SCEMD so indicates in writing at the time it transmits the request to the Assisting Party. In no event shall SCEMD or the State of South Carolina be responsible for costs associated with assistance in the absence of appropriated funds. In all cases, the party receiving the mutual aid shall be solely responsible for the costs incurred by any Assisting Party providing assistance pursuant to the provisions of this Agreement.

C. **REQUIRED INFORMATION:** Each request for assistance shall be accompanied by the following information to the extent known:

1. A general description of the current situation;
2. Identification of the function for which assistance is needed (e.g., fire, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and other medical services, search and rescue, etc.) and the type of assistance needed;
3. Identification of the public infrastructure system for which assistance is needed (e.g., sanitary sewer, potable water, streets, or storm water systems) and the type of work assistance needed;
4. The amount and type of personnel, equipment, materials, and supplies needed, and a reasonable estimate of the length of time they will be needed;
5. The need for sites, structures or buildings outside the Requesting Party's jurisdictional boundaries to serve as relief centers or staging areas for incoming emergency goods and services;
6. An estimated time and a specific place for a representative of the Requesting Party to meet the personnel and equipment of any Assisting Party; and
7. An estimate of expected costs from the Assisting Party to include any incidental expenses the Assisting Party expects to recoup from the Requesting Party.

This information may be provided on the form attached as Exhibit B, or by any other available means. SCEMD may revise the format of Exhibit B subsequent to the execution of this Agreement.

D. ASSESSMENT OF AVAILABILITY OF RESOURCES AND ABILITY TO RENDER ASSISTANCE: When contacted by a Requesting Party or SCEMD, the Authorized Representative of any Participating Government agrees to assess and determine availability of personnel, equipment, and other resources to render assistance. All Participating Governments shall render assistance to the extent that personnel, equipment, and resources are available. Each Participating Government agrees to render assistance in accordance with the terms of this Agreement to the fullest extent possible. When the Authorized Representative determines that his/her Participating Government has available personnel, equipment, or other resources, the Authorized Representative shall so notify the Requesting Party or SCEMD, whichever communicated the request, and provide the information below. SCEMD shall, upon response from sufficient Participating Governments to meet the needs of the Requesting Party, notify the Authorized Representative of the Requesting Party and provide him/her with the following information to the extent known:

1. A complete description of the personnel, equipment, and materials to be furnished to the Requesting Party;
2. The estimated length of time the personnel, equipment, and materials will be available;
3. The areas of experience and abilities of the personnel and the capability of the equipment to be furnished;
4. The name of the person or persons to be designated as supervisory personnel; and
5. The estimated time when the assistance provided will arrive at the location designated by the Authorized Representative of the Requesting Party.

E. SUPERVISION AND CONTROL: The personnel, equipment, and resources of any Assisting Party shall remain under operational control of the Requesting Party for the area in which they are serving. Direct supervision and control of said personnel, equipment and resources shall remain with the designated supervisory personnel of the Assisting Party. Representatives of the Requesting Party shall provide work tasks to the supervisory personnel of the Assisting Party.

The designated supervisory personnel of the Assisting Party shall have the responsibility and authority for assigning work and establishing work schedules for the personnel of the Assisting Party, based on task or mission assignments provided by the Requesting Party and SCEMD. The designated supervisory personnel of the Assisting Party shall:

1. Maintain daily personnel time records, material records, and a log of equipment hours;
2. Be responsible for the operation and maintenance of the equipment and other resources furnished by the Assisting Party; and
3. Report work progress to the Requesting Party.

The Assisting Party's personnel and other resources shall remain subject to recall by the Assisting Party at any time, subject to reasonable notice to the Requesting Party and SCEMD. At least twenty-four (24) hour advance notification of intent to withdraw personnel or resources shall be provided to the Requesting Party, unless such notice is not practicable, in which case such notice as is reasonable shall be provided.

F. FOOD, HOUSING, AND SELF-SUFFICIENCY: Unless specifically instructed otherwise, the Requesting Party shall have the responsibility of providing food and housing for the personnel of the Assisting Party from the time of their arrival at the designated location until the time of their departure. However, Assisting Party personnel and equipment should be, to the greatest extent possible, self-sufficient for operations in areas stricken by emergencies or disasters. The Requesting Party may specify only self-sufficient personnel and resources in its request for assistance.

G. COMMUNICATIONS: Unless specifically instructed otherwise, the Requesting Party shall have the responsibility for coordinating communications between the personnel of the Assisting Party and the Requesting Party. Assisting Party personnel should be prepared to furnish communications equipment sufficient to maintain communications among their respective operating units.

H. RIGHTS AND PRIVILEGES: Whenever the employees of the Assisting Party are rendering aid pursuant to this Agreement, such employees shall have the powers, duties, rights, privileges, and immunities, and shall receive the compensation accruing to their employment.

I. WRITTEN ACKNOWLEDGMENT: The Assisting Party shall complete a written acknowledgment regarding the assistance to be rendered, setting forth the information transmitted in the request, and shall transmit it by the quickest practical means to the Requesting Party or SCEMD, as applicable, for approval. The form to serve as this written acknowledgment is attached as Exhibit C. The Requesting Party/Division shall respond to the written acknowledgment by executing and returning a copy to the Assisting Party by the quickest practical means. The Requesting Party/Division shall retain a copy of this acknowledgement for its own records.

SECTION 3. REIMBURSABLE EXPENSES

A. PROCEDURES FOR REIMBURSEMENT: Unless the Assisting Party states otherwise in writing, the ultimate responsibility for the reimbursement of costs incurred under this Agreement shall rest with the Requesting Party, subject to the following conditions and exceptions:

1. An Assisting Party shall bill the Requesting Party as soon as practicable, but not later than forty-five (45) calendar days after the Period of Assistance has closed. Upon the request of any of the concerned Participating Governments, the time frame may be extended as agreed upon by the two parties.
2. If the Requesting Party protests any bill or item on a bill from an Assisting Party, it shall do so in writing as soon as practicable, but in no event later than forty-five (45) calendar days after the bill is received. Failure to protest any bill or billed item in writing within forty-five (45) calendar days shall constitute agreement to the bill and the items on the bill and waiver of the right to contest the bill.

B. COSTS ELIGIBLE FOR REIMBURSEMENT: The costs incurred by the Assisting Party under this Agreement shall be reimbursed as requested in order to make the Assisting Party whole to the fullest extent practicable.

1. The Assisting Party shall only be reimbursed for those expenses incurred in the performance of such work specified in a written request as approved by the Requesting Party.

2. Expenses incurred in support of work not specified in an approved written request shall be the sole responsibility of the Assisting Party.

3. Travel-related expenses (meals, lodging, and transportation) shall be reimbursed in accordance with the terms of the Assisting Party's pay and travel policies.

4. The Requesting Party shall reimburse the Assisting Party for employment costs of personnel who render assistance under this Agreement to Requesting Party, including wages, salaries, and any and all other compensation for mobilization, hours worked, and demobilization. Such compensation shall include any and all contributions for insurance and retirement, and such employees shall continue to accumulate seniority at the usual rate. Employees of the Assisting Party shall retain all the duties, responsibilities, immunities, rights, interests and privileges incident to their usual employment while providing assistance to the Requesting Party.

5. The costs associated with the equipment supplied by the Assisting Party shall be reimbursed at the rental rate established for like equipment by the regulations of the Federal Emergency Management Agency, or at any other rental rate agreed to by the Requesting Party. The Assisting Party shall pay for fuels, other consumable supplies, and repairs to its equipment as needed to keep the equipment in a state of operational readiness. Rent for the equipment shall be deemed to include the cost of fuel and other consumable supplies, maintenance, service, repairs, and ordinary wear and tear. With the consent of the Assisting Party, the Requesting Party may provide fuels, consumable supplies, maintenance, and repair

services for such equipment at the site. In that event, the Requesting Party may deduct the actual costs of such fuels, consumable supplies, maintenance, and services from the total costs otherwise payable to the Assisting Party. If the equipment is damaged while in use under this Agreement and the Assisting Party receives payment for such damage under any contract of insurance, the Requesting Party may deduct such payment from any item or items billed by the Assisting Party for any of the costs for such damage that may otherwise be payable.

6. The Requesting Party shall pay the total costs for the use and consumption of any and all consumable supplies delivered by the Assisting Party for the Requesting Party under this Agreement. In the case of perishable supplies, consumption shall be deemed to include normal deterioration, spoilage and damage notwithstanding the exercise of reasonable care in its storage and use. Supplies remaining unused shall be returned to the Assisting Party in usable condition upon the close of the Period of Assistance, and the Requesting Party may deduct the cost of such returned supplies from the total costs billed by the Assisting Party for such supplies. If the Assisting Party agrees, the Requesting Party may also replace any and all used consumable supplies with like supplies in usable condition and of like grade, quality and quantity within the time allowed for reimbursement under this Agreement.

7. The Assisting Party shall keep records to document all assistance rendered under this Agreement. Such records shall comply with State audit requirements as specified in applicable State regulations. Upon reasonable notice, the Assisting Party shall make its records available to the Requesting Party for inspection or duplication between 8:00 a.m. and 5:00 p.m. on all weekdays, except for official holidays.

SECTION 4. INSURANCE

Each Participating Government shall bear the risk of its own actions, as it does with its day-to-day operations, and determine for itself what kinds of insurance, and in what amounts, it should carry. If a Participating Government is insured, its file shall contain a letter from its insurance carrier

authorizing it to provide and receive assistance under this Agreement, and indicating that there will be no lapse in its insurance coverage, either on employees, vehicles, or liability. If a Participating Government is self-insured, its file shall contain a copy of a resolution authorizing its self-insurance program. Each Assisting Party shall be solely responsible for determining that its insurance is current and adequate prior to providing assistance under this Agreement. The amount of reimbursement from the Requesting Party shall be reduced by the amount of any insurance proceeds to which the Assisting Party is entitled as a result of losses experienced in rendering assistance pursuant to this Agreement.

SECTION 5. LIABILITY

To the extent permitted by law, and without waiving sovereign immunity, each Party to this Agreement shall be responsible for any and all claims, demands, suits, actions, damages, and causes of action related to or arising out of or in any way connected with its own actions, and the actions of its personnel, in providing mutual aid assistance rendered or performed pursuant to the terms and conditions of this Agreement.

SECTION 6. TERM

This Agreement shall be in effect for one (1) year from the date hereof and is renewed automatically in successive one (1) year terms unless terminated upon sixty (60) days advance written notice by the Participating Government. Notice of such termination shall be made in writing and shall be served personally or by registered mail upon the Director, South Carolina Emergency Management Division, Office of the Adjutant General, West Columbia, South Carolina, which shall provide copies to all other Participating Governments. Notice of termination shall not relieve the withdrawing Participating Government from obligations incurred hereunder prior to the effective date of the withdrawal and shall not be effective until sixty (60) days after notice thereof has been sent by the Director, South Carolina Emergency Management Division, Office of the Adjutant General, to all other Participating Governments. It is the responsibility of the signatory to update the signatures as required.

SECTION 7. EFFECTIVE DATE OF THIS AGREEMENT

This Agreement shall be in full force and effect upon approval by the Participating Government and upon proper execution thereof.

SECTION 8. ROLE OF SOUTH CAROLINA EMERGENCY MANAGEMENT DIVISION

SCEMD shall serve as the central repository for executed Agreements, maintain a current listing of Participating Governments with their Authorized Representative and contact information, and provide a listing of the Participating Governments online at the SCEMD website.

SECTION 9. SEVERABILITY: EFFECT ON OTHER AGREEMENTS

Should any portion, section, or subsection of this Agreement be held to be invalid by a court of competent jurisdiction, that fact shall not affect or invalidate any other portion, section or subsection; and the remaining portions of this Agreement shall remain in full force and effect without regard to the section, portion, or subsection or power invalidated.

In the event that any parties to this Agreement have entered into other mutual aid agreements or inter-local agreements, those parties agree that said agreements are superseded by this Agreement only for emergency management assistance and activities performed in major disasters pursuant to this Agreement. In the event that two or more parties to this Agreement have not entered into another mutual aid agreement, and the parties wish to engage in mutual aid, then the terms and conditions of this Agreement shall apply unless otherwise agreed between those parties.

[Intentionally left blank]

FOR ADOPTION BY A COUNTY

IN WITNESS THEREOF, the parties set forth below have duly executed this Agreement on the dates set forth below:

STATE OF SOUTH CAROLINA

By: _____

Date: _____

Director, South Carolina Emergency
Management Division

COUNTY OF: _____

Chairman/Administrator:

By: _____

Date: _____

Signature

Printed Name

Its: _____

Title

APPROVED AS TO FORM:

Office of the County Attorney

By: _____

Date: _____

Signature

Printed Name

Signature Page (County)

**FOR ADOPTION BY A MUNICIPALITY, POLITICAL SUBDIVISION, OR
EMERGENCY SERVICE ENTITY**

IN WITNESS THEREOF, the parties set forth below have duly executed this Agreement on the dates set forth below:

STATE OF SOUTH CAROLINA

By: _____ Date: _____
Director, South Carolina Emergency
Management Division

EXECUTED BY _____ IN _____
COUNTY (attach authorizing resolution or ordinance if necessary).

