



# **CITY OF SPARTANBURG**

SOUTH CAROLINA

## **CITY COUNCIL AGENDA**

**City Council Meeting  
City Council Chambers  
145 West Broad Street  
Spartanburg, SC  
Monday, June 9, 2014  
5:30 p.m.**

- I. Moment of Silence**
- II. Pledge of Allegiance**
- III. Approval of the Minutes of the May 27, 2014 City Council Meeting**
- IV. Approval of Agenda of the June 9, 2014 City Council Meeting**
- V. Public Comment**  
\*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- VI. Special Presentation of CALEA Certificates of Reaccreditation to Spartanburg Police Department**  
**Presenters: Representative Eddie Tallon and SC Supreme Court Justice John W. Kittredge**
- VII. Ordinances**
  - A. Ordinance to Provide for the Adoption of a City Operating Budget, Its Execution and Effect, for the Fiscal Period July 1, 2014 Through June 30, 2015 (Second Reading)**  
**Presenter: James Kennedy, Budget and Accounting Director**  
**Chris Story, Assistant City Manager**
  - B. To Raise Revenues for the City of Spartanburg for the Fiscal Year 2014 – 2015 to Levy Taxes on All Real Estate and Personal Property, Except Such as is Exempted by Law, in the Corporate Limits of the City of Spartanburg for Corporate Purposes for the Fiscal Year 2014 – 2015 and to Provide Penalties for the Delinquent Payment of Taxes Levied and Provided for (Second Reading)**  
**Presenter: James Kennedy, Budget and Accounting Director**  
**Chris Story, Assistant City Manager**
  - C. Ordinance to Confirm Eligibility of the Former Beaumont Mill for the State of South Carolina Textiles Communities Redevelopment Tax Credits (First Reading)**  
**Presenter: Chris Story, Assistant City Manager**

As required by the Americans with Disabilities Act, the City of Spartanburg will provide interpretive services for the City Council Meetings. Requests must be made to the Communications & Marketing Office (596-2020) 24 hours in advance of the meeting. This is a Public Meeting and notice of the meeting was posted with the Media 24 hours in advance according to the Freedom of Information Act.

**VIII. Public Hearing**

- A. Ordinance Accepting the Property Owned by Mary K. Randall and Being Located at 207 Brian Court, and that Portion of Brian Court Abutting Said Property, and is Further Identified on Spartanburg County Tax Map as 7-13-04-088.00 as a Part and Parcel of the City of Spartanburg and Declaring Said Property Annexed to and a Part and Parcel of the City of Spartanburg (First Reading)**  
**Presenter: Joshua T. Henderson**

**IX. Other Business**

- A. Award of Contract for Installation of New Roof at City Hall**  
**Presenter: David Cook, Construction Project Manager**
- B. Ordinance to Authorize a Parks Improvements Assistance Agreement Between the City of Spartanburg and the Mary Black Foundation (First Reading)**  
**Presenter: Chris Story, Assistant City Manager**
- C. Update on Park and Recreation Improvement Projects**  
**Presenter: Kim Moultrie, Parks and Recreation Superintendent**
- D. Approval to Purchase Playground Equipment**  
**Presenter: Kim Moultrie, Parks and Recreation Superintendent**
- E. Award of Contract for Improvements at C. C. Woodson Community Center**  
**Presenter: Tim Carter, Engineering Manager**
- F. Authorization to Proceed with Butterfly Branch Project**  
**Presenter: Ed Memmott, City Manager**
- G. Discussion of Parking in Residential Areas**  
**Presenter: Ed Memmott, City Manager**

**X. City Council Updates**

**XI. Adjournment**

*\* City Code Sec. 2-57. Citizen Appearance. Any citizen of the City of Spartanburg may speak at a regular meeting on any matter pertaining to City Services and operations germane to items within the purview and authority of City Council, except personnel matters, by signing a Citizen's Appearance form prior to the meeting stating the subject and purpose for speaking. No item considered by Council within the past twelve (12) months may be added as an agenda item other than by decision of City Council. The forms may be obtained from the Clerk and maintained by the same. Each person who gives notice may speak at the designated time and will be limited to a two (2) minute presentation.*





**City Council Meeting  
City Council Chambers  
145 West Broad Street  
Spartanburg, SC  
Tuesday, May 27, 2014  
5:30 p.m.**

- I. **Moment of Silence – Mayor White offered condolences to the family of City of Spartanburg employee, Bruce Farr, Storm Water Supervisor, who passed on Monday, May 26. A moment of silence was observed.**
- II. **Pledge of Allegiance – recited.**
- III. **Approval of the Minutes of the May 12, 2014 City Council Meeting –**  
*Councilmember Rice made a motion to approve the minutes as received.  
Councilmember Ryba seconded the motion, which carried unanimously 7 to 0.*
- IV. **Approval of Agenda of the May 27, 2014 City Council Meeting –**  
*Mayor pro tem Scalisi made a motion to approve the agenda as received.  
Councilmember Reeder seconded the motion, which carried unanimously 7 to 0.*
- V. **Public Comment - None**  
\*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- VI. **Special Presentation – Proclamation Declaring May 2014 as Foster Care Month**  
**Presenter: Mayor Junie White**  
Mayor White presented the proclamation to members of the Foster Family Resource Group.
- VII. **Public Hearing**
  - A. **Ordinance to Provide for the Adoption of a City Operating Budget, Its Execution and Effect, for the Fiscal Period July 1, 2014 Through June 30, 2015 (First Reading)**  
**Presenter: James Kennedy, Budget and Accounting Director**  
Mr. Story and Mr. Kennedy presented the item to City Council as follows:  
“In accordance with Section 2-119 of the Code of the City of Spartanburg 1988 the City is required to adopt an annual budget. The City Council held a budget workshop on May 12, 2014. During that time, discussions were held concerning General Fund revenues, proposed personnel cost changes, and other inflationary expenditure increases. The recommended FY 2014 – 2015 budget is reflective of management’s efforts to meet long term funding obligations.  
The FY 2014 – 2015 budget includes the following:
    - 2 mil property tax increase
    - \$6 increase in the residential trash fee from \$102 to \$108

- Additional \$25 flat fee for late business license renewals (new)
- 3% projected increase in General Fund revenues
- 1.5% employee cost-of-living pay increase
- Approx. \$100,000 for mandatory increases in retirement
- 5% increase in medical insurance cost
- \$220,000 for building facilities maintenance
- \$100,000 for T.K. Gregg facility sinking fund
- \$379,512 for quality of life projects

ACTION REQUESTED: Adoption of an Ordinance to approve the operating budget for fiscal year July 1, 2014 – June 30, 2014.

BUDGET AND FINANCE DATA: See proposed budget document.”

**Mayor White** opened the public hearing asking if there was anyone to speak in favor of or in opposition to the proposed budget.

**Ms. Alice Hatcher Henderson** came forward to speak in favor of the proposed budget and expressed thanks that the city employees would be receiving a raise.

**Councilmember Reeder** made a motion to close the public hearing. *Councilmember Rice seconded the motion, which carried unanimously 7 to 0.*

**Mayor pro tem Scalisi** asked several questions, one regarding the hospitality tax disbursement. *Councilmember Ryba recused herself from the discussion as she serves as Executive Director of Hub-Bub, which receives Hospitality Tax funding from the City. Councilmember Ryba left Council chambers during the discussion. Mayor pro tem Scalisi objected to the ½ disbursement of the hospitality tax and proposed funding the entire amount for the year. Mayor pro tem Scalisi made the following motion, “I would like to make a motion that we go ahead and fund the full year for these folks in this fund and that we continue with our plan to have a committee look at criteria and funding over the next year so that we can change the process little bit for next year’s budget.” Councilmember Brown seconded the motion, which carried 6 to 0.*

*Councilmember Ryba re-entered the Chambers.*

*Councilmember Rice made a motion to approve the budget, excepting the Hospitality Tax funding change proposal, on first reading. Councilmember Reeder seconded the motion, which carried unanimously 7 to 0.*

## VIII. Ordinance

- A. To Raise Revenues for the City of Spartanburg for the Fiscal Year 2014 – 2015 to Levy Taxes on All Real Estate and Personal Property, Except Such as is Exempted by Law, in the Corporate Limits of the City of Spartanburg for Corporate Purposes for the Fiscal Year 2014 – 2015 and to Provide Penalties for the Delinquent Payment of Taxes Levied and Provided for (First Reading)**  
**Presenter: James Kennedy, Budget and Accounting Director**

**Mr. Kennedy** presented the item to City Council as follows:

“The purpose of this Ordinance is to establish the property tax millage rate for the City of Spartanburg for FY 2014 – 2015. The current year’s millage is 103.0. This proposed millage ordinance includes a 2.0 mil increase for FY 2014 – 2015 from 103.0 to 105.0. The total property tax revenue estimate (current & delinquent) for next year is budgeted at \$14,116,367.

ACTION REQUESTED: Adoption of an Ordinance to approve the millage for fiscal year July 1, 2014 – June 30, 2015.”

*Councilmember Ryba made a motion to approve the ordinance as presented on first reading. Mayor pro tem Scalisi seconded the motion, which carried unanimously 7 to 0.*

**IX. Resolution**

**A. Authorizing the City Manager to Enter into a Memorandum of Understanding with the Hub City Co-op**

**Presenter: Chris Story, Assistant City Manager**

Mr. Story presented the item to City Council as follows:

“At the May 12<sup>th</sup> Council work session, we illustrated and discussed a scenario for city financial participation in making the proposed Hub City Cooperative Grocery a reality. The attached proposed resolution would authorize the City Manager to execute a Memorandum of Understanding (initial draft also attached) with the Co-op that would allow us to implement that plan.

The proposal involves two elements:

- A subordinate loan to the Co-op from the City of Spartanburg Development Corporation of up to \$200,000 at 0% interest, payable over five years beginning in the Co-op third year of store operations.
- An operating subsidy grant totaling \$150,000 paid out monthly over the first 48 months of store operations.

As we have indicated in previous meetings, we believe that the Co-op will generate a significant number of new regular visitors to downtown from throughout much of Spartanburg County thereby strengthening the downtown economy. Also, by providing convenient grocery shopping within walking distance, it will make living and working downtown more desirable. We recommend your approval.

We look forward to any questions you may have.”

*After discussion, Councilmember Ryba made a motion to approve the resolution as presented. Councilmember Brown seconded the motion. The vote was 5 to 2 with Councilmembers Reeder and Rice voting against the resolution. Motion carried.*

**X. Consent Agenda**

**A. Ordinance to Amend the City of Spartanburg, South Carolina Zoning Ordinance and Comprehensive Plan Land Use Element, by Amending Section 206, Changes to District Boundaries, specifically Parcel #7-12-13-145.00, located at 579 West Main Street, which is Currently Zoned B-3, with a Land Use Designation of General Business District to Zone LOD, with a Land Use Designation of Limited Office District, from Frances Williams, Owner. The purpose for the request is to permit the owner to continue to use the property as a two-family rental unit, or possible future office use. (Second Reading)**

**Presenter: Joshua Henderson, Planning Coordinator**

**B. Ordinance to Amend the City of Spartanburg, South Carolina Zoning Ordinance and Comprehensive Plan Land Use Element, by Amending Section 206, Changes to District Boundaries, Specifically Parcel #7-17-15-026.00, Located at 201 Cedar Springs Road, which is Currently Zoned R-15, with a Land Use Designation of Single Family Residential District to Zone LOD, with a Land Use Designation of Limited Office District, from Kim Kauffman, Freeland and Kauffman, Inc. on behalf of Bright-Myers 2001, LLC, on behalf of William S. Myers, Owner. The**

**purpose for the request is to permit the owner to be able to market the property for future commercial redevelopment. (Second Reading)**

**Presenter: Joshua Henderson, Planning Coordinator**

*Councilmember Reeder made a motion to approve the consent agenda on second reading. Mayor pro tem Scalisi seconded the motion, which carried unanimously 7 to 0.*

## **XI. Other Business**

### **A. FY 2013-2014 Fraud Risk Assessment Report**

**Presenter: James Kennedy, Budget & Accounting Director**

**Mr. Kennedy** presented the item to City Council as follows:

“At the upcoming Council meeting, we will present the results of our annual fraud risk self-assessment. As you know, this practice is not made necessary by any particular problem or shortcoming of the City; it is simply one of our many routine efforts to ensure we are taking all reasonable steps to improve our management of City resources. The American Institute of Certified Public Accountants (AICPA) Statements on Auditing Standards (SAS) No. 99 and No. 112 require entities to conduct an annual fraud risk assessment and communicate the results with the governing body. Please be aware that these auditing standards require that the potential area of risk must be at a high level of the possibility in order for our financial statements to be materially misstated.

In preparation of the City’s upcoming FY 2013 - 2014 audit, departments were asked to conduct an assessment of their department for potential risk areas. An assessment request was sent to all departments, including over fifty-six staff members. The goal is to identify fraud risks that have a more than remote likelihood of occurring, and a more than inconsequential impact on the City’s finances. These risks could be in loss of assets, lack of proper controls, or weaknesses. Generally Accepted Accounting Principles (GAAP) requires the City to maintain a system of internal controls to reduce the risk of fraud (misappropriation of assets). This assessment focuses on areas where there are potential risks and no existing mitigating internal controls.

Our purpose is to understand where fraud is most likely to occur so that the risk of fraud can be effectively controlled. A fraud risk assessment and internal controls do not guarantee that will not occur.

The attached report requires no Council action and it presented for information only. However, we will welcome any questions you may have.”

*City Council received the report as information.*

## **XII. City Council Updates –**

**Councilmember Rice** reminded everyone that it was graduation season and that the number of graduates was “up” at Spartanburg High School. He mentioned that two Saturdays ago, he attended the Fair Housing Workshop and that it went well. He also commented on the experimental burns recently conducted by the City Fire Department and commended them on that effort.

**Councilmember Anderson** commented that he appreciated staff conversations on parks for the Westside. He shared that he enjoyed his Wofford 50<sup>th</sup> reunion.

**Councilmember Brown** shared another “shout out” from citizens regarding quick response by Tony McAbee and his team on a storm water drain issue. She reminded everyone that Jazz on the Square would end on Friday.

**Councilmember Ryba** invited everyone to visit the Hub-Bub Community Garden on Sunday from 11 to 5.

**Mayor pro tem Scalisi** shared events from the Main Street Challenge and thanked everyone involved. She shared that the Kudzu Coalition would be working in the Highland Neighborhood. She mentioned that she had the privilege of ringing the bell to open the Farmer's market at the Train Depot the previous Saturday.