Authorized Official:

By: _____ Date: _____
Signature

Printed Name

Its: _____
Title

FOR ADOPTION BY A STATE AGENCY

IN WITNESS THEREOF, the parties set forth below have duly executed this Agreement on the dates set forth below:

STATE OF SOUTH CAROLINA

By: _____
Director, South Carolina Emergency
Management Division

Date: _____

STATE OF SOUTH CAROLINA

Name of State Agency

By: _____
Signature

Date: _____

Printed Name

Its: _____
Title

STATEWIDE MUTUAL AID AGREEMENT
EXHIBIT A: AUTHORIZED REPRESENTATIVES

Date: _____

Name of Participating Government: _____

Mailing Address: _____

City, State, Zip Code: _____

Authorized Representatives to Contact for Emergency Assistance:

Primary Representative:

Name: _____

Title: _____

Address: _____

Day Phone: _____

Night Phone: _____

Fax Number: _____

Email: _____

1st Alternate Representative:

Name: _____

Title: _____

Address: _____

Day Phone: _____

Night Phone: _____

Fax Number: _____

Email: _____

2nd Alternate Representative:

Name: _____

Title: _____

Address: _____

Day Phone: _____

Night Phone: _____

Fax Number: _____

Email: _____

STATEWIDE MUTUAL AID AGREEMENT

EXHIBIT B: REQUIRED INFORMATION

Each request for assistance shall be accompanied by the following information, to the extent known:

1. General description of the damage sustained;
2. Identification of the emergency service function for which assistance is needed (e.g., fire, law enforcement, emergency medical, transportation, communications, public works and engineering, building, inspection, planning, and information assistance, mass care, resource support, health and other medical services, search and rescue, etc.) and the particular type of assistance needed;
3. Identification of the public infrastructure system for which assistance is needed (e.g., sanitary sewer, portable water, streets, or storm water systems) and the type of work assistance needed;
4. The amount and type of personnel, equipment, materials, and supplies needed and a reasonable estimate of the length of time they will be needed;
5. The need for sites, structures or buildings outside the Requesting Party's jurisdictional boundaries to serve as relief centers or staging areas for incoming emergency goods and services;
6. An estimated time and specific place for a representative of the Requesting Party to meet the personnel and equipment of any Assisting Party;
7. An estimate of expected costs from the Assisting Party to include any incidental expenses they plan to recoup from the Requesting Party;

STATEWIDE MUTUAL AID AGREEMENT
EXHIBIT C: ACKNOWLEDGMENT

To be completed by each Assisting Party.

NAME OF ASSISTING PARTY: _____

AUTHORIZED REPRESENTATIVE: _____

CONTACT NUMBER/PROCEDURES: _____

1. Assistance to be provided:

<u>Resource Type</u>	<u>Amount</u>	<u>Assignment</u>	<u>Est. Time of Arrival</u>
----------------------	---------------	-------------------	-----------------------------

2. Availability of additional resources:

3. Time limitations, if any:



Department of Planning and Development



Memorandum # 17-029

City of North Augusta

To: B. Todd Glover, City Administrator

From: Amanda J. Sievers, Interim Director of Planning & Development *AJS*

Subject: **Application number RZM 17-002 – A request by property owners Carol Ann Bostick, Marsha Blandenburg, Patricia Kinard and Dorothy P. Kitchens to rezone \pm 2.81 acres of land located along W. Martintown Road at the corner of Observatory Avenue, and identified as Aiken County Tax Parcels: 007 07 07 003, 007 07 07 001, 007 07 01 002, and an abandoned strip extending from Clay Avenue to W. Martintown Road from R-14, Large Lot Single-Family Residential to R-7, Small Lot Single-Family Residential. The purpose of the rezoning request is to convert the existing lots to smaller lots for future residential development.**

Date: November 21, 2017

Planning Commission Recommendation

On November 16, 2017, after a duly advertised and convened public hearing, the Planning Commission considered a request by property owners Carol Ann Bostick, Marsha Blandenburg, Patricia Kinard and Dorothy P. Kitchens to rezone \pm 2.81 acres of land located along the W. Martintown Road at the corner of Observatory Avenue, and identified as Aiken County Tax Parcels: 007 07 07 003, 007 07 07 001, 007 07 01 002, and an abandoned strip extending from Clay Avenue to W. Martintown Road from R-14, Large Lot Single-Family Residential to R-7, Small Lot Single-Family Residential. **The Planning Commission recommended on a vote of 5-2 that City Council deny the rezoning request of the property as proposed.**



Project Name	Blandenburg Property
Applicant	Bill Hixon on behalf of property owners Carol Ann Bostick, Marsha Blandenburg, Patricia Kinard and Dorothy P. Kitchens
Address/Location	Corner of W. Martintown Road and Observatory Avenue
Parcel Number	Aiken County Tax Parcels: 007 07 07 003, 007 07 07 001, 007 07 01 002, and an unnamed abandoned right-of-way strip extending from Clay Avenue to W.Martintown Road
Existing Zoning	R-14, Large Lot, Single-Family Residential
Proposed Zoning	R-7, Small Lot, Single-Family Residential
Proposed Use	Residential Development
Future Land Use	Low Density Residential

History

The properties in question are currently vacant. There was a single-family dwelling on Tax parcel # 007 07 07 003 that burned in August of 2016, and was completely destroyed. The home had been uninhabited for many years.

In late 2014 the three (3) parcels were for sale and a perspective party was interested in pursuing the purchase of the properties for a medical office use. Due to the medical office use not being permitted within the residential district a rezoning of the property to a commercial district was explored. However, the interested party chose not to move forward with a rezoning amendment. The subject properties have remained R-14, Large-lot Single-Family Residential with a NP, Neighborhood Preservation Corridor Overlay.

Prior to the adopted and updated 2008 North Augusta Development Code (NADC), the subject properties were zoned R-1, Low Density Single-family Residential dating back to the 1966 Ordinance.



The intention of the rezoning is to develop smaller lots for single-family residential.

Site Conditions

	Existing Land Use	Future Land Use	Zoning
Subject Parcels	Vacant	Low Density Residential	R-14, Large Lot Single-Family Residential
North	Residential Single-Family	Low Density Residential	R-14, Large Lot Single-Family Residential
South	Residential Single-Family/ PUB Public	Mixed Use	R-14, Large Lot Single-Family Residential
East	Residential Single-Family	Mixed Use	R-14, Large Lot Single-Family Residential
West	Residential Single-Family	Mixed Use	R-14, Large Lot Single-Family Residential

Access – The site currently has access from W. Martintown Road and Observatory Avenue.

Topography – The property has some slightly sloping topography that gently slopes from the north to the south. The property is wooded with heavy vegetation.

Utilities – Potable water is available on W. Martintown Road through a ten inch line as well as on Observatory Avenue from the City of North Augusta. There is an eight inch sanitary sewer line along W. Martintown Road. Sewer is also available from the City of North Augusta.

Floodplain – The subject property is not within federally designated floodplains or wetlands.

Drainage Basin – This site is located within the Pretty Run Basin as designated on the City of North Augusta Stormwater Management's Drainage Basin Map. The Pretty Run Basin is located within a highly dense residential area, where the stream channel is



currently not effective at transporting current loads of stormwater during heavy storm events. The Stormwater Management Department has conducted a baseline assessment of the basin. The Pretty Run Basin assessment reports an overall poor quality with water quality impairments for fecal coliform bacteria. A monitoring and assessment plan for Pretty Run Creek was implemented in 2015. The monitoring will aid in determining where Best Management Practices (BMPs) can be installed to remove some of the pollutant loads.

Public Notice

A notice of the rezoning request and scheduled date of the Planning Commission public hearing was mailed to the owners of property within 200 feet of the subject property on October 31, 2017. The property was posted with the required public notice on November 1, 2017. A public notice of the rezoning request and scheduled date of the Planning Commission public hearing was published in *The Star* and on the City's website at www.northaugusta.net on November 1, 2017. The Planning Commission convened the public hearing and considered the application on November 16, 2017.

Findings and Analysis

Section 5.3.6 of the North Augusta Development Code (NADC) provides the minimum approval criteria to be used in determining a recommendation to City Council. The Planning Commission shall consider all of the factors specified in this section, at a minimum, in reviewing an application for a rezoning.

1. The size of the tract in question (§5.3.6.1).

The subject property is approximately 2.81 acres in total area, and is reflected as such on a preliminary plat compiled for Patricia Blandenburg Kinard, ETAL by H&C Surveying, Inc. dated June 10, 2014. The size of the property is appropriate for the purposes of the intended residential use for the property. Rezoning the property from a R-14, Large lot, Single-Family Residential to a R-7, Small lot, Single-Family Residential district is appropriate for the purposes of redevelopment of this site.

2. Whether the proposal conforms with and furthers the goals of the Comprehensive Plan, other adopted plans, and the goals, objectives, and policies of the Development Code, §1.2 (§5.3.6.2).



The proposed rezoning would provide an opportunity for the development of additional residential property within an existing single-family residential district. The 2017 Comprehensive Plan has goals and objectives that encourage a mix of residential uses, while ensuring new residential areas are designed to be more connected and walkable. The Plan also addresses the importance of looking to diversify housing choice in order to accommodate the changing needs of the City's growing population. This property is of sufficient size to develop a small, single-family development. The proposed rezoning would conform to and further the goals of the Comprehensive Plan.

3. The relationship of the uses envisioned under the new zoning and the uses currently present in adjacent tracts. In particular, the Planning Commission shall consider whether as stated in §5.3.6.3 of the NADC:

a. The proposed rezoning is compatible with the surrounding area;

The proposed rezoning would provide additional residential uses to be permitted by right. Access would be provided from existing local roadways, rather than the arterial, in the transportation network; a desired goal of the City. The existing site constraint of overall acreage limits much of the market for a more dense development. Single-family residential uses to be developed on the subject property would be compatible with the adjacent existing residential development. It would appear that the proposed rezoning is compatible with the surrounding area.

b. There will be any adverse effects on the capacity or safety of the portion of street network influenced by the rezoning;

The street network will be evaluated as part of a site plan review process for any necessary upgrades to the existing transportation network. However, given the existing access options to the subject property, it is not anticipated that the development potential for the site and corresponding trip generation will warrant significant street network upgrades.

c. There will be any adverse effects on existing or planned public utility services in the area;

The existing utility network appears to be able to accommodate the anticipated development potential of the subject property based on the sizes of the sanitary sewer line located near the site and availability of potable water and sanitary sewer from the City of North Augusta. As part of the site plan approval process, the existing utility systems will be reviewed to the



extent necessary to ensure that development of the subject property is not creating any adverse effects on the overall utility service to the area.

d. Parking problems; or

The proposed rezoning will not impact or create any additional parking problems as the site is currently vacant. The site plan will be reviewed against the current Development Code parking standards for the proposed use.

e. Environmental impacts that the new use will generate such as excessive storm water runoff, water, air, or noise pollution, excessive nighttime lighting or other nuisances.

The proposed rezoning from R-14 to R-7 does not appear to create any additional environmental impacts. The site plan must comply with all applicable development standards in the Development Code, including the state and federal standards associated with stormwater management, water and air pollution. City design standards are already in place to address noise pollution and excessive nighttime lighting.

4. Any recent change of character in the area due to installation of public facilities, other zone changes, new growth trends, deterioration and development (§5.3.6.4).

The proposed rezoning is appropriate to consider based on the existing land uses in the immediate area in order to facilitate single family development. Based on the site constraints of the subject property, the applicant does not currently have an opportunity to develop smaller lot, single-family housing. The proximity of the subject property to existing residential properties in the area is suitable for the desired residential development, and will further increase the residential character of the neighborhood while protecting and preserving it.

5. The zoning districts and existing land uses of the surrounding properties (§5.3.6.5).

The proposed zoning classification of R-7, Small Lot, Single-Family Residential would allow single family detached residential uses. The low intensity type of use anticipated for the subject property should not adversely impact the current viability of the surrounding area. A site plan will be required and must comply with all applicable development standards as specified in the Development Code.



6. Whether the subject property is suitable for the uses to which it has been restricted under the existing zoning classification (§5.3.6.6).

The existing zoning classification prohibits the applicant from pursuing small lot, residential development, and the allowable uses do not make the subject property likely to be developed as such. Rezoning the property to a similar traditional residential zoning district allows for a variety of housing options to be possible within the confines of the standards of the Development Code.

7. Whether the rezoning is compatible with the adjacent neighborhood, especially residential neighborhood stability and character (§5.3.6.7).

The proposed rezoning does not appear to impact the compatibility of the adjacent uses. Appropriate buffers and screening must be provided as part of any site plan and should serve to mitigate any impacts and enhance the area. The rezoning, if anything, will enhance the adjacent neighborhood, both existing and proposed, on properties along W. Martintown Road, Observatory Avenue and Clay Street.

8. The length of time the subject property has remained vacant as zoned, if applicable (§5.3.6.8).

The subject property has remained undeveloped and vacant for many decades as currently zoned.

9. Whether there is an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs including, but not limited to, affordable housing and economic development (§5.3.6.9).

The properties in the surrounding area are largely built out as residential uses. This rezoning request would allow the subject property to create a small-scale residential development on underutilized property. There is an adequate supply of land available in the subject area and the community to accommodate the needs of the community both in housing and in commercial development.

10. Whether the existing zoning was in error at the time of adoption (§5.3.6.10).

The existing zoning of R-14, Large Lot, Single-Family Residential has been in place for a long time. It does not appear that the existing zoning was made in error during the adoption of the zoning for the subject property.