**Councilmember Reeder** echoed Councilmember Rice's comments regarding the Fair Housing Event.

**XIII. Executive Session to Discuss Evaluation of City Manager, City Attorney, and Municipal Court Judge**

***Councilmember Ryba** made a motion to adjourn to Executive Session for the reasons stated. Mayor pro tem Scalisi seconded the motion, which carried unanimously 7 to 0. Council adjourned to Executive Session at 6:25 p.m.*

***Council reconvened to the regular meeting at 7:00 p.m. Mayor White stated that discussion was held with no decisions made.***

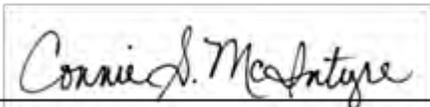
***Councilmember Anderson** made a motion that City Manager Ed Memmott be given a 3% salary increase, which equated to \$3,900 per year. Councilmember Reeder seconded the motion, which carried unanimously 7 to 0.*

***Councilmember Reeder** made a motion that Municipal Judge Erica McJimpsey be given a 5% salary increase, which equated to \$4,484 per year. Councilmember Rice seconded the motion, which carried unanimously 7 to 0.*

***Councilmember Anderson** made a motion that City Attorney Cathy McCabe be given a 2% salary increase, which equated to \$1,700 per year. Councilmember Rice seconded the motion, which carried unanimously 7 to 0.*

**XIV. Adjournment –**

***Councilmember Reeder** made a motion to adjourn the meeting. Councilmember Brown seconded the motion, which carried unanimously 7 to 0. The meeting adjourned at 7:07 p.m.*



Connie S. McIntyre, City Clerk





## REQUEST FOR COUNCIL ACTION

**TO:** Spartanburg City Council

**FROM:** Chris Story, Assistant City Manager

**SUBJECT:** Ordinance Certifying Beaumont Mill as a Textile Mill Site under the SC Textile Communities Revitalization Act

**DATE:** June 4, 2014

The South Carolina Textile Communities Revitalization Act provides financial incentives to support the redevelopment of the many former textile mill sites throughout the state. The program entitles the developers of qualifying projects on certified sites to receive either a credit against a portion of local property taxes or a credit against a portion of state taxes. The owners of the Beaumont Mill site are pursuing the state tax credits. The City must certify a site for it to be eligible.

The site clearly qualifies with the definitions in the code and its inclusion is consistent with the intent of the program.

Because this action relates specifically to taxes paid to the State, this incentive will have no effect on any local revenues derived from the site now or in the future. To the extent that it encourages high quality redevelopment, this action should strengthen the city's tax base.

We recommend your approval.

We welcome any questions you may have.

## AN ORDINANCE

### TO PROVIDE CERTIFICATION OF BEAUMONT MILL AS A TEXTILE MILL SITE UNDER THE SOUTH CAROLINA TEXTILES COMMUNITIES REVITALIZATION ACT FOR THE PURPOSE OF ALLOWING THE DEVELOPER TO QUALIFY FOR STATE INCOME TAX CREDITS

**WHEREAS**, Jimmy I. Gibbs, LLC (“Developer”), desires to redevelop the abandoned textile manufacturing facility located in the City of Spartanburg, County of Spartanburg, State of South Carolina, formerly known as the Beaumont Mill and more particularly listed as tax parcels 7-12-03-045.00 and 7-12-03-047.00 and as depicted on the map attached hereto as Exhibit A (the “Property”); and

**WHEREAS**, as part of the redevelopment by Developer, portions of the Property are anticipated to qualify for state income tax credits pursuant to the South Carolina Textiles Communities Revitalization Act (Section 12-65-30 (A)(2) specifically and Chapter 65 of Title 12 of the South Carolina Code generally (the “Textile Mill Statute”); and

**WHEREAS**, the Textile Mill Statute contains a detailed definition of the specific property that will qualify as a “Textile Mill Site” (as defined in the Textile Mill Statute); and

**WHEREAS**, while Developer is not required to file a Notice of Intent to Rehabilitate with the City of Spartanburg pursuant to the Textile Mill Statute because the Property was acquired prior to January 1, 2008, Developer has requested a certification of the Textile Mill Site pursuant to Section 12-65-60 of the Textile Mill Statute from the Spartanburg City Council; and

**WHEREAS**, the Spartanburg City Council has, after careful investigation and due deliberation, determined that the redevelopment of the Property will be beneficial to the City of Spartanburg, and the City agrees to provide an ordinance in compliance with Section 12-65-60 of the Textile Mill Statute.

**NOW THEREFORE, BE IT ORDAINED** by the Spartanburg City Council:

Section 1. That all recitals hereof are true and correct and a part of this Ordinance.

Section 2. That the Property was a facility that was last used for textile manufacturing, dying or finishing operations and for ancillary uses to those operations (i.e. a “textile mill”) as more particularly defined in Section 12-65-20(3) of the Textile Mill Statute.

Section 3. That the Property was “abandoned” in 1999 as defined in Section 12-65-20(1) of the Textile Mill Statute.

Section 4. That the Property as depicted on the map attached hereto as Exhibit A constitutes a Textile Mill Site consistent with Section 12-65-20(4) of the Textile Mill Statute.

Section 5. That the Property was acquired by the Developer on January 7, 2000.

Section 6. That in accordance with Section 12-65-30(D), (i) the facility has not previously received tax credits under the Textile Mill Statute, and (ii) the Developer did not own the Textile Mill Site when it was operational or immediately prior to its abandonment.

Section 7. That this Ordinance is intended to comply with the certification requirements set forth in Section 12-65-60 of the Textile Mill Statute.

Section 8. This Ordinance shall become effective upon the date of enactment.

DONE AND RATIFIED this \_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
MAYOR.

ATTEST:

\_\_\_\_\_  
CITY CLERK.

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY.

\_\_\_/\_\_\_/\_\_\_ 1st Reading

\_\_\_/\_\_\_/\_\_\_ 2nd Reading







## REQUEST FOR COUNCIL ACTION

**TO:** Ed Memmott, City Manager

**FROM:** Joshua T. Henderson, Planning Coordinator

**SUBJECT:** Ordinance Accepting the Property Owned by Mary K. Randall, and Being Located at 207 Brian Court, and that Portion of Brian Court Abutting said Property, as a Part and Parcel of the City of Spartanburg and Declaring said Property Annexed to and a Part and Parcel of the City of Spartanburg, said Parcel to be Zoned R-15, Single Family Residential upon Annexation.

**DATE:** June 9, 2014

### **BACKGROUND:**

Staff received a request from Mary K. Randall, owner of 207 Brian Court for annexation of the property into the City of Spartanburg. Because this property will be zoned R-15, Single Family Residential upon Annexation, there is no need to obtain zoning designation by the Planning Commission.

Additionally, said parcel is located in the Hillbrook Forest Subdivision. Since the parcel is contiguous to the City Limits, the property owner has submitted an annexation petition under the 100 percent Petition and Ordinance method. Since the zoning designation for the contiguous parcel is R-15, Single Family Residential; Staff is requesting Council to designate the parcel as R-15.

### **ACTION REQUESTED:**

Staff recommends that the City Council take the following actions:

- a) Approve the annexation of 207 Brian Court (TMS7-13-04-088.00).
- b) Designate the zoning for this property as R-15 (Single Family Residential) upon annexation.

### **BUDGET AND FINANCE DATA:**

The parcel will generate property tax after annexation. Additional service costs will be minimal.

## AN ORDINANCE

**ACCEPTING THE PROPERTY OWNED BY MARY K. RANDALL, AND BEING LOCATED AT 207 BRIAN COURT, AND THAT PORTION OF BRIAN COURT ABUTTING SAID PROPERTY, AND IS FURTHER IDENTIFIED ON SPARTANBURG COUNTY TAX MAP AS 7-13-04-088.00 AS A PART AND PARCEL OF THE CITY OF SPARTANBURG AND DECLARING SAID PROPERTY ANNEXED TO AND A PART AND PARCEL OF THE CITY OF SPARTANBURG.**

WHEREAS, heretofore, the City of Spartanburg, on May 14, 2014, received a Petition, filed by City Attorney Cathy McCabe for Mary K. Randall, Owner, requesting that the property described in the Petition be annexed to the City of Spartanburg; and

WHEREAS, the City Council of Spartanburg has caused an investigation to be made of said property and has found that said property is contiguous to the City of Spartanburg and that it would be in the best interest of the City of Spartanburg if said property be annexed hereto in accordance with Section 5-3-150 of the Code of Laws of South Carolina, 1976; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Members of Council of the City of Spartanburg, South Carolina, in Council assembled:

Section 1: That the Petition of Mary K. Randall, dated May 14, 2014, for the annexation of the property hereinafter described to the City of Spartanburg be accepted.

Section 2: That the property hereinafter described is hereby declared annexed to the City of Spartanburg and a part and parcel of said City with full privileges accorded to and responsibilities required of said area.

Section 3: That said property is described as follows:

All that lot or parcel of land located just outside the City of Spartanburg, County of Spartanburg, State of South Carolina, being known and designated as Lot No. 24, in Block Two as shown on Plat No. 5 of Hillbrook Forest dated July 9, 1963, and recorded in Plat Book 46, at Pages 218-219, R.M.C. Office for Spartanburg County, being the same property conveyed to William B. and Mary K. Randall by deed of Duval Development Corporation recorded in Deed Book 29-P, at page 415, R.M.C. Office for Spartanburg County.

The County Block Map Number of the above tract of land is 7-13-04-088.00. (See attached plat)

Section 4: That upon annexation, the property shall be zoned as Zone R-15 (Single Family Residential District).

(continued)

Section 5: This Ordinance shall be effective upon its adoption by the City Council of the City of Spartanburg, South Carolina.

DONE AND RATIFIED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2014.

\_\_\_\_\_  
Junie L. White, Mayor

ATTEST:

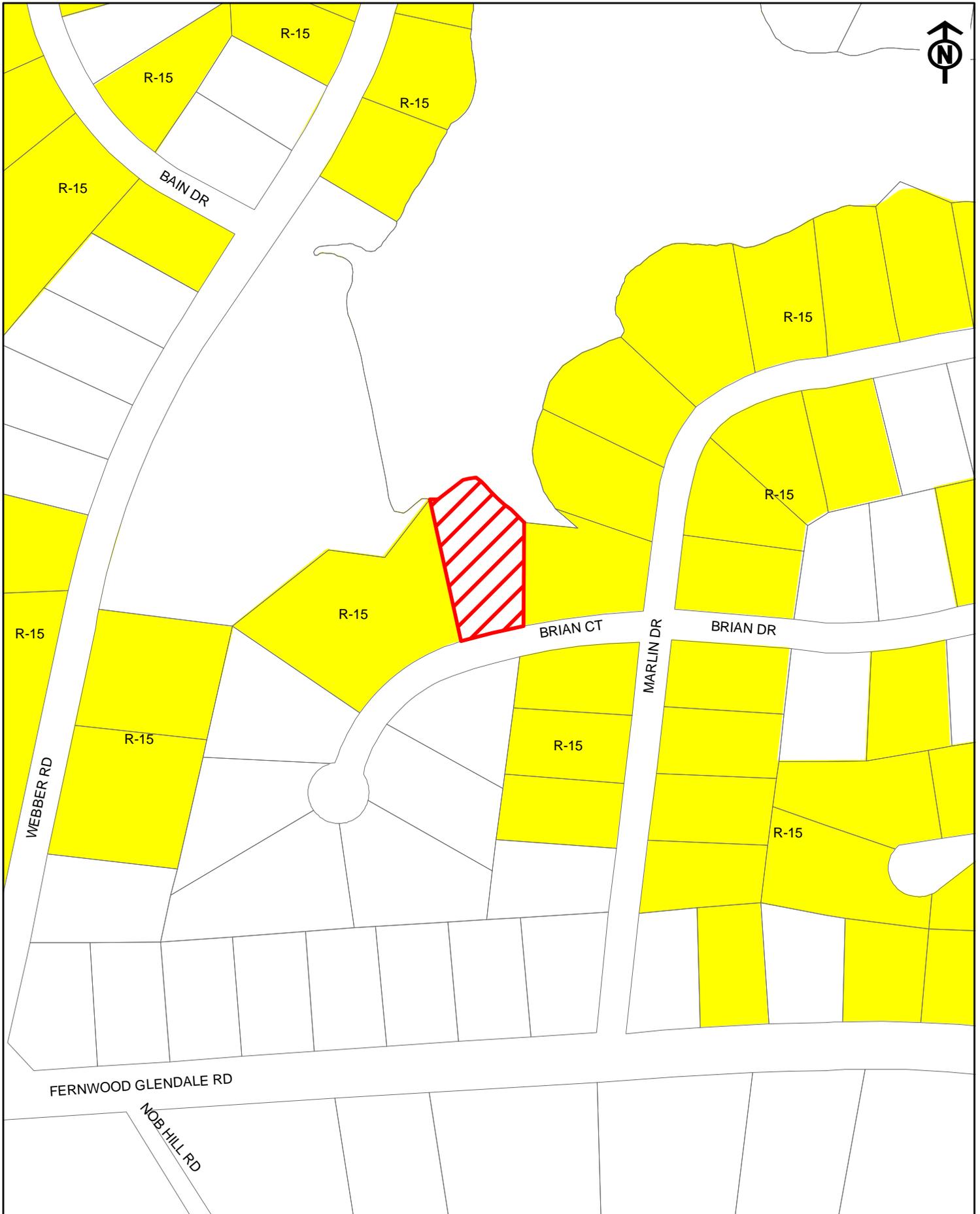
\_\_\_\_\_  
Connie S. McIntyre, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Cathy H. McCabe, City Attorney

\_\_/\_\_/\_\_ (First Reading)

\_\_/\_\_/\_\_ (Second Reading)



207 Brian Ct.  
Tax Parcel # - 7-13-04-088.00  
Owner: Mary K. Randall

City of Spartanburg  
Planning Department  
J. Henderson





## REQUEST FOR COUNCIL ACTION

**TO:** Ed Memmott, City Manager  
**FROM:** David Cook, Construction Project Manager  
**SUBJECT:** Contact Award - Installation of Roof at City Hall  
**DATE:** June 5, 2014

**BACKGROUND:** The roof at City Hall needs to be replaced. It has exceeded its life cycle and is leaking in isolated locations. Continued patching or partial replacement is not practical. To address this situation, staff prepared specifications for replacement and solicited bids. The project will include the installation of a single ply roof membrane, flashing, and metal trim. The new roof will have a 20 year warranty on the materials. Four bids were received.

Cannon Roofing Inc.	Spartanburg, SC	\$156,000
Guy Roofing Inc.	Spartanburg, SC	\$166,700
Alternative Roofing Solutions	Charlotte NC	\$162,752
Pickens Roofing	Spartanburg SC	\$230,700

No bids were received from qualified MWBE's. After reviewing the bids, staff recommends awarding the project to Cannon Roofing Inc.

### **ACTION REQUESTED:**

Authorization for the City Manager to sign a contract with Cannon Roofing Inc. for roof installation at City Hall.

### **BUDGET AND FINANCE DATA:**

\$ 156,000.00 from Building Facilities Fund





## REQUEST FOR COUNCIL ACTION

**TO:** Mayor and Members of City Council

**FROM:** Chris Story, Assistant City Manager

**SUBJECT:** Ordinance to Authorize a Parks Improvements Assistance Agreement between the City of Spartanburg and the Mary Black Foundation

**DATE:** June 4, 2014

In late 2013 City Council authorized a \$2.58 million plan to make a number of improvements and additions to the City's parks, recreations, and active-living facilities. To accelerate the implementation of these projects, that plan called for \$1 million of the planned improvements to be funded via a loan from the Mary Black Foundation. The attached ordinance is necessary to formally authorize that arrangement.

As you know, the Mary Black Foundation remains one of the City's most valued partners in enhancing our community and improving the health and wellbeing of the people we serve. This proposed loan arrangement will allow the City to access this necessary capital according to terms more favorable than would be available otherwise thereby lowering the cost of these planned improvements. This non-recourse loan will have a five year term at a rate equal to the 5-year treasury plus 150 basis points at time of closing (today, that is 3.03%).

We are grateful for this strong partnership with the foundation.

We recommend your approval.

Please let us know if you have any questions.