Attachments:

Maps showing property to be rezoned:

Aerial

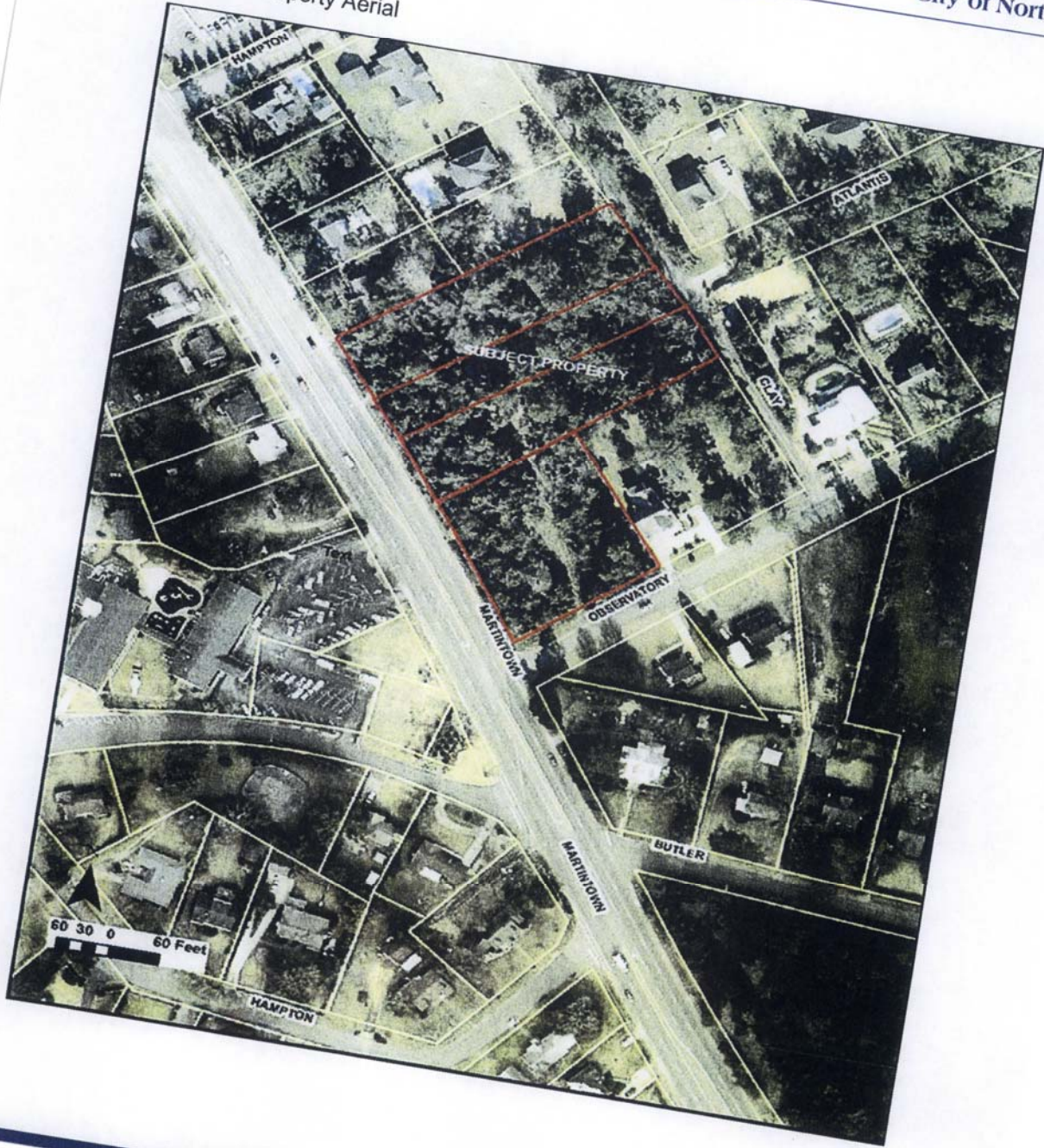
Current Zoning

Proposed Ordinance



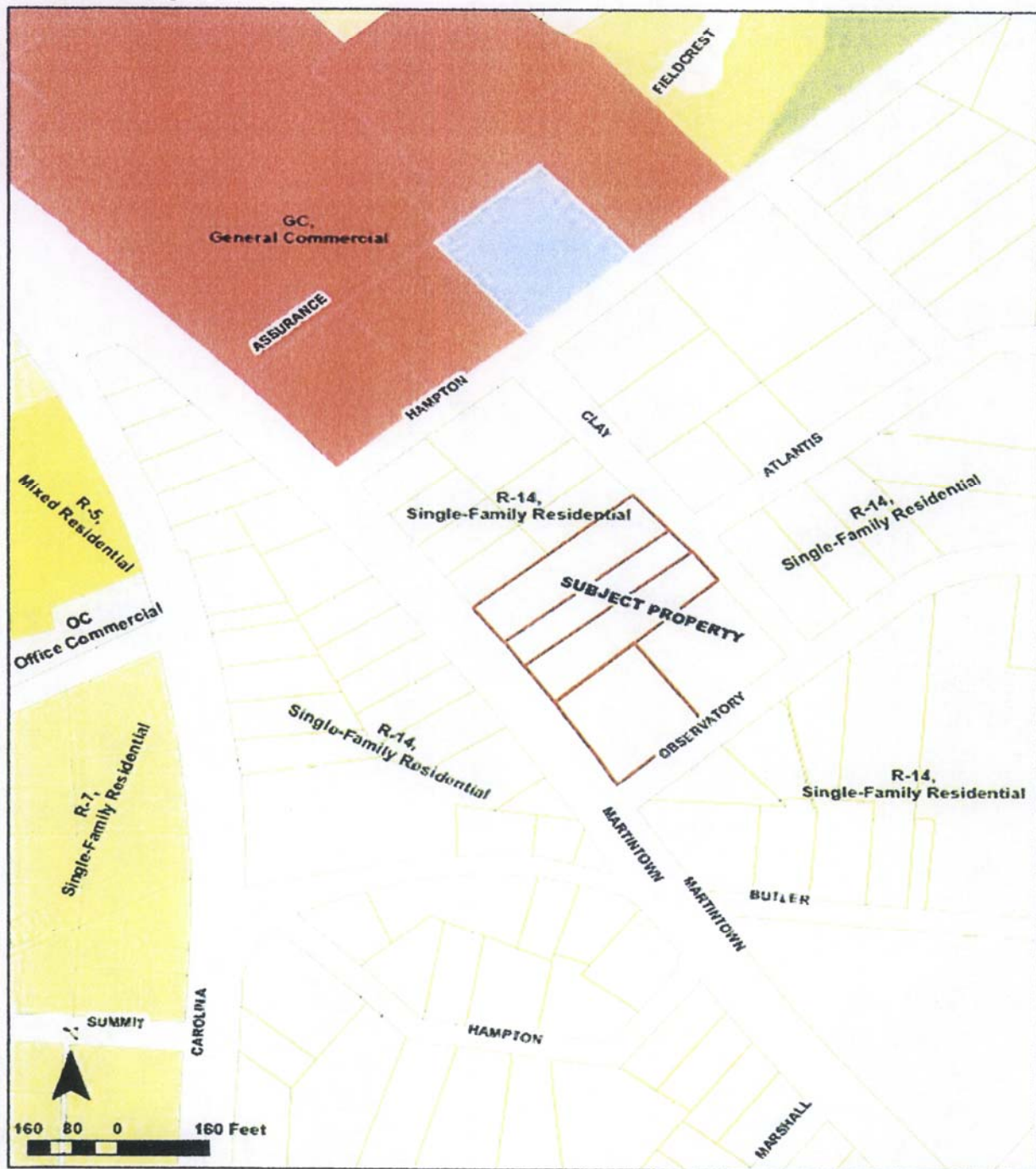
City of North Augusta

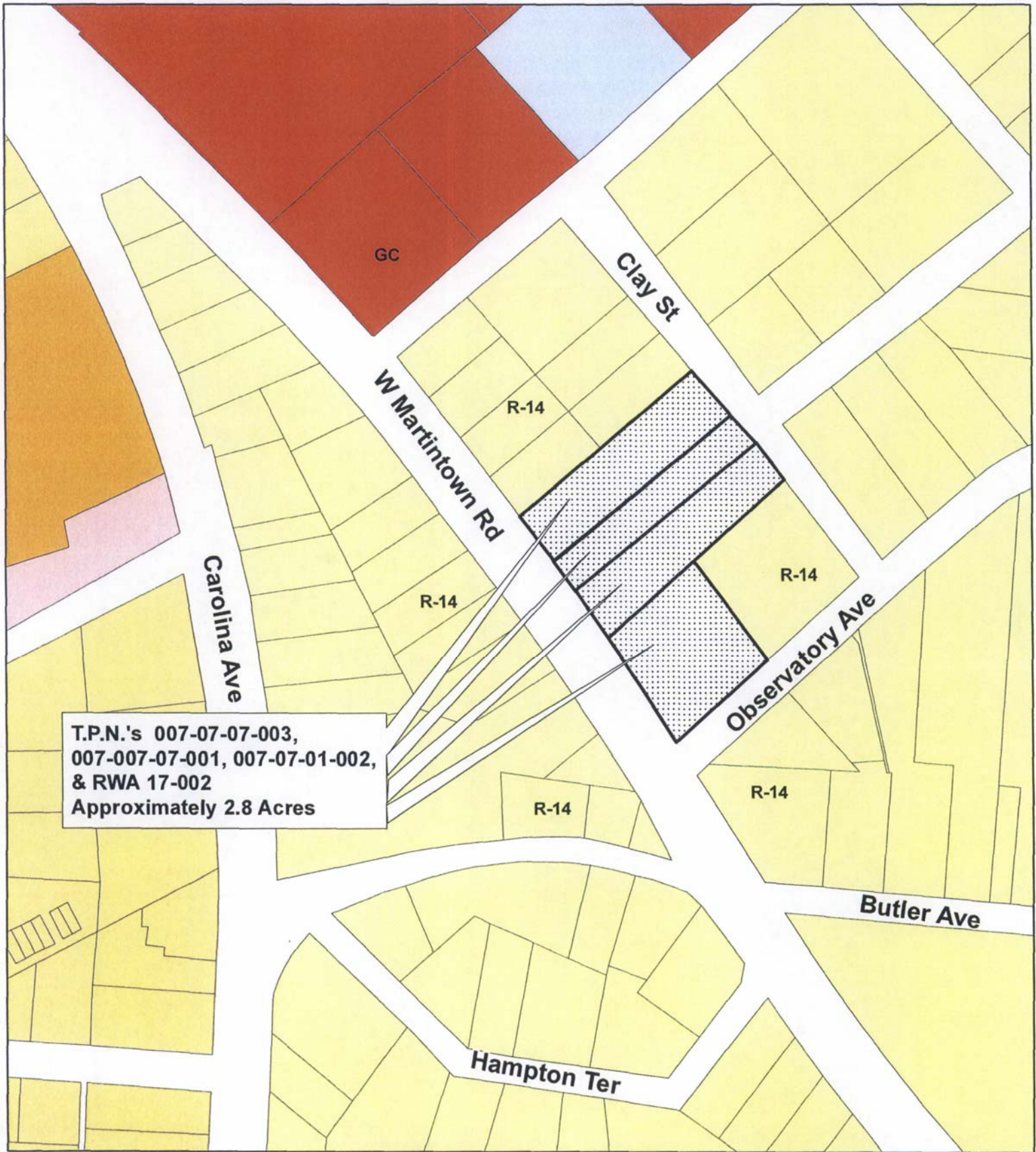
Subject Property Aerial





Current Zoning





Application Number RZM 17-002

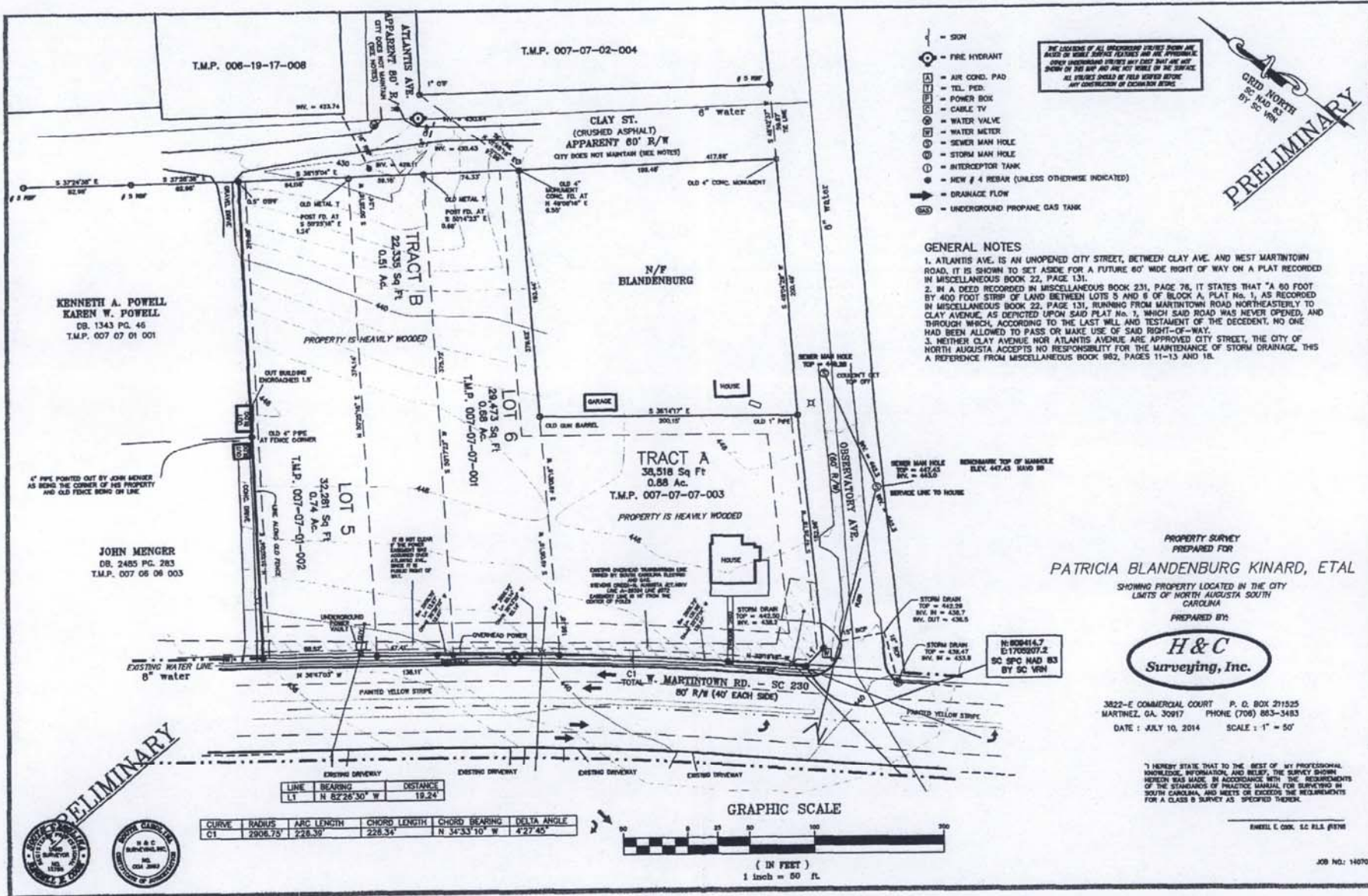
Tax Parcel Numbers

**007-07-07-003, 007-07-07-001,
& 007-07-01-002**

**A Request to Rezone from
R-14, Large Lot, Single-Family
Residential to R-7, Small Lot,
Single-Family Residential**



E:\2017 ReZone\RZM17-002.MXD
October 19, 2017



- SKIN
- - FIRE HYDRANT
- - AIR COND. PAD
- - TEL. PED.
- - POWER BOX
- - CABLE TV
- - WATER VALVE
- - WATER METER
- - SEWER MAN HOLE
- - STORM MAN HOLE
- - INTERCEPTOR TANK
- - SEW # 4 RESAR (UNLESS OTHERWISE INDICATED)
- - DRAINAGE FLOW
- - UNDERGROUND PROPANE GAS TANK