---

ORDINANCE NO. \_\_\_\_\_

AUTHORIZING THE CITY OF SPARTANBURG, SOUTH CAROLINA, TO EXECUTE AND DELIVER A PARK IMPROVEMENTS ASSISTANCE AGREEMENT WITH MARY BLACK FOUNDATION IN THE PRINCIPAL AMOUNT OF \$1,000,000 IN ORDER TO FACILITATE THE ACQUISITION OF EQUIPMENT AND IMPROVEMENTS AT CERTAIN CITY PARKS; AUTHORIZING CERTAIN CITY OFFICIALS TO DETERMINE CERTAIN MATTERS AND TO EXECUTE AND DELIVER THE PARK IMPROVEMENTS ASSISTANCE AGREEMENT AND RELATED DOCUMENTS; AND OTHER MATTERS RELATING THERETO.

Enacted: June 23, 2014

---

BE IT ORDAINED BY THE MAYOR AND MEMBERS OF COUNCIL OF THE CITY OF SPARTANBURG, SOUTH CAROLINA, IN COUNCIL ASSEMBLED, AS FOLLOWS:

Section 1. Definitions. Unless the context shall clearly indicate some other meaning, the terms defined in this Section shall have, for all purposes of this Ordinance, the meanings hereinafter specified, with the definitions equally applicable to both the singular and plural forms and vice versa. The term:

“Agreement” shall mean the Park Improvements Assistance Agreement between the City and the Foundation.

“City” shall mean the City of Spartanburg, South Carolina.

“Constitution” shall mean the South Carolina Constitution 1895, as amended.

“Council” shall mean the City Council of the City of Spartanburg, South Carolina.

“Debt Limit” shall mean, as provided in Article X, Section 14(7) of the Constitution, an amount determined from time to time equal to eight percent of the assessed value of all taxable property of the City.

“Equipment” shall mean any or all of the following: (a) playground equipment; (b) signage at City parks.

“Foundation” shall mean Mary Black Foundation.

“Improvements” shall mean any or all of the following: (a) parking lot and athletic field improvements at C.C. Woodson Community Center; (b) activity center at Stewart Park; (c) neighborhood park improvements in the City's Westside; and (d) pedestrian, bike and trail improvements.

“S.C. Code” shall mean the Code of Laws of South Carolina 1976, as amended.

“State” shall mean the State of South Carolina.

Section 2. Findings and Determinations. The Council of the City hereby finds and determines:

(a) The City is an incorporated municipality located in Spartanburg County, South Carolina, and as such possesses all powers granted to municipalities by the Constitution and the laws of the State.

(b) Section 5-7-40 of the S.C. Code empowers all municipalities to own and possess real and personal property.

(c) The City has a need to construct and acquire various park assets located at certain parks in the City to wit: the Improvements and the Equipment. The total cost of the Improvements and Equipment is expected to total approximately \$2,500,000 over the next five years. The City desires to enter into the Agreement with the Foundation for the purpose of providing financing in the amount of \$1,000,000 to defray a portion of the costs of acquiring and installing the Equipment and undertaking the Improvements.

(d) To the extent that the proceeds of the Agreement are used to acquire and install the Equipment, such portion of the Agreement will not constitute a “financing agreement” and the Equipment

will not constitute an "asset" as such terms are defined in Section 11-27-110 of the S.C. Code. To the extent that the proceeds of the Agreement are used to defray the costs of the Improvements, such portion of the Agreement will constitute a "financing agreement" and the Improvements will constitute an "asset" as such terms are defined in Section 11-27-110 of the S.C. Code. Thus, that portion of the Agreement used to defray the costs of the Improvements will initially be included when calculating the City's Debt Limit. Principal payments made by the City pursuant to the terms of the Agreement will be first applied to the outstanding principal balance of the Agreement included in the City's Debt Limit until the cumulative amount of such principal payments equal the amount of proceeds of the Agreement which were spent on the Improvements, and then to the remaining principal balance of the Agreement.

(e) The assessed value of all taxable property in the City, as established by the last completed assessment thereof, is not less than \$139,422,532 which includes the 1987 assessed value for merchants' inventory in the amount of \$4,503,740. Eight percent (8%) of such sum is \$11,153,802. The outstanding general obligation bonds of the City are represented by the following bond issue:

(i) \$6,995,000 original principal amount General Obligation Bonds, Series 2010, dated December 1, 2010, presently outstanding in the principal amount \$6,180,000.

Thus, the City may incur \$4,973,802 of general obligation debt within its Debt Limit.

(f) Payments to be made by the City to the Foundation under the Agreement will be subject to annual appropriation by the Council.

(g) The Foundation has provided to the City a proposal to provide financing for the acquisition of the Equipment and the undertaking of the Improvements. A copy of the Foundation's proposal is attached hereto as Exhibit A.

(h) It is now necessary and in the best interest of the City for the Council to: (i) authorize certain officials of the City to accept the proposal of the Foundation to provide financing for a portion of the costs of the acquisition and installation of the Equipment and undertaking of the Improvements; (ii) authorize certain officials of the City to execute and deliver the Agreement and such other documents, instruments or certifications deemed advisable; (iii) authorize the acquisition and installation of the Equipment and undertaking of the Improvements; and (iv) accomplish the purposes of this Ordinance.

Section 3. Authorization of Acquisition of Equipment and Undertaking Improvements. The Council hereby authorizes the City to acquire and install the Equipment and undertake the Improvements, subject to and in accordance with the Code and the further provisions of this Ordinance.

Section 4. Determination of Certain Matters. The Mayor and the City Manager, or either of them acting alone, are hereby authorized and empowered to: (i) accept the proposal from the Foundation (in substantially the form attached hereto as Exhibit A) to provide financing in the amount of \$1,000,000 to defray a portion of the cost of acquisition and installation of the Equipment and undertaking the Improvements; (ii) determine the principal and interest payment schedule under the Agreement; and (iii) negotiate and execute all other contracts and agreements which may be necessary in connection with the Agreement.

Section 5.      Approval of Agreement. The Mayor and the City Manager, or either of them acting alone, are authorized to approve the form of the Agreement to be entered into with the Foundation, and are further authorized and directed to execute and deliver such Agreement on behalf of the City. The Agreement is to be in substantially the form attached hereto as Exhibit B, with such changes as may be approved by the Mayor or the City Manager, such City official's execution thereof to constitute conclusive evidence of such approval.

Section 6.      Execution of Documents. The Mayor, Mayor Pro Tempore, City Manager, Finance Director, City Attorney and City Clerk are fully empowered and authorized to take such further action and to execute and deliver such additional documents as may be reasonably requested by the Foundation to effect the delivery of the Agreement in accordance with the terms and conditions therein set forth, and the transactions contemplated hereby and thereby, and the action of such officers in executing and delivering any of such documents, in such form as the Mayor or City Manager shall approve, is hereby fully authorized.

Section 7.      Filings with Central Repository. The City covenants, so long as and to the extent required pursuant to Section 11-1-85 of the S.C. Code, to file or cause to be filed with a central repository for further availability in the secondary bond market when requested: (a) a copy of the annual audit of the City within thirty (30) days of the City's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which adversely affects more than five percent (5%) of the City's revenue or its tax base. The only remedy for failure by the City to comply with the covenant of this paragraph shall be an action for specific performance of this covenant; and failure to comply shall not constitute a default or an "Event of Default" under the Agreement. The City specifically reserves the right to amend or delete this covenant to reflect any change in Section 11-1-85 of the S.C. Code, without the consent of the Foundation.

Section 8.      Severability. All ordinances, orders, resolutions and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the execution and delivery of Agreement are, to the extent of such conflict, hereby repealed.

Section 9.      Effective Date. This Ordinance shall be effective upon its enactment.

[Signature Page Follows]

DONE AND RATIFIED this 23<sup>rd</sup> day of June, 2014.

CITY OF SPARTANBURG, SOUTH  
CAROLINA

(SEAL)

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

Date of First Reading: June 9, 2014  
Date of Second Reading: June 23, 2014

This Ordinance has been reviewed by me and is hereby approved as to form and legality.