THE LOCATIONS OF ALL UNDERGROUND UTILITIES SHOWN ARE BASED ON PUBLIC RECORDS, FIELD SURVEYS AND THE PHYSICAL CHECK UNDERGROUND UTILITIES ONLY EXIST THAT ARE NOT SHOWN ON THE MAP AND ARE NOT NOBLE BY THE SURFACE. ALL UTILITIES SHOULD BE FIELD VERIFIED BEFORE ANY CONSTRUCTION OR EXCAVATION BEGINS.

PRELIMINARY

GRID NORTH
SC 1448.83
BY SC 1471

GENERAL NOTES

1. ATLANTIS AVE. IS AN UNOPENED CITY STREET, BETWEEN CLAY AVE. AND WEST MARTINTOWN ROAD. IT IS SHOWN TO SET ASIDE FOR A FUTURE 60' WIDE RIGHT OF WAY ON A PLAT RECORDED IN MISCELLANEOUS BOOK 22, PAGE 131.
2. IN A DEED RECORDED IN MISCELLANEOUS BOOK 231, PAGE 76, IT STATES THAT "A 60 FOOT BY 400 FOOT STRIP OF LAND BETWEEN LOTS 5 AND 6 OF BLOCK A, PLAT No. 1, AS RECORDED IN MISCELLANEOUS BOOK 22, PAGE 131, RUNNING FROM MARTINTOWN ROAD NORTHEASTERLY TO CLAY AVENUE, AS DEPICTED UPON SAID PLAT No. 1, WHICH SAID ROAD WAS NEVER OPENED, AND THROUGH WHICH, ACCORDING TO THE LAST WILL AND TESTAMENT OF THE DECEDENT, NO ONE HAD BEEN ALLOWED TO PASS OR MAKE USE OF SAID RIGHT-OF-WAY.
3. NEITHER CLAY AVENUE NOR ATLANTIS AVENUE ARE APPROVED CITY STREET, THE CITY OF NORTH AUGUSTA ACCEPTS NO RESPONSIBILITY FOR THE MAINTENANCE OF STORM DRAINAGE, THIS A REFERENCE FROM MISCELLANEOUS BOOK 982, PAGES 11-13 AND 18.

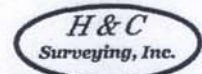
**KENNETH A. POWELL
KAREN W. POWELL**
DB. 1343 PG. 46
T.M.P. 007 07 01 001

JOHN MENGER
DB. 2485 PG. 283
T.M.P. 007 08 08 003

PROPERTY SURVEY
PREPARED FOR
PATRICIA BLANDENBURG KINARD, ETAL

SHOWING PROPERTY LOCATED IN THE CITY
LIMITS OF NORTH AUGUSTA SOUTH
CAROLINA

PREPARED BY:



3822-E COMMERCIAL COURT P. O. BOX 211525
MARTINEZ, GA. 30917 PHONE (708) 863-3483
DATE : JULY 10, 2014 SCALE : 1" = 50'

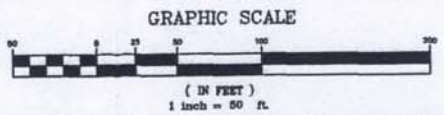
I HEREBY STATE THAT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE STANDARDS OF PRACTICE MANUAL FOR SURVEYS IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS B SURVEY AS SPECIFIED THEREIN.

EMIEL E. OOK, S.C. P.L.S. (1978)

JOB NO: 140703

LINE	BEARING	DISTANCE
L1	N 82°28'30" W	19.24

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	2906.75'	728.39'	226.34'	N 34°33'10" W	42°27'45"



PRELIMINARY

ATTACHMENT 9-B

ORDINANCE NO. 2017-23

TO AMEND THE ZONING MAP OF THE CITY OF NORTH AUGUSTA,
SOUTH CAROLINA BY REZONING ±2.81 ACRES OF LAND OWNED BY
CAROL ANN BOSTICK, MARSHA BLANDENBURG, PATRICIA KINARD AND
DORTHY P. KITCHENS AND LOCATED ALONG W. MARTINTOWN RD AT THE
CORNER OF OBSERVATORY AVENUE, AIKEN COUNTY TAX PARCEL # 007-07-07-
003, # 007-07-07-001, # 007-07-01-002 AND AN ABANDONED STRIP EXTENDING
FROM CLAY AVENUE TO W. MARTINTOWN ROAD FROM R-14, LARGE LOT
SINGLE-FAMILY RESIDENTIAL TO R-7, SMALL LOT SINGLE-FAMILY
RESIDENTIAL

WHEREAS, on December 17, 2007, by Ordinance 2007-22, the North Augusta City Council adopted the North Augusta Development Code and a citywide Zoning Map which is consistent with the City's 2005 Comprehensive Plan; and

WHEREAS, pursuant to Section 5.3, North Augusta Development Code, the North Augusta Planning Commission may recommend amendments to the Zoning Map, provided such amendments are consistent with the City's 2005 Comprehensive Plan; and

WHEREAS, the North Augusta Planning Commission, following a November 16, 2017 public hearing, reviewed, considered the amendment to the Zoning Map, and has provided their recommendation to the City Council.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF, THAT:

- I. The property owned by Carol Ann Bostick, Marsha Blandenburg, Patricia Kinard and Dorothy P. Kitchens, located along W. Martintown Road at the corner of Observatory Avenue, containing ± 2.81 acres, and shown on the map prepared by the City of North Augusta dated October 19, 2017 and attached hereto as Exhibit "A", is hereby rezoned from R-14, Large Lot Single-Family Residential to R-7, Small Lot Single-Family Residential. The subject property is identified by the following Aiken County Tax Map Parcel Numbers: 007-07-07-003, 007-07-07-001, 007-07-01-002.

The property to be rezoned is more specifically identified as Tract "A," Tract "B," Lot 5 and Lot 6 on a map prepared for Patricia Blandenburg Kinard, Etal by H&C Surveying, Inc. dated July 10, 2014, a copy of which is attached hereto as Exhibit "B".

- II. Said property being officially rezoned to the classification R-7, Small Lot Single-Family Residential in accordance with the map attached hereto as Exhibit A, the official Zoning Map of the City of North Augusta is to be so amended.
- III. All ordinances or parts of Ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

ORD 2017-23

IV. This Ordinance shall become effective immediately upon its adoption on third and final reading.

DONE, RATIFIED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, ON THIS _____ DAY OF _____, 2017.

First Reading _____

Robert A. Pettit, Mayor

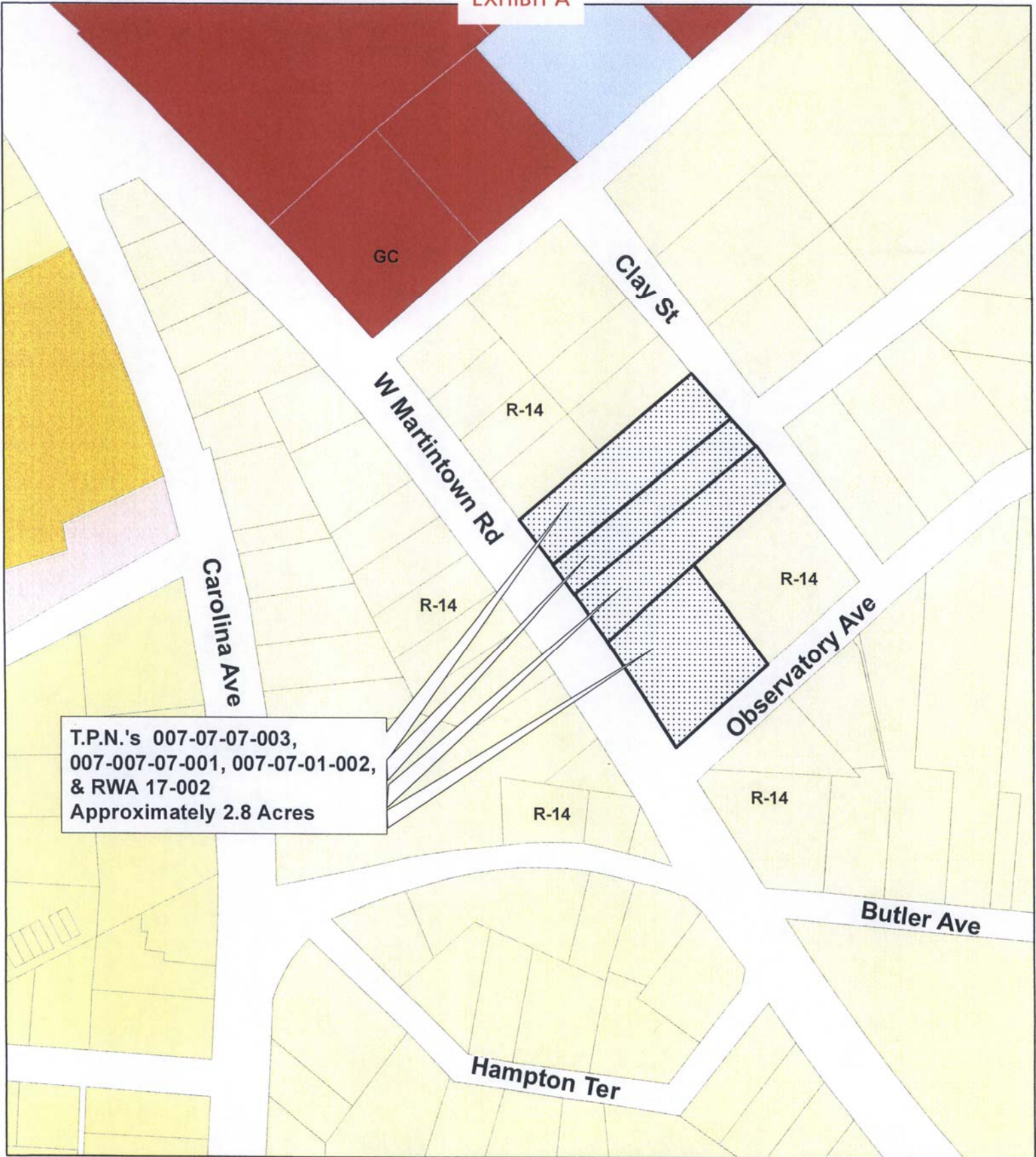
Second Reading _____

Third and Final Reading _____

ATTEST:

Donna B. Young, City Clerk

EXHIBIT A



T.P.N.'s 007-07-07-003,
007-07-07-001, 007-07-01-002,
& RWA 17-002
Approximately 2.8 Acres

Application Number RZM 17-002

Tax Parcel Numbers

007-07-07-003, 007-07-07-001,
& 007-07-01-002

A Request to Rezone from
R-14, Large Lot, Single-Family
Residential to R-7, Small Lot,
Single-Family Residential