\_\_\_\_\_  
City Attorney, City of Spartanburg, South Carolina

Exhibit A

Proposal of Foundation



KATHY DUNLEAVY  
PRESIDENT & CEO

November 25, 2013

Mr. Ed Memmott, City Manager  
City of Spartanburg  
P.O. Drawer 1749  
Spartanburg, SC 29304

Dear Ed:

It is with great pleasure to inform you that on November 19, 2013, the Board of Trustees of Mary Black Foundation approved the city's request (in letter dated 10/22/13) for a \$1.0 million loan to pay for park improvements. As you indicated, these funds will be part of a five year \$2.5 million investment in city parks and will be used exclusively for:

- Parking lot & athletic field improvements at C.C. Woodson Community Center
- Construction of an activity center at Stewart Park
- Development of a neighborhood park on the city's Westside
- Installation of new playground equipment at five city parks
- New signage at all city parks
- \$750,000 (\$150,000 annually) for pedestrian/bike/trail improvements for FY 15-19

Listed below are the terms of the loan:

- Five year term
- Interest rate will be the 5 year treasury rate plus 150 basis points (to be determined on day of closing)
- Payments to be made monthly
- Payments would be made to:

Mary Black Foundation  
349 E. Main Street  
Spartanburg, SC 29302

- Please provide us a 30 day notice prior to the closing date (which we understand will be in March or April, 2014)
- Subject to ordinary closing documentation satisfactory to lender and its counsel
- This commitment expires on April 30, 2014

We look forward to continuing our partnership with the city and thank you for setting a high priority on active living.

Sincerely,

A handwritten signature in black ink that reads "Katherine A. Dunleavy". The signature is written in a cursive, flowing style.

Katherine A. Dunleavy  
President/CEO

cc: Mr. D. Byrd Miller III, Chair of Investment Committee  
Ms. Ruth Cate, Chair of the Board

Exhibit B

Form of Park Improvements Assistance Agreement

---

PARK IMPROVEMENTS ASSISTANCE AGREEMENT

Dated as of June \_\_\_, 2014

between

CITY OF SPARTANBURG, SOUTH CAROLINA

and

MARY BLACK FOUNDATION

---

**PARK IMPROVEMENTS ASSISTANCE AGREEMENT**

This Park Improvements Assistance Agreement, dated as of June \_\_, 2014 (the "Agreement"), between the City of Spartanburg, South Carolina , an incorporated municipality under the laws of the State of South Carolina (the "City"), and Mary Black Foundation, a non-profit corporation duly organized and existing under the laws of the State of South Carolina (the "Foundation").

WITNESSETH:

WHEREAS, the City is a body politic and corporate and a political subdivision of the State of South Carolina and is duly authorized under the provisions of Title 5, inclusive, Code of Laws of South Carolina 1976, as amended, to enter into this Agreement; and

WHEREAS, the Foundation is a non-profit corporation, duly created and existing under the laws of the State of South Carolina, and is duly authorized to enter into this Agreement; and

WHEREAS, the Foundation has made funding for the Improvements and Equipment (each as hereafter defined) available to the City, and the City has agreed to make certain payments, subject to annual appropriation therefor by the City Council, to the Foundation pursuant to the terms of this Agreement; and

WHEREAS, the City and the Foundation have each duly authorized the execution and delivery of this Agreement.

NOW, THEREFORE, in consideration of the financing of the Equipment and the Improvements by the Foundation and of the mutual covenants hereinafter contained and for other good and valuable consideration, the parties hereto agree as follows:

**ARTICLE I  
DEFINITIONS AND EXHIBITS**

**SECTION 1.1. Definitions and Rules of Construction.** Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa. The words "hereby", "herein", "hereof", "hereto", "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof. All references herein to "Articles", "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement unless some other reference is indicated.

"Advancement" means the advance being made by the Foundation to the City pursuant to Section 3.1 of this Agreement.

"Agreement" means this Park Improvements Assistance Agreement, including any amendment or supplement hereto permitted herein.

"Authorized Representative" shall mean the person or persons at the time designated to act on behalf of the City for the purpose of performing any act under this Agreement.

“City” means the City of Spartanburg, South Carolina, an incorporated municipality under and by virtue of the Constitution and laws of the State of South Carolina, and any successor entity.

“Enforcement Limitation” means any laws that provide that no deficiency judgment may be rendered against the City in any action for breach of a contractual obligation and that the taxing power of the City is not and may not be pledged directly or indirectly to secure any moneys due under this Agreement.

“Equipment” means the equipment identified in Exhibit A-2 attached hereto a portion of the cost of which is being paid from the Advancement.

“Event of Nonappropriation” means (a) the failure by the City or the City's governing body to budget and appropriate in its general fund budget for the ensuing Fiscal Year adopted on or before June 30 of each year moneys sufficient to pay all Payments under this Agreement coming due in the next ensuing Fiscal Year or (b) the deletion from City's duly adopted budget of any appropriation for the purposes specified in clause (a).

“Fiscal Year” means the period beginning on July 1 of any year and ending on June 30 of the following year.

“Foundation” means Mary Black Foundation, a non-profit corporation duly organized and existing under the laws of the State of South Carolina, and any successor thereto.

“Improvements” means the improvements identified in Exhibit A-1 attached hereto a portion of the cost of which is being paid from the Advancement.

“Payments” means the payments required to be paid by the City to the Foundation pursuant to Section 4.1.

“Project Account” means the City bank account created pursuant to Section 3.1 in which the proceeds of the Advancement are deposited.

“State” means the State of South Carolina.

[End of Page]

**SECTION 1.2. Exhibits.** The following exhibits are attached to, and by reference made a part of, this Agreement:

- Exhibit A-1: Description of the Improvements
- Exhibit A-2: Description of the Equipment
- Exhibit B-1: Payment Schedule
- Exhibit C: Form of Requisition

## ARTICLE II

### REPRESENTATIONS OF THE CITY AND FOUNDATION

**SECTION 2.1. Representations, Covenants and Warranties of the City.** The City represents, covenants and warrants to the Foundation as follows:

(a) The City is an incorporated municipality located in Spartanburg County, South Carolina, and as such possesses all powers granted to municipalities by the Constitution and the laws of the State of South Carolina.

(b) The City has authorized, executed and delivered this Agreement pursuant to an Ordinance enacted by the City Council of the City on June \_\_, 2014.

(c) Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions or any charter provision, restriction or any agreement or instrument to which the City is now a party or by which the City is bound, or constitutes a default under any of the foregoing.

(d) No approval or consent is required from any governmental authority with respect to the entering into or performance by the City of this Agreement, and all other documents related hereto and the transactions contemplated hereby, or if such approval is required, it has been duly obtained.

(e) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or threatened against or affecting the City challenging the validity or enforceability of this Agreement, or any other documents relating hereto and the performance of the City's obligations hereunder and thereunder.

(f) The City will obtain or cause to be obtained all licenses, permits and other approvals of any other governmental entity having jurisdiction over the City or the Improvements and Equipment that are necessary for the undertaking of the Improvements or the acquisition and installation of the Equipment.

**SECTION 2.2. Representations, Covenants and Warranties of the Foundation.** The Foundation represents, covenants and warrants to the City as follows:

(a) The Foundation is a non-profit corporation organized, existing and in good standing under and by virtue of the laws of the State of South Carolina, and has the power and authority to enter into this Agreement.

(b) Neither the execution and delivery of this Agreement nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of the organizational documents of the Foundation or any restriction or any agreement or instrument to which the Foundation is now a party or by which the Foundation is bound.

(c) The Foundation is entering into this Agreement solely for its own account and no other person now has any direct or indirect beneficial ownership or interest therein.

(d) The Foundation is cognizant to the extent it deems necessary of the financial and business conditions of the City; the Foundation has a net worth substantially in excess of the cost of this Agreement and in the event it should incur the loss of the entire value of this Agreement, such loss would not materially adversely affect its financial condition.

(e) The Foundation has made such investigation as it deems necessary to make its investment decision, and all information, books and records requested by it have been furnished to it; the Foundation acknowledges that, except for the financial information received by it and relied upon by it from the City concerning the financial position of the City, no other representations have been made to it as to the financial condition of the City.

### **ARTICLE III PROJECT ACCOUNT**

**SECTION 3.1. Creation of Project Account.** In consideration of the covenants, warranties and representations contained herein, and in consideration of the City's desire to acquire, undertake, install or use the Improvements and the Equipment, the Foundation hereby agrees to advance to the City as of the date hereof moneys in the aggregate amount of \$1,000,000 (the "Advancement"). The Advancement shall be deposited into the Project Account as follows:

[Bank Name]

[Wiring Instructions]

**SECTION 3.2. Acquisition of Equipment and Undertaking the Improvements.** Subject to Section 3.3 below, amounts on deposit in the Project Account will be used by the City solely to pay the costs of acquiring the Equipment and the costs of undertaking the Improvements.

**SECTION 3.3. Disbursements.** Unless the Project Account is earlier terminated in accordance with the provisions of Section 3.4, the moneys held in the Project Account shall be withdrawn by the City for the purposes set forth in Section 3.2 pursuant to a written requisition of the City signed by an Authorized Representative, substantially in the form set forth in **Exhibit C**. The City shall provide to the Foundation a copy of each requisition upon the execution and delivery thereof to the bank holding the Project Account. Any moneys remaining in the Project Account (a) after the acquisition of the Improvements and Equipment, as evidenced by a written certificate of completion executed by an officer of the City and delivered to the Foundation stating that the Equipment has been acquired and that the Improvements have been made, or (b) upon termination of this Agreement prior to such acquisition, shall be used to pay a portion of the next scheduled Payment.

**SECTION 3.4. Termination.** The Project Account shall be terminated at the earliest of (a) the final distribution of moneys from the Project Account, (b) written notice given by the Foundation of an event of default by the City under this Agreement, and (c) the termination of this Agreement.

**SECTION 3.5. Disclaimer of the Foundation.** The City acknowledges and agrees that the design of the Improvements and Equipment has not been made by the Foundation, and the Foundation has not supplied any plans or specifications with respect thereto and that the Foundation (a) is not a manufacturer of, nor a dealer in, any of the component parts of the Improvements and Equipment or similar Improvements and Equipment, (b) has not made any recommendation, given any advice nor taken any other action with respect to (i) the choice of any supplier, vendor or designer of, or any other contractor with respect to, the Improvements and Equipment or any component part thereof or any property or rights relating thereto, or (ii) any action taken or to be taken with respect to the Improvements and Equipment or any component part thereof or any property or rights relating thereto at any stage of the acquisition thereof, (c) has not at any time had physical possession of the Improvements and Equipment or any component part thereof or made any inspection thereof or any property or rights relating thereto, and (d) has not made any warranty or other representation, express or implied, that the Improvements and Equipment or any component part thereof or any property or rights relating thereto (i) will not result in or cause injury or damage to persons or property, (ii) has been or will be properly designed, or will accomplish the results which the City intends therefor, or (iii) is safe in any manner or respect.

THE FOUNDATION MAKES NO EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER WITH RESPECT TO THE EQUIPMENT OR ANY COMPONENT PART THEREOF TO THE CITY OR ANY OTHER CIRCUMSTANCE WHATSOEVER WITH RESPECT THERETO, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE MERCHANTABILITY OR THE FITNESS OR SUITABILITY THEREOF FOR ANY PURPOSE; THE DESIGN OR CONDITION THEREOF; THE SAFETY, WORKMANSHIP, QUALITY OR CAPACITY THEREOF; COMPLIANCE THEREOF WITH THE REQUIREMENTS OF ANY LAW, RULE, SPECIFICATION OR CONTRACT PERTAINING THERETO; ANY LATENT DEFECT; THE TITLE TO OR INTEREST OF THE FOUNDATION THEREIN BEYOND THAT TITLE OR INTEREST WHICH THE CITY OBTAINS FROM THE FOUNDATION PURSUANT HERETO; THE ABILITY THEREOF TO PERFORM ANY FUNCTION; THAT THE PROCEEDS DERIVED FROM THE ADVANCEMENT WILL BE SUFFICIENT, TOGETHER WITH ANY OTHER AVAILABLE FUNDS OF THE CITY, TO PAY THE COST OF ACQUIRING THE EQUIPMENT; OR ANY OTHER CHARACTERISTICS OF THE EQUIPMENT, IT BEING AGREED THAT ALL RISKS RELATING TO THE EQUIPMENT, THE ACQUISITION THEREOF OR THE TRANSACTIONS CONTEMPLATED HEREBY ARE TO BE BORNE BY THE CITY, AND THE BENEFITS OF ANY AND ALL IMPLIED WARRANTIES AND REPRESENTATIONS OF THE FOUNDATION ARE HEREBY WAIVED BY THE CITY.

#### **ARTICLE IV PAYMENTS**

##### **SECTION 4.1. Payments.**

(a) Subject to Section 4.2 hereof, the City shall make Payments in installments due at the times and in the amounts set forth in Exhibit B-1.

(b) To the extent that any portion of this Agreement is included in the calculation of the City's 8% debt limitation under Article X, Section 15(6) of the South Carolina Constitution, that portion of this Agreement which is so included shall be reduced from time to time to the extent of the payment of the principal portion of the Payments.

(c) All payments required to be made to the Foundation hereunder shall be made at the Foundation's principal office at the address set forth in Section 6.1 or as may otherwise be directed by the Foundation.

**SECTION 4.2. Budget and Appropriation.** (a) The officer of the City at any time charged with the responsibility for formulating budget proposals shall include in the budget proposals for review and consideration by the governing body of the City in any Fiscal Year in which this Agreement shall be in effect, items for all Payments required for such Fiscal Year under this Agreement. The City shall promptly provide written notice of any Event of Nonappropriation to the Foundation.

(b) If by June 30 of each year, the City does not appropriate funds for the next Fiscal Year, by adopting an operating budget that provides for the levy of sufficient millage to continue making the Payments required under this Agreement, this Agreement shall terminate, shall create no further obligation of City as to subsequent Fiscal Years, and shall be null and void; provided, however, that City shall make its best efforts to appropriate funds for subsequent Fiscal Years during the term of this Agreement. In such event, City shall notify, in writing, the Foundation on or before the end of the then current Fiscal Year. The City shall not, in this sole event, be obligated to make any Payments beyond the end of such Fiscal Year. The happening of such occurrence shall be conclusively presumed from the City's written notification of the Foundation or the Foundation's assignee of such occurrence and shall not be open to question by any person in any place. In such event, this Agreement shall terminate on the last day of the Fiscal Year for which appropriations were received without penalty or expense to City of any kind whatsoever. Subsequent to such termination of this Agreement, the City shall have no continuing obligation to make Payments or any other payments under this Agreement. No right of action or damages shall accrue to the benefit of the Foundation or its assignee as to that portion of this Agreement which may so terminate. The provisions of this subsection (b) shall remain in full force and effect notwithstanding the failure of any party to comply with any provision of this Agreement and whether or not City is in default under this Agreement.

(c) NO PROVISION OF THIS AGREEMENT SHALL BE CONSTRUED OR INTERPRETED AS CREATING A PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THE CITY WITHIN THE MEANING OF ANY CONSTITUTIONAL DEBT LIMITATION. NO PROVISION OF THIS AGREEMENT SHALL BE CONSTRUED OR INTERPRETED AS CREATING A DELEGATION OF GOVERNMENTAL POWERS NOR AS A DONATION BY OR A LENDING OF THE CREDIT OF THE CITY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE. THIS AGREEMENT SHALL NOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE THE CITY TO MAKE ANY PAYMENTS BEYOND THOSE APPROPRIATED IN THE SOLE DISCRETION OF THE CITY FOR ANY FISCAL YEAR IN WHICH THIS AGREEMENT IS IN EFFECT. NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE CITY IN ANY ACTION FOR BREACH OF A CONTRACTUAL OBLIGATION UNDER THIS AGREEMENT IN VIOLATION OF APPLICABLE LAW, AND THE TAXING POWER OF THE CITY IS NOT AND MAY NOT BE PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY TO SECURE ANY MONEYS DUE UNDER THIS AGREEMENT.