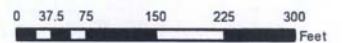
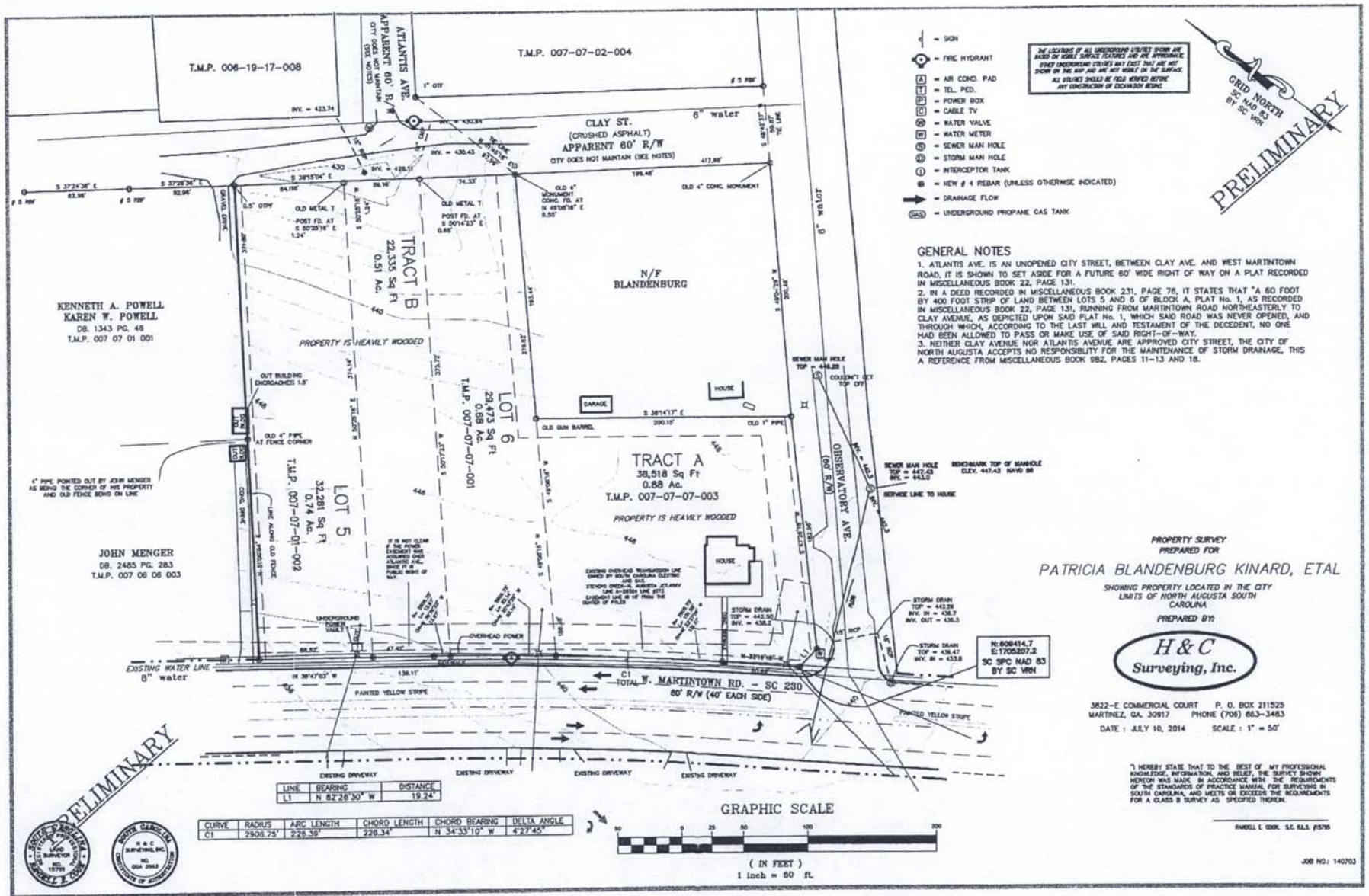


EXHIBIT B



GRID NORTH
 SC NAD 83
 BY SC 908

PRELIMINARY

THE LOCATION OF ALL UNDERGROUND UTILITIES SHOWN ARE BASED ON SOME SURVEY TECHNIQUES AND APPROXIMATE. OTHER UNDERGROUND UTILITIES MAY EXIST THAT ARE NOT SHOWN ON THIS MAP AND ARE NOT SHOWN ON THE SURFACE. ALL UTILITIES SHOULD BE LOCATED BEFORE ANY CONSTRUCTION OR EXCAVATION BEGINS.

KENNETH A. POWELL
 KAREN W. POWELL
 DB. 1343 PG. 48
 T.M.P. 007 07 01 001

JOHN MENDER
 DB. 2485 PG. 263
 T.M.P. 007 06 06 003

PRELIMINARY

ATTACHMENT 10

RESOLUTION NO. 2017-50

A RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A CONTRACT WITH
CEC, DEVELOPMENT, LLC RELATED TO UTILIZATION OF SOLAR ENERGY.

WHEREAS, the City has been contacted by CEC Development, LLC, a Colorado Limited Liability Company who requests that the City enter into a contract with said company related to solar energy; and,

WHEREAS, CEC Development, LLC, is working through South Carolina Electric and Gas Company related to such solar energy; and,

WHEREAS, the entering into such agreement provides financial incentives to the City which are beneficial to the City.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of North Augusta, in meeting duly assembled and by the authority thereof, that the City enter into the attached Capacity Commitment Agreement with CEC Development, LLC, and,

BE IT FURTHER RESOLVED that the City Administrator is authorized to execute the Capacity Commitment Agreement with CEC Development, LLC and also authorized to hereafter execute such Community Solar Subscription Agreements as referred to in the contract subject to minimal revisions to achieve a contract as deemed appropriate by the City Administrator and City Attorney.

DONE, RATIFIED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, ON THIS THE 4TH DAY OF DECEMBER, 2017.

Robert A. Pettit, Mayor

ATTEST:

Donna B. Young, City Clerk

COMMUNITY SOLAR SUBSCRIPTION AGREEMENT

This Community Solar Subscription Agreement (the "**Agreement**") is entered into as of _____, 20__ (the "**Effective Date**") and is by and between Curie Solar, LLC, a Colorado limited liability company (the "**Company**"), and the City of North Augusta, a Public Entity (the "**Customer**"). In this Agreement, Company and Customer are sometimes referred to individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

WHEREAS, Company is in the business of financing, developing, owning, operating and maintaining solar electric generation facilities.

WHEREAS, Customer is a municipal customer of South Carolina Electric & Gas Company (the "**Utility**") provided electric service under Utility's Rate 3, Municipal Power Service serving the address set forth in Appendix A (the "**Utility Service Location**"), and desires to participate in the SCE&G Distributed Energy Resource Program currently offered by the Utility pursuant to Utility's Rider to Retail Rates – Community Solar, pursuant to the terms of the Renewable Generator Credit Rate Agreement executed July 26, 2016 (the "**Program**"), as may be amended from time-to-time.

WHEREAS, Company has constructed or intends to construct an eligible energy resource facility as that term is defined in the Program at the location set forth in Appendix A (the "**Facility**"). Company will interconnect the Facility with the Utility pursuant to the terms of such Renewable Generator Credit Rate Agreement, generator interconnection agreement, any applicable tariff, or other agreements required to be executed with Utility (collectively, the "**Interconnection and Credit Agreements**" or "**ICA**") pursuant to which Company or its Affiliate will deliver power generated at the Facility to Utility, and Utility will provide credits on the bills for certain customers for power generated by the Facility ("**Bill Credits**"), as set forth in the ICA and the Program and as directed by Company or its Affiliate.

WHEREAS, Customer wishes to subscribe to a portion of the electric generating capacity of the Facility during the Term of this Agreement in order to receive Bill Credits from the Utility (the "**Solar Interest**").

WHEREAS, Customer wishes to appoint Company as Customer's sole and exclusive agent, with authority to exchange information with the Utility with respect to Customer's account for electric service at the Utility Service Location, to effectuate the terms of this Agreement, the ICA and the Program.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual promises, representations, warranties, covenants, conditions herein contained, and the appendices attached hereto, Company and Customer agree as follows:

1 DEFINITIONS

When used in this Agreement, the following terms shall have the meanings given below, unless a different meaning is expressed or clearly indicated by the context. Words defined in this Article

I which are capitalized shall be given their common and ordinary meanings when they appear without capitalization in the text. Words not defined herein shall be given their common and ordinary meanings.

“Affiliate” means any person or entity that directly, or indirectly through one or more intermediaries, controls or is controlled by or partnered with, or is under common control with the person or entity specified.

“Applicable Legal Requirements” means any present and future law, act, rule, requirement, order, by-law, ordinance, regulation, judgment, decree, or injunction of or by any Governmental Authority, ordinary or extraordinary, foreseen or unforeseen, and all licenses, permits, and other governmental consents, which may at any time be applicable to a Party’s rights and obligations hereunder, including, without limitation, the construction, operation, and ownership of the Facility, as well as the Bill Credits distributed pursuant to the Program.

“Commercial Operations Date” means the date on which the Facility (i) generates electric energy on a commercial basis, and (ii) the interconnection to the local electrical distribution system has been authorized and is functioning with the Utility. Such date shall be specified by Company either in Appendix A to this Agreement, or by a separate notice provided to Customer pursuant to Section 2 of this Agreement.

“Confidential Information” means all oral and written information exchanged between the Parties which contains proprietary business or confidential information of a Party and is clearly marked, or designated, if oral, as “confidential” by such Party. The Parties agree that the provisions and specifics (but not the existence) of this Agreement constitute Confidential Information. The following exceptions, however, do not constitute Confidential Information for purposes of this Agreement: (a) information that is or becomes generally available to the public other than as a result of a disclosure by either Party in violation of this Agreement; (b) information that was already known by the receiving Party on a non-confidential basis prior to this Agreement; (c) information that becomes available to the receiving Party on a non-confidential basis from a source other than the disclosing Party if such source was not subject to any prohibition against disclosing the information to such Party; (d) information a Party is required to disclose in connection with any administrative or regulatory approval or filing process in connection with the conduct of its business or in accordance with any statute or regulations; (e) information disclosed pursuant to any applicable law, rule or regulation requiring such disclosure, or as compelled by legal process including pursuant to the order or requirement of a court, administrative agency, or other Governmental Authority, provided that, where allowable by law, notice to the disclosing Party is provided before compliance with such requirement and (f) information that is disclosed by the receiving Party with the prior written permission of the disclosing Party. Confidential Information does not include information regarding the size, technology and location of the Facility, the Customer’s Allocation or Capacity, the Commercial Operations Date, or the Term of the Agreement.

“Customer’s Allocation” means the Customer’s Capacity expressed in a percentage of the total nameplate capacity of the Facility. The Customer’s Allocation in this Agreement is set forth in Appendix A.

“Customer’s Capacity” means the amount of capacity Customer subscribed to under this Agreement expressed in terms of kW rounded to the nearest full panel. Customer’s Capacity shall include the Initial Capacity plus any increases made by the Company, if any, pursuant to Section 3.1. Customer’s Capacity is set forth in Appendix A.

“Customer’s Solar Output” means the Facility Solar Output multiplied by the Customer’s Allocation.

“Environmental Attributes” means any credit, benefit, reduction, offset, financial incentive, and other beneficial allowance that is in effect as of the Effective Date or may come into effect in the future, including, to the extent applicable and without limitation, (i) all environmental and renewable energy attributes and credits of any kind and nature resulting from or associated with the Facility, its production capacity and/or electricity generation, (ii) government financial incentives, (iii) greenhouse gas offsets under the Regional Greenhouse Gas Initiative, (iv) renewable energy credits or renewable energy certificates (each referred to as ***“RECs”***) or any similar certificates or credits under the laws of any jurisdiction, including but not limited to Solar RECs, and (v) other allowances howsoever named or referred to, with respect to any and all fuel, emissions, air quality, or other environmental characteristics, resulting from the use of solar energy generation or the avoidance of the emission of any gas, chemical or other substance into the air, soil or water attributable to the Facility, its production capacity and/or electricity generation. For the avoidance of doubt, the term Environmental Attributes does not include Bill Credits as defined pursuant to this Agreement.

“Estimated Initial Annual Customer’s Solar Output” means the Customer’s Solar Output estimated to occur during the 12-month period following the Commercial Operations Date.

“Facility Meter” means a revenue-grade meter maintained by the Utility at the Facility and used to measure the electricity delivered by the Facility to such meter.

“Facility Solar Output” means the total amount of electricity generated by the Facility and delivered to the Utility at the interconnection point from the Commercial Operations Date until the end of the Term, expressed in terms of kWh on a monthly or other basis.

“Fair Market Value” means the value of the Selected Solar Panels at the time the Purchase Option is exercised, in place and in continued use, which would be obtained in an arm’s length transaction between an informed and willing seller (under no compulsion to sell) and an informed and willing buyer (under no compulsion to purchase), taking into account the future revenue stream over the remaining useful life of the Selected Solar Panels, assuming that the Selected Solar Panels are in good condition, as determined by the Parties.

“Force Majeure” or ***“Force Majeure Event”*** means any event or circumstance not within the reasonable control of the affected Party which precludes that Party from carrying out, in whole or in part, its obligations under this Agreement, including, but not limited to, Acts of God,

hurricanes or tornados, fires, epidemics, landslides, earthquakes, floods, other natural catastrophes, strikes, lock outs or other industrial disturbances. A Party may not assert an event of Force Majeure to excuse it from performing due to any governmental act, failure to act, or order, where it was reasonably within such Party's power to prevent such act, failure to act, or order. Notwithstanding the contrary, economic hardship or unavailability of funds shall not constitute a Force Majeure Event of either Party, and any such discretionary acts, failures to act or orders of any kind by Customer may not be asserted as an event of Force Majeure by Customer.

"Governmental Authority" means (i) any federal, state or local government, any political subdivision thereof or any other governmental, judicial, regulatory, public or statutory instrumentality, authority, body, agency, department, bureau, or entity, (ii) any independent system operator, or regional transmission owner or operator, and (iii) any transmission or distribution entity providing net metering, distribution or transmission services to the Facility, including the Utility.

"kWh" means kilowatt hour AC.

"kW" means kilowatt DC.

"Lender" means the entity or person(s) providing financing to Company in connection with the Facility.

"Ownership Agreement" means the agreement, in a form provided by Company, that Company and Customer will enter into upon Customer's execution of Customer's Purchase Option under Section 7 of this Agreement.