(e) Notwithstanding any other provision of this Agreement to the contrary, any obligation of City under this Agreement to pay money shall be limited solely to the payment of such moneys, if any, as shall be then appropriated and budgeted and legally available or otherwise legally available to the City and legally applicable to the purpose for which payment is to be made.

**SECTION 4.3. Optional Prepayment.** The City may prepay amounts due under this Agreement in whole at any time upon giving the Foundation not less than thirty (30) days written notice thereof without any penalty or premium. Upon such payment by the City to the Foundation of

outstanding principal and accrued interest to the date of prepayment, all obligations of the parties under this Agreement shall terminate.

## ARTICLE V EVENTS OF DEFAULT AND REMEDIES

**SECTION 5.1. Events of Default Defined.** The following shall be “events of default” under this Agreement and the terms “events of default” and “default” shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) Subject to Section 4.2 hereof, failure by the City to pay any Payment required to be paid hereunder when due.

(b) Failure by the City to observe and perform any agreement on its part to be observed or performed herein or otherwise with respect hereto other than as referred to in clause (a) of this Section, for a period of sixty (60) days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Foundation; provided, however, that if the failure stated in the notice cannot be corrected within the applicable period and if corrective action is instituted by the City within the applicable period and diligently pursued, the City shall have such additional period of time to correct the failure as shall be necessary to correct such failure so long as such correction is diligently pursued.

(c) The City becomes insolvent or the subject of insolvency proceedings; or is unable, or admits in writing its inability, to pay its debts as they mature; or makes a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its property; or files a petition or other pleading seeking reorganization, composition, readjustment or liquidation of assets, or requesting similar relief; or applies to a court for the appointment of a receiver for it or for the whole or any part of its property; or has a receiver or liquidator appointed for it or for the whole or any part of its property (with or without the consent of the City) and such receiver is not discharged within ninety (90) consecutive days after his appointment; or becomes the subject of an “order for relief” within the meaning of the United States the Bankruptcy Code; or files an answer to a creditor’s petition admitting the material allegations thereof for liquidation, reorganization, readjustment or composition or to effect a plan or other arrangement with creditors or fails to have such petition dismissed within sixty (60) consecutive days after the same is filed against the City.

(d) Any warranty, representation or statement made by the City herein or any other document executed and delivered by the City in connection herewith is found to be incorrect or misleading in any material respect as of the date made.

**SECTION 5.2. Remedies on Default.** Upon the occurrence of any event of default under Section 5.1, the Foundation may, without any further demand or notice, exercise any one or more of the following remedies:

(a) subject to Section 4.2 hereof, declare the Payment (pro-rated to the date of such declaration) for which the City has made appropriation therefor in the then current Fiscal Year, to be immediately due and payable;

(b) exercise all remedies available at law or in equity, subject to the limitations under this Agreement (including Section 4.2 and the Enforcement Limitation); and

(c) subject to Section 4.2 and the Enforcement Limitation, proceed by appropriate court action to enforce performance by the City of the applicable covenants of this Agreement or to recover for the breach thereof.

**SECTION 5.3. No Remedy Exclusive.** No remedy conferred herein upon or reserved to the Foundation is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. To the extent permitted by law, any delay or omission to exercise any right or power accruing upon any default shall not impair any such right or power nor shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Foundation to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice other than such notice as may be required in this Article or by law.

**SECTION 5.4. No Additional Waiver Implied by One Waiver.** In the event any provision contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder except as may be provided by law.

## **ARTICLE VI MISCELLANEOUS**

**SECTION 6.1. Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received upon the earlier of actual receipt or five days after deposit in the United States certified mail (or other mail method providing written confirmation of receipt), postage prepaid, at the following addresses:

If to the City:

City of Spartanburg, South Carolina  
Attention: City Manager  
145 West Broad Street  
Spartanburg, SC 29306

If to the Foundation:

Mary Black Foundation  
Attention: Controller/Finance Manager  
349 East Main Street, Suite 100  
Spartanburg, SC 29302

The City and the Foundation, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

**SECTION 6.2. Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the City and the Foundation and their respective successors and assigns. Whenever in this Agreement either the City or the Foundation is named or referred to, such reference shall be deemed to include the successors or assigns thereof and all the covenants and agreements in this Agreement contained by or on

behalf of the City or the Foundation shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

**SECTION 6.3. Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**SECTION 6.4. Execution in Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 6.5. Commitment Letter.** The terms of this Agreement shall supersede the terms of any commitment letter that may have been issued by the Foundation. To the extent of any conflict between this Agreement and any commitment letter, this Agreement shall take priority.

**SECTION 6.6. Applicable Law.** This Agreement shall be construed and governed in accordance with the laws of the State of South Carolina.

[Signature page follows]

IN WITNESS WHEREOF, the City has caused this Agreement to be executed in its name by its duly authorized officer as of the date first above written.

CITY OF SPARTANBURG, SOUTH CAROLINA

[SEAL]

By: \_\_\_\_\_  
Name: Ed Memmott  
Title: City Manager

[City Execution Page]

IN WITNESS WHEREOF, the Foundation has caused this Agreement to be executed in its name by its duly authorized officer as of the date first above written.

MARY BLACK FOUNDATION

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Foundation Execution Page]

DESCRIPTION OF THE IMPROVEMENTS

<u>Description of Improvements</u>	<u>Location</u>	<u>Estimated Cost*</u>
Parking lot and athletic field improvements	C.C. Woodson Community Center	
Activity center	Stewart Park	
Neighborhood park improvements	Westside	
Westside		
Pedestrian, bike and trail improvements		

\*Exhibit A-1 to be replaced with final Improvements cost upon final withdrawal from Project Account.

**EXHIBIT A-2**

DESCRIPTION OF THE EQUIPMENT

Description of Equipment

Location

Estimated Cost\*

Playground Equipment

Signage

\*Exhibit A-2 to be replaced with final Equipment cost upon final withdrawal from Project Account.

PAYMENT SCHEDULE

Date of Execution: \_\_\_\_\_, 2014  
First Payment Date: \_\_\_\_\_, 2014  
Interest Rate: \_\_\_\_\_ %  
Principal: \$1,000,000.00

[60 approximately equal monthly principal and interest payments]

Date	Principal	Interest	Payment	Principal Balance after Payment

**EXHIBIT C**

FORM OF REQUISITION

[Bank]

\_\_\_\_\_  
E-Mail Address: \_\_\_\_\_

Re: Disbursement from the Project Account pursuant to Section 3.3 of the Park Improvements Assistance Agreement, dated as of June \_\_, 2014 (the "Agreement"), between the City of Spartanburg, South Carolina (the "City") and Mary Black Foundation

REQUISITION NO. \_\_\_\_\_

The following information is submitted with respect to the payment of costs incurred by the City in connection with the Equipment and/or the Improvements as defined in the Agreement:

The amount to be paid:	(a) Equipment cost	\$ _____
	(b) Improvements cost	\$ _____

The nature or purpose of the obligation for which this payment is requested:

\_\_\_\_\_  
\_\_\_\_\_

This obligation has been properly incurred and is a proper charge and has not been the basis of any previous withdrawal.

Attached is the written bill, invoice or statement for all expenses for which the disbursement is requested from the party providing the items or services for which payment is to be made or has been made by the City.

CITY OF SPARTANBURG, SOUTH CAROLINA

\_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_





## **SUMMARY FOR COUNCIL**

**TO: Ed Memmott, City Manager**

**FROM: Kim Moultrie, Parks and Recreation