"Replacement Customer" means a customer of the Utility that is eligible to participate in the Program and is acceptable to Company in Company's sole discretion that takes over Customer's Capacity.

"Tax Incentives" means any tax credits, incentives or depreciation allowances established under any federal or state law, including without limitation investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and operation of the Facility or the output generated by the Facility (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated, bonus or other depreciation.

2 TERM

- 2.1 **Term.** The Term of this Agreement (the "*Term*") shall be the Initial Term plus any Extended Term, unless earlier terminated in accordance with this Agreement, in which case the Term shall expire on the effective date of such termination.
- 2.2 **Initial Term.** The Initial Term of this Agreement shall commence on the Effective Date and extend for twenty (20) years following the Commercial Operations Date stated on Appendix A (the "*Initial Term*"). If the Commercial Operations Date is not known by

the Effective Date of this Agreement, the Company will provide the Customer with notice of the Commercial Operations Date once known. Appendix A will be updated after the Commercial Operations Date with the Commercial Operations Date, the Facility's total nameplate capacity, Customer's Allocation and the Estimated Initial Annual Customer's Solar Output. Such updated Appendix A shall be added to this Agreement without the need for additional consent or signature of the Parties.

- 2.3 Extended Term. In the event that the term of the ICA and Program is in effect beyond twenty (20) years after the Commercial Operations Date, this Agreement may extend for another fifteen (15) years; any such extension shall be referred to under this Agreement as an "*Extended Term*". This Agreement will be amended to reflect changes to the terms and conditions for the Extended Term. Company shall provide Customer with notice of the extension prior to any renewal. Customer may terminate this Agreement within thirty (30) days of Company providing Customer the amended terms without any Early Termination Fee.

3 CUSTOMER'S SUBSCRIPTION

- 3.1 Capacity. Commencing on the Commercial Operations Date and continuing throughout the remainder of the Term, Customer agrees to subscribe to the Customer's Capacity of 293.760 kW (the "Initial Capacity"). Company may increase Customer's Capacity at any time by providing written notice and an updated Appendix A to Customer, if such increase does not violate the Program Limitations in Appendix C.
- 3.2 Determination of Solar Output. Customer acknowledges the measurement of Facility Solar Output shall be based upon readings at the Facility Meter.
- 3.3 Receipt of Bill Credits. Customer's eligibility to receive Bill Credits on Customer's Utility bills for the Utility Service Location is based on Customer's Solar Output and is according to the terms and conditions of this Agreement and the Program. Bill Credits are calculated pursuant to the Program. Bill Credits are applied solely by the Utility. Calculation of Customer's portion of Bill Credits to be applied on Customer's Utility bill shall be determined as shown in Appendix B. It is intended that Bill Credits conform to the limitations set forth in Appendix C.
- 3.4 Title; Environmental Attributes and Tax Incentives Excluded. Subject to Section 7, Customer shall not be entitled to any ownership interest in, and as between Customer and Company, Company shall have title to, the Facility and all solar panels. Customer acknowledges and agrees that Customer's Solar Interest does not include any Environmental Attributes or Tax Incentives associated with the Facility, and Customer agrees that Customer will not claim the Environmental Attributes or Tax Incentives associated with the Facility.
- 3.5 Payment to Utility. Pursuant to the requirements and restrictions of the Program, Customer's Utility bill shall reflect the applicable Bill Credits as determined in accordance with Appendix B. Customer shall pay Customer's Utility bill on a timely basis in accordance with the Utility's general terms and conditions.
- 3.6 Subscription Fee. Customer shall pay a monthly fee to the Utility in the amount of \$0.20 per kW of Customer's Capacity for participation in the Program throughout the Term of

this Agreement (the “*Subscription Fee*”). Such Subscription Fee will be included on the Customer’s Utility bill. Customer shall pay such Subscription Fee in accordance with Utility’s Rider to Retail Rates – Community Solar.

- 3.7 Taxes. Customer shall be responsible for any applicable sales, use, import, excise, value added, or other taxes or levies (other than Company’s income taxes) associated with this Agreement.

4 ACKNOWLEDGEMENTS REGARDING THE PROGRAM

- 4.1 Program Limitations. The Program imposes a limit on the total Customer’s Capacity Customer may have (listed as the Program Limit in Appendix C). Customer agrees that Company is not obligated to request, and that the Utility is not obligated to make, any payment or Bill Credits to the extent Customer’s Capacity exceeds those limitations. Furthermore, Company may decrease Customer’s Capacity if such Customer’s Capacity exceeds the Program limitations set forth in Appendix C. Customer acknowledges that the limitations set forth in Appendix C are derived from the Program, and that this Agreement will be deemed automatically amended to incorporate any changes to corresponding provisions in the Program.
- 4.2 Program Requirements. To participate in the Program and to be eligible for the Utility to post Bill Credits to Customer’s Utility account based upon Customer’s Solar Output, Customer must (i) be and remain a customer of the Utility for electric service throughout the Term of this Agreement, (ii) assist in designating Customer’s Utility account to which the Utility can post Bill Credits (which shall be at the Utility Service Location shown in Appendix A unless changed pursuant to Section 6 below), and (iii) be and remain in compliance with all requirements of this Agreement, the Program and the Utility throughout the Term of this Agreement.
- 4.3 Calculation of Bill Credits. Bill Credits are calculated pursuant to the Program, and are in accordance with Utility’s Rider to Retail Rates – Community Solar. Customer acknowledges and agrees that Company’s sole obligation regarding payments to Customer is to request and use commercially reasonable efforts to require Utility to deliver Bill Credits. The duration, terms and conditions of the Program, including the rate used to determine Bill Credits, are subject to the sole and exclusive control of Utility, and Company has not made any representations or warranties with respect to the expected duration of the Program or the amounts to be provided by Utility as Bill Credits.

5 APPOINTMENT OF COMPANY AS CUSTOMER’S AGENT

- 5.1 Interaction with Utility. Bill Credit information includes, but is not limited to the Customer’s name, address, the Customer’s Utility Service Location, the Utility account numbers associated with the Utility Service Location, the nameplate capacity of the Selected Solar Panels, and the Customer’s Solar Output (collectively the “*Bill Credit Information*”). Company agrees to be, and Customer hereby appoints Company, as

Customer's exclusive representative for submitting Bill Credit Information to the Utility, with full power and authority to supply to the Utility such information as may be required by the Utility under the Program. This authorization does not restrict Customer from communicating with, instructing or directing the Utility with respect to other matters pertaining to electric service at the Utility Service Location, or asking the Utility questions regarding Customer's participation in the Program. In addition, Customer hereby authorizes the Utility to release to the Company the consumption and other account information of Customer to help the Company to carry out the terms of this Agreement and the Program, and agrees to execute any documents that either the Company or the Utility may request to permit the release of such information.

6 CHANGE OF CUSTOMER LOCATION; CAPACITY OPTIONS

6.1 Change in Location.

6.1.1 Advance Notice. Customer agrees to provide Company with ninety (90) days advance notice of any change which may cause Customer to not be the Utility's customer at the Utility Service Location.

6.1.2 New Location Within Utility Service Territory. Customer agrees that if Customer shall cease to be Utility's customer at the Utility Service Location and within thirty (30) days thereof moves to a new location within the service territory of Utility, that Customer will take all steps and provide all information required by Utility under the Program to substitute Customer's new service location as the Utility Service Location under this Agreement, and this Agreement shall continue in effect. Customer acknowledges that if the Utility Service Location or any new service location exceeds the Program Limit set forth in Appendix C or otherwise does not comply with the Utility's requirements, Customer's ability to participate in the Program may cease or be limited in accordance with Program requirements.

6.1.3 Other Termination of Utility Service. If Customer ceases to be a Utility customer for electric service at the Utility Service Location and does not comply with Section 6.1.2, Customer may terminate this Agreement in accordance with Section 10.4.

6.2 Increase in Capacity. At any time during the Term of this Agreement, Customer may request an increase in Customer's Capacity at Customer's Utility Service Location, and provided that Company has adequate solar array capacity available and Customer meets Utility and Program requirements, Company will increase Customer's Capacity upon verification by the Utility following the receipt of Customer's request, which may take up to ninety (90) days after request. Any increase in Customer's Capacity at Customer's Utility Service Location will be subject to limits imposed by the Program and as identified in Appendix C hereto.

- 6.3 Decrease in Capacity. At any time during the Term of this Agreement, Customer may request a decrease in Customer's Capacity at Customer's Utility Service Location. Customer will be charged a downsize fee in the amount of \$50.00 per kW of decrease in Customer's Capacity below the Initial Capacity (the "**Downsize Fee**"), to be paid to Company within thirty (30) days after such request. Within thirty (30) days of Company's receipt of (i) Customer's written request for a decrease and (ii) payment of the Downsize Fee, Company will take the necessary steps to reduce Customer's Capacity and provide Customer with electronic notice of the new capacity and projected date for its commencement, which may be up to ninety (90) days after the submission of Customer's request. Furthermore, a Downsize Fee will be charged to Customer, if Company decreases Customer's Capacity to keep Customer in compliance with the Program Limitations. No Downsize Fee shall be assessed at the time of decreasing Customer's Capacity in accordance with this Section, on any portion of Customer's Capacity for which Customer has found a Replacement Customer. All Parties to this Agreement agree and acknowledge that the Company will have suffered damages on account of the decreasing capacity and that, in view of the difficulty in ascertaining the amount of such damages, the Downsize Fee constitutes reasonable compensation and liquidated damages to compensate the Company on account thereof.

7 PURCHASE OPTION

- 7.1 Panel Purchase Option. Customer has subscribed to an interest in Customer's Capacity in the Facility. Provided this Agreement has not been terminated, Customer may also, if Customer chooses, elect to purchase the physical solar panels in the Facility proportionate to Customer's Capacity (the "**Selected Solar Panels**"), at such time and upon the terms and conditions set forth herein (the "**Purchase Option**").
- 7.2 Exercise of Panel Purchase Option. Customer may purchase the Selected Solar Panels from Company on an AS IS BASIS for the Purchase Price set forth in Section 7.4, plus any applicable taxes, within sixty (60) days of any of the following dates: (i) six (6) years after the Commercial Operations Date (the "**First Option Period**"), (ii) eleven (11) years after the Commercial Operations Date (the "**Second Option Period**"), (iii) sixteen (16) years after the Commercial Operations Date (the "**Third Option Period**"), or (iv) twenty (20) years after the Commercial Operations Date (the "**Fourth Option Period**"), (the "**Exercise Date**"), so long as Customer is not in default of this Agreement and this Agreement has not been terminated. Customer must give Company at least thirty (30) days, but no more than ninety (90) days, prior written notice of its election to exercise this option to purchase (the "**Purchase Notice**"). Upon payment of the Purchase Price and execution of the Ownership Agreement in the form then offered by the Company, Company will convey ownership of the Selected Solar Panels by a bill of sale. No Early Termination Fee will be assessed for the capacity converted to ownership in accordance with this Section 7.
- 7.3 Continuing Participation in Program. The Ownership Agreement offered pursuant to Section 7.2 shall provide for a term for the remainder of the Term in this Agreement for as long as the Program shall be in effect, subject to the terms and conditions of the ICA and the Program, and subject to such early termination events as Company may determine to include in such Ownership Agreement. The terms and conditions set forth

in the Ownership Agreement shall supersede any prior agreements between the Parties hereto. The Ownership Agreement shall also state that Customer, subject to the requirements and limitations of the Program, shall have the right to retain 100% of the Bill Credits attributable to Customer's Solar Output, subject to other applicable Program fees.

7.4 Panel Purchase Price.

7.4.1 The "*Purchase Price*" of the Selected Solar Panels shall be the Fair Market Value of the Selected Solar Panels at the time of exercising the Purchase Option.

7.4.2 If the Parties cannot agree to the Fair Market Value, Company shall provide Customer with the names of three independent appraisers certified by the American Society of Appraisers with experience and expertise in the solar photovoltaic industry within twenty (20) days after receipt of the Purchase Notice. Within ten (10) business days thereafter, Customer shall select one of such appraisers to determine the Fair Market Value of the Selected Solar Panels. Such appraiser shall act reasonably and in good faith and be instructed to perform its appraisal of the Fair Market Value based upon the assumptions specified in the Fair Market Value definition in this Agreement and shall set forth such determination in a written opinion delivered to the Parties. Any such appraisal shall be final and binding on Company and Customer and shall have the legal effect of an arbitration award. The costs of the appraisal shall be borne by the Parties equally. Notwithstanding any other provision of this Agreement to the contrary, in the event Customer has elected to purchase the Selected Solar Panels before the Fair Market Value is finally determined, then Customer shall have the right to withdraw such election without liability or obligation to Company within thirty (30) days after the date upon which Customer receives notice of the final determination of such Fair Market Value.

7.5 DISCLAIMER OF WARRANTY: CUSTOMER ACKNOWLEDGES THAT IF CUSTOMER EXERCISES THE OPTION TO PURCHASE THE SELECTED SOLAR PANELS, CUSTOMER IS PURCHASING THEM ON AN AS-IS BASIS, SUBJECT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

8 REPRESENTATIONS AND WARRANTIES; ACKNOWLEDGEMENTS; COVENANTS

8.1 Representations and Warranties. As of the Effective Date, each Party represents and warrants to the other Party as follows.

8.1.1 The Company is duly organized, validly existing, and in good standing under the laws of the State of Colorado. The Customer is duly organized, validly existing, and in good standing under the laws of the State of South Carolina.

8.1.2 The Party has full legal capacity to enter into and perform this Agreement.

8.1.3 The execution of the Agreement has been duly authorized, and each person executing the Agreement on behalf of the Party has full authority to do so and to fully bind the Party.

- 8.1.4 The execution and delivery of this Agreement and the performance of the obligations hereunder will not violate any Applicable Legal Requirement, any order of any court or other agency of government, or any provision of any agreement or other instrument to which the Party is bound.
- 8.1.5 There is no litigation, arbitration, administrative proceeding, or bankruptcy proceeding pending or being contemplated by the Party, or to the Party's knowledge, threatened against the Party, that would materially and adversely affect the validity or enforceability of this Agreement or the Party's ability to carry out the Party's obligations hereunder.

8.2 Customer's Additional Warranties.

- 8.2.1 Provision of Information to Utility. Customer shall provide to Utility all applications, documentation and information required by Utility and otherwise to qualify Customer to participate in the Program.
- 8.2.2 Maximum Capacity. Customer's Capacity does not and shall not exceed the limitations set forth in Appendix C. Customer acknowledges that Utility is not obligated to make any payment or Bill Credit to the extent Customer's Capacity exceeds those limitations.
- 8.2.3 No Other Assignment or Authorization. Customer has not assigned or sold Customer's Capacity, Solar Interest, or Customer's Solar Output to any other person or entity, and will not do so during the Term of this Agreement, except as permitted under this Agreement. Customer has not provided any other person or entity any of the authority granted to Company under this Agreement and will not do so during the Term of this Agreement.
- 8.2.4 No Liens or Encumbrances. Customer has not granted or placed or allowed others to place any liens, security interests, or other encumbrances on the Customer's Capacity, Solar Interest, or Customer's Solar Output and will not do so during the Term of this Agreement.
- 8.2.5 No Guaranteed Solar Output. Customer understands that the Customer's Solar Output will vary from time to time based upon solar availability, weather, seasonality, degradation and other conditions. Customer understands that Company has not guaranteed or made any representations or warranties that the operation of the Facility will be uninterrupted or error free, or that any minimum Customer's Solar Output or Bill Credits shall be obtained.
- 8.2.6 Utility Bill. Customer agrees to keep its Utility account for the Utility Service Location in active status, and to pay on a current basis such amounts as may be due the Utility in connection with such account. Customer shall make no claim against Company or Company's affiliates or assigns for amounts which may be payable to Customer from the Utility under the Program or in connection with this Agreement.

- 8.3 Company's Additional Warranties. In connection with this Agreement, Company agrees that Company at all times shall perform Company's obligations under the Program, and that Company will exercise commercially reasonable efforts to maintain the Program in effect for the Term of this Agreement. Company will comply with applicable federal, state and local laws, orders and regulations relating to Company's performance pursuant to the terms of this Agreement.

9 OPERATIONS AND MAINTENANCE

- 9.1 Operations and Maintenance Services. The Utility has agreed that, beginning on the Commercial Operations Date through the end of the Term, the Utility will be responsible for the operation and maintenance of the Facility. Company will own, operate and insure the Facility. The Utility has agreed that the Utility will provide customary maintenance services and repairs designed to keep the Facility in good working condition.

10 TERMINATION

- 10.1 Termination of Program by Utility. In the event Utility ceases to offer the Program or a comparable substitute, or in the event that there is a change in the Program or laws or regulations relating thereto such that the Customer is no longer eligible to participate in the Program, then either Party may terminate this Agreement after the Utility ceases to provide the Customer Bill Credits thereunder.
- 10.2 Termination Based on Lease. If the lease where the Facility is located (the "*Lease*") is not extended past the initial term of the Lease for any reason or an additional Lease extension is not exercised, this Agreement will terminate at such time without liability to either Party. In any case, this Agreement shall terminate upon the termination of the Lease.
- 10.3 Event of Default; Termination for Default.
- 10.3.1 Customer Default. Each of the following events will constitute a default on the part of Customer (a "*Customer Default*"):
- a) Customer fails to pay its Utility bill when due, and such failure continues for an additional thirty (30) days after such amount is due. Customer fails to pay its Subscription Fee when due, and such failure continues for an additional thirty (30) days after such amount is due.
 - b) Customer breaches any warranty or representation of Company set forth in this Agreement, or fails to perform any material obligation of this Agreement, and such breach or failure is not cured by Customer within thirty (30) days after Customer receives written notice of such breach or failure from Company.
 - c) Customer institutes or consents to any proceeding in bankruptcy pertaining to Customer or its property; or fails to obtain the dismissal of

any such proceeding within thirty days of filing; or a receiver, trustee or similar official is appointed for Customer or substantially all of Customer's property or assets; or such property or assets become subject to attachment, execution or other judicial seizure; or Customer is adjudicated to be insolvent.

- d) Customer attempts to claim any RECs, Environmental Attributes or Tax Incentives in connection with the Facility or Customer's Solar Interest.

10.3.2 Company Default. Each of the following events will constitute a default on the part of Company (a "*Company Default*") provided there is no concurrent Customer Default:

- a) Company breaches any warranty or representation of Customer set forth in this Agreement, or fails to perform any material obligation of this Agreement, and such breach or failure is not cured by Company within thirty (30) days after Company receives written notice of such breach or failure from Customer, or, if such breach or failure is not capable of cure within such thirty (30) day period, then Company (i) fails to begin such cure within ten (10) days of such written notice or (ii) to complete the cure of such breach or failure with sixty (60) days of such written notice using diligent efforts.

10.3.3 Company's Remedies for Customer Default. If a Customer Default occurs and is continuing after the expiration of the cure period applicable thereto, Company shall be entitled to withhold Bill Credits, terminate this Agreement for breach, and/or to seek such remedies as are available to Company at law or in equity including specific performance.

10.3.4 Customer's Remedies for Company Default. If a Company Default occurs and is continuing after the expiration of the cure period applicable thereto, then, Customer may terminate this Agreement by written notice to Company without further obligation.

10.4 Termination for Convenience. Customer may terminate this Agreement at any time for any reason with forty-five (45) days prior written notice to the Company. If this Agreement is terminated pursuant to this Section, then all Bill Credits received by Customer prior to such termination shall be retained by Customer and Customer agrees to pay an early termination fee in the amount of \$50.00 per kW of Initial Capacity and any Customer requested increases in Capacity within forty-five (45) days of Customer's termination notice (the "*Early Termination Fee*"). This Agreement shall not terminate pursuant to this Section 10.4, until Company receives the Early Termination Fee in accordance with this Section. No Early Termination Fee shall be assessed under this Section on any portion of Customer's Capacity for which, if at the time of termination in accordance with this Section, Customer has found a Replacement Customer. All Parties to this Agreement agree and acknowledge that the Company will have suffered damages on account of the early termination of this Agreement and that, in view of the difficulty in ascertaining the amount of such damages, the Early Termination Fee constitutes reasonable compensation and liquidated damages to compensate the

Company on account thereof. Failure to provide forty-five (45) days prior written notice may result in the loss of Bill Credits accrued for production during the month of termination.

- 10.5 Force Majeure. Except as specifically provided herein, if by reason of Force Majeure, a Party is unable to carry out, either in whole or in part, any of its obligations herein contained, such Party (the "*Affected Party*") shall not be deemed to be in default during the continuation of such inability, provided that: (i) the Affected Party, within two (2) weeks after being affected by the Force Majeure event, gives the other Party hereto written notice describing the particulars of the occurrence and the anticipated period of delay; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the Force Majeure event; (iii) no obligations of the Affected Party which were to be performed prior to the Force Majeure event shall be excused as a result of the occurrence thereof; and (iv) the Affected Party shall use commercially reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations. If any Force Majeure Event lasts longer than ninety (90) days from the receipt of notice of the Force Majeure Event, and the Affected Party determines in good faith that such Force Majeure Event substantially prevents, hinders or delays the Affected Party's performance of any of its obligations, then the Affected Party may upon written notice terminate the Agreement.
- 10.6 Early Termination. Either Party may terminate this Agreement without penalty or any liability if Company has not achieved the Commercial Operations Date within eighteen (18) months after the Effective Date; provided that such eighteen-month period shall be extended on a day-for-day basis for any delay in achieving the Commercial Operations Date due to Force Majeure Event or action or inaction on the part of Customer. Such right of termination shall be subject to the terminating Party giving the other Party notice of termination within thirty (30) days after the expiration of such eighteen-month period (as extended, if applicable), in which case this Agreement shall terminate without further liability on the part of either Party.
- 10.7 Effect of Termination. Upon termination of this Agreement, Company shall notify the Utility promptly to stop any future Bill Credits allocation to Customer forthwith. In connection with the foregoing sentence, Customer and Company agree to execute any documents as may be reasonably required by the Utility.

11 LIMITATIONS OF LIABILITY

- 11.1 Limitation of Liability. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, (1) LIABILITY OF EACH PARTY UNDER THIS AGREEMENT SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY AND (2) SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND (3) ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY

INDEMNITY PROVISION OR OTHERWISE. UNLESS AND EXCEPT AS EXPRESSLY SET FORTH HEREIN, AND SUBJECT TO THE PROVISIONS OF SECTION 14.8 (HOLD HARMLESS), IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

- 11.2 COMPANY DOES NOT REPRESENT OR WARRANT ANY MINIMUM PRODUCTION, SOLAR OUTPUT, OR BILL CREDIT AMOUNT. COMPANY DOES NOT SELL, TRANSMIT OR DISTRIBUTE SOLAR ELECTRICITY TO CUSTOMER UNDER THIS AGREEMENT. COMPANY DOES NOT PROVIDE CUSTOMER WITH OWNERSHIP OF, OR ANY INTEREST IN, ANY UTILITY INCENTIVES, TAX INCENTIVES, TAX ATTRIBUTES, ENVIRONMENTAL ATTRIBUTES, ENVIRONMENTAL INCENTIVES, OR RENEWABLE ENERGY CREDITS UNDER THIS AGREEMENT, ALL OF WHICH WILL BE OWNED BY COMPANY OR UTILITY AND USED BY COMPANY OR UTILITY AS COMPANY OR UTILITY MAY DETERMINE FROM TIME TO TIME.

12 ASSIGNMENT

- 12.1 Prior Written Consent. Neither Party shall assign or in any manner transfer this Agreement or any part thereof without the prior written consent of the other Parties, which consent may not be unreasonably conditioned, withheld or delayed. Notwithstanding the foregoing, Company is expressly permitted to assign its rights and responsibilities under this Agreement, without obtaining Customer's consent and in its sole discretion, (1) to any entity owned or controlled by Company or under common ownership or control with Company, (2) upon the sale of all or substantially all of the assets or membership interest in the Company or (3) in connection with the financing of the Facility.

12.2 Collateral Assignment; Financing Provisions.

- 12.2.1 Financing Arrangements. Company may mortgage, pledge, grant security interests, assign, or otherwise encumber its interests in this Agreement to any persons in connection with financing for the Facility. Customer acknowledges that in connection with such transactions Company may secure Company's obligations by, among other collateral, an assignment of this Agreement and a first security interest in the Facility. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any lender or lessor, as applicable, Customer agrees as follows:

- 12.2.1.1 Consent to Collateral Assignment. Customer hereby consents to (A) the sale or collateral assignment of Company's right, title and interest in the

Facility to a Lender and (B) the collateral assignment for the financing of the Company's right, title and interest in and to this Agreement.

12.2.1.2 Rights of Lender. Notwithstanding any contrary term of this Agreement:

(A) Step-In Rights. The Lender, as owner or collateral assignee of the Facility, or as collateral assignee of this Agreement, shall be entitled to exercise, in the place and stead of Company, any and all rights and remedies of Company under this Agreement in accordance with the terms of this Agreement. The Lender shall also be entitled to exercise all rights and remedies of owners or secured parties, respectively, generally with respect to this Agreement and the Facility;

(B) Opportunity to Cure Default. The Lender shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Company hereunder or cause to be cured any default of Company hereunder in the time and manner provided by the terms of this Agreement. Nothing herein requires the Lender to cure any default of Company under this Agreement or (unless the Lender has succeeded to Company's interests under this Agreement) to perform any act, duty or obligation of Company under this Agreement, but Customer hereby gives it the option to do so;

(C) Exercise of Remedies. Upon the exercise of remedies, including any sale of the Facility by the Lender, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Company to the Lender (or any assignee of the Lender as defined below) in lieu thereof, it is anticipated that the Lender shall give notice to Customer of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement;

(D) Cure of Bankruptcy Rejection. Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Company under the United States Bankruptcy Code, at the request of Lender made within ninety (90) days of such termination or rejection, Customer may, in Customer's complete discretion, elect to enter into a new agreement with Lender or its assignee having substantially the same terms and conditions as this Agreement.

12.2.1.3 Right to Cure.

(A) Cure Period. Customer will not exercise any right to terminate or suspend this Agreement unless it shall have given the Lender prior written notice of its intent to terminate or suspend this Agreement, as required by this Agreement, specifying the condition giving rise to such right, and the Lender

shall not have caused to be cured the condition giving rise to the right of termination or suspension within thirty (30) days after such notice or (if longer) the periods provided for in this Agreement; provided that if such default reasonably cannot be cured by the Lender within such period and the Lender commences and continuously pursues cure of such default within such period, such period for cure shall be extended by the time reasonably necessary to cure the same, provided that the Lender continues to use commercially reasonable efforts to effect such cure. The Parties' respective obligations will otherwise remain in effect during any cure period.

(B) Continuation of Agreement. If the Lender or its assignee (including any purchaser or transferee), pursuant to an exercise of remedies by the Lender, shall acquire title to or control of Company's assets and shall, within the time periods described in Section 12.2.1.3(A), cure all material defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement, and which are capable of cure by a third person or entity, then the Lender or its assignee shall no longer be in default under this Agreement, and provided that after such change in title or control Customer shall continue to receive all the Bill Credits due to it as set forth in this Agreement, this Agreement shall continue in full force and effect.

12.2.2 Lender a Third Party Beneficiary. Customer agrees and acknowledges that Lender is a third party beneficiary of the provisions of this Section 12.2.

12.2.3 Entry to Consent to Assignment. Customer agrees within ten (10) days of any request of Company therefor, to (i) execute any consents to assignment or acknowledgements and (ii) provide such opinions of counsel concerning Customer's legal status and authority as may be reasonably requested by Company and/or Lender in connection with the financing or sale of the Facility, pursuant to this Section 12.2.

13 AMENDMENT FOR FINANCING

13.1 Obligation to Modify the Agreement for Financing. If a Lender requires this Agreement to be modified, or if Company determines that the Agreement needs to be modified in order to finance, develop or operate the Facility, the Parties shall enter into negotiations to amend this Agreement to materially conform to such requirements and to the original intent of this Agreement in a timely manner. If the Parties, negotiating in good faith, cannot agree on such amendments, or if Company determines in good faith that the Agreement cannot be amended to allow the Facility to be financed, developed or operated in a commercially reasonable manner, then Company shall have the option, but not the obligation, to terminate this Agreement upon thirty (30) days prior written notice to Customer without further liability on the part of either Party, provided that the Customer and Company shall not be released from any payment or other obligations arising under this Agreement prior to such termination.

14 MISCELLANEOUS

14.1 Notices. All notices and other formal communications which a Party may give to the other under or in connection with this Agreement shall be in writing (except where expressly provided for otherwise), shall be effective upon receipt, and shall be sent by any of the following methods: electronic notification via MyOwnCleanEnergy; hand delivery; reputable overnight courier; or certified mail, return receipt requested, and shall be sent to the following addresses:

If to Company: Curie Solar, LLC
c/o Clean Energy Collective, LLC
361 Centennial Parkway, 3rd Floor
Louisville, CO 80027
Attn: Tom Sweeney, President

with a copy by email to Tom.Sweeney@easycleanenergy.com

If to Customer: City of North Augusta
100 Georgia Ave
North Augusta, SC 29861
Attn: Todd Glover
tglover@northaugusta.net

Any Party may change its address and contact person for the purposes of this Section by giving notice thereof in the manner required herein.

14.2 Confidentiality. Except as provided in this Section 14.2, no Party shall publish, disclose, use or otherwise divulge Confidential Information to any person at any time during or after the Term of this Agreement, without the other Parties' prior express written consent.

14.2.1 Each Party shall permit knowledge of and access to Confidential Information only to those of its affiliates, attorneys, accountants, representatives, agents, advisers, investors, providers of financing, directors, officers and employees who have a need to know related to this Agreement and in the case of the Company, to the Utility.

14.2.2 If required by any law, statute, ordinance, decision, or regulation or pursuant to any order issued by a court, governmental agency or authority having jurisdiction over a Party, that Party, upon giving notice to the other Party if permissible by law, may release or disclose Confidential Information, or a portion thereof, as required by applicable law, statute, ordinance, decision, order or regulation, and a Party may disclose Confidential Information to accountants in connection with audits.

14.3 Severability. If any article, section, phrase or portion of this Agreement is, for any reason, held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such article, section, phrase, or portion so adjudged will be deemed separate, severable and independent and the remainder of this Agreement will be and remain in full force and effect and will not be invalidated or rendered illegal or unenforceable or

otherwise affected by such adjudication, provided the basic purpose of this Agreement and the benefits to the Parties are not substantially impaired, and provided further, however, that the Parties shall enter into negotiations concerning the terms affected by such decisions for the purpose of achieving conformity with requirements of any Applicable Legal Requirements and the intent of the Parties.

- 14.4 Governing Law. This Agreement and the rights and duties of the Parties hereunder shall be governed by and shall be construed, enforced and performed in accordance with the laws of the State of South Carolina without regard to principles of conflicts of law.
- 14.5 Dispute Resolution. Unless otherwise expressly provided for in this Agreement, the dispute resolution procedures of this Section 14.5 shall be the exclusive mechanism to resolve disputes arising under this Agreement.
- 14.5.1 Any dispute that arises under or with respect to this Agreement that cannot be resolved shall in the first instance be the subject of formal negotiations between respective executive officers of each Party. The dispute shall be considered to have arisen when one Party sends the other Party a written notice of dispute. The period for formal negotiations shall be fourteen (14) days from receipt of the written notice of dispute unless such time period is modified by written agreement of the Parties.
- 14.5.2 In the event that the Parties cannot timely resolve a dispute by informal negotiations, the sole venue for judicial enforcement shall be the Circuit Courts of South Carolina. Each Party hereby consents to the jurisdiction of such courts, and to service of process in the State of South Carolina in respect of actions, suits or proceedings arising out of or in connection with this Agreement or the transactions contemplated by this Agreement.
- 14.5.3 Notwithstanding the foregoing, injunctive relief from such court may be sought without resorting to a form of alternative dispute resolution to prevent irreparable harm that would be caused by a breach of this Agreement.
- 14.6 Entire Agreement. This Agreement, together with its appendices, exhibits, contains the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all other understandings or agreements, both written and oral, between the Parties relating to the subject matter hereof.
- 14.7 Press Releases. Customer authorizes Company and Company's Affiliates to use Customer's name and the nameplate capacity allocated to Customer hereunder (such information referenced herein as Customer's "**Customer Information**") for reporting purposes, such as official reporting to governmental authorities, the Utility, public utility commissions and similar organizations, and in oral communications. Company must seek Customer's written consent to use the Customer Information for written or digital marketing materials or press releases. Company agrees that following written notice from Customer to opt into Company's marketing program, Company may identify Customer by name in Company's written or digital marketing materials or press releases. Under no circumstances, except as required by law and as otherwise provided in this Agreement,

will Company release or otherwise publish any information collected from Customer other than the above Customer Information.

- 14.8 Hold Harmless. To the extent permitted by law, each Party shall hold harmless the other Party and its Affiliates, directors, officers, managers, members, partners, employees, representatives, agents and affiliates (together, "*Related Parties*") from and against any and all claims, demands, losses, damages, liabilities, legal proceedings, judgments and awards, costs and expenses (including but not limited to reasonable attorneys' fees) arising directly or indirectly in whole or in part out of personal injury (including death) and property damage (real and personal) arising out of such Party's act or omission. To the extent permitted by law, Customer shall hold Company and its Related Parties harmless from any and all claims, liability, charges, actions, and demands arising out of or relating to: (a) breach of any of the Customer's representations, warranties or covenants contained in this Agreement; or (b) amounts owed by Customer to Utility or actions taken by Company with respect to Customer's Utility account.
- 14.9 No Joint Venture. Each Party will perform all obligations under this Agreement as an independent contractor. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of each Party hereunder are individual and neither collective nor joint in nature.
- 14.10 Applicability of the Freedom of Information Act. The parties acknowledge and agree (a) that the Customer is required to comply with the Freedom of Information Act for South Carolina, and (b) that the terms of this Agreement contain and constitute confidential and privileged market information and trade secrets of Company, which if disclosed to Company's competitors could harm the Company. The Customer agrees to not disclose the terms hereof to any other entity or person, except for the limited purpose of facilitating the business relationship with Company and the transactions contemplated herein or as may be required under the Freedom of Information Act or other requirements of law. Customer will advise Company of any request for the foregoing information under the Freedom of Information Act.
- 14.11 Governmental Immunity. Customer and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by S.C. Code § 15-78-10, et seq. (1986), or otherwise available to Customer and its officers, attorneys or employees under law or regulation.
- 14.12 Annual Appropriation. Company acknowledges and agrees that in accordance with South Carolina constitutional restrictions, Customer has appropriated funds necessary to satisfy the payments that are required to fulfill its obligations under this Agreement for the initial year of the Term of this Agreement. The payment of any compensation due under this Agreement for any year beyond the first year provided for herein is contingent upon annual appropriation of funds in accordance with applicable law. During the Term of this Agreement, Customer agrees in good faith to include the amounts to become due under this Agreement in Customer's budget request for each fiscal year for funding Customer's

energy costs. In any fiscal year, Customer's failure to appropriate for the purchase of electricity from any source at any of Customer's locations for a future fiscal year, including the encumbrance for this Agreement, will be a non-appropriation event (a "*Non-Appropriation Event*"). If a Non-Appropriation Event occurs, Company may terminate this Agreement in its sole discretion, without further obligation by either Party. Customer will not have the right to receive Bill Credits during the occurrence of a Non-Appropriation Event. Company may transfer all or a portion of Customer's Capacity to another customer for the duration of a Non-Appropriation Event. If Company chooses not to terminate this Agreement for a Non-Appropriation Event, Customer will in good faith continue to include the amounts to become due in each subsequent fiscal year of the Term in Customer's budget request for funding of Customer's energy costs for each fiscal year, and if an appropriation for funds is made for a future fiscal year, the Company's respective obligations under this Agreement will be reinstated. If Customer makes five (5) successive annual requests to appropriate funds for electricity purchases that are denied, Customer will no longer be obligated to make further annual appropriation requests under this Agreement and this Agreement shall terminate without further obligation of either Party.

- 14.13 Amendments; Binding Effect; Waiver. This Agreement may not be amended, changed, modified, or altered unless such amendment, change, modification, or alteration is in writing and signed by all of the Parties to this Agreement or its respective successor in interest. This Agreement inures to the benefit of and is binding upon the Parties and each of their respective successors and permitted assigns. No waiver of any provision of this Agreement will be binding unless executed in writing by the Party making the waiver.
- 14.14 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. Delivery of an executed counterpart of this Agreement by facsimile or PDF transmission will be deemed as effective as delivery of an originally executed counterpart.
- 14.15 Further Assurances. From time to time and at any time at and after the execution of this Agreement, each Party shall execute, acknowledge and deliver such documents and assurances, reasonably requested by the other and shall take any other action consistent with the terms of the Agreement that may be reasonably requested by the other for the purpose of effecting or confirming any of the transactions contemplated by this Agreement. No Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section.
- 14.16 Survival. The provisions of Sections 3.4, 5, 7.5, 8.2, 10, 11, 12.2, and 14 shall survive the expiration or earlier termination of this Agreement.
- 14.17 No Third-Party Beneficiaries. This Agreement is intended solely for the benefit of the Parties hereto. Except as expressly set forth in this Agreement, nothing in this Agreement shall be construed to create any duty to or standard of care with reference to, or any liability to, or any benefit for, any person not a Party to this Agreement, except that this Section 14.17 shall not limit the rights of a Lender pursuant to Section 12.2.

[Signature page to follow.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CUSTOMER

City of North Augusta

By: _____

Name: _____

Title: _____

COMPANY

Curie Solar, LLC

By: Clean Energy Collective, LLC

Its Manager

By: Tom Sweeney, President

List of Appendices to Agreement

Appendix A: Customer and Facility Information

Appendix B: Bill Credit Calculations

Appendix C: Program Limitations

Appendix A

Customer and Facility Information

(This Appendix will be completed and an updated copy of this Appendix will be provided upon the Commercial Operations Date of the Facility.)

Facility Name: SCE&G Curie
Facility Company Name: Curie Solar, LLC
Facility Location: 1322 Bamberg HWY, Hampton, SC 29924
Facility Nameplate Capacity (kW): 2,498
Commercial Operations Date: TBD
Effective Date: TBD
Customer Name(s): City of North Augusta
Email: TBD
Tel: TBD

Customer Utility Service Location	Account Number	Capacity (kW)	Allocation (%)	Estimated Initial Annual Customer's Solar Output (kWh)

Appendix B

Bill Credit Calculations

Customer shall, subject to the requirements and limitations of the Program and this Agreement, be eligible to receive the Bill Credits attributable to Customer's Solar Output from the Utility. The amount of Bill Credits for which Customer is eligible shall be calculated by multiplying Customer's Solar Output by the Utility credit rate of \$0.10 per kWh (the "*Solar Credit*") less the Energy Payment to the Company from the Utility, fixed for 20 years. Customer shall retain 10% of the Solar Credits, which pursuant to the Program, the Utility will apply to Customer's normal electric charges on the Utility bill as Bill Credits.

Bill Credits = Customer's Solar Output * (Utility Bill Credit Rate of \$0.10 per kWh – Energy Payment of \$0.09 per kWh)

Bill Credits = 10% of Solar Credit

Energy Payment = 90% of Solar Credit

Company anticipates that Bill Credits will reduce the amount owed on the Customer's Utility bill. Should the Bill Credits exceed the amount owed on Customer's Utility bill, Company anticipates that the excess Bill Credits, if any, will be rolled over and applied to future months' billings. Company anticipates that such excess Bill Credits will be evaluated for total balances amounting to \$600 or greater. Should Customer's accrued excess Bill Credits, combined with any other excess credits accrued on Customer's Utility account exceed a \$600 credit balance, the Utility may remit to Customer a check for Customer's Utility account balance.

Appendix C
Program Limitations

The Program Limitation under this Agreement is equal to the capacity suitable to supply one hundred percent (100%) of Customer's electric energy usage during the most recent 12-month billing period. Customer agrees that the Estimated Initial Annual Customer's Solar Output from Customer's Capacity as set forth in Appendix A shall not exceed the Program Limitation. The maximum participation cap for a Commercial Customer is 1,000 kW AC (1,300 kW DC) per account number.

In addition, Customer acknowledges that Customer's Utility Service Location is eligible to participate in the Program.

Customer acknowledges that, at any time, Company reserves the right to decrease Customer's Capacity in order to maintain Customer's compliance with the Program Limitation.

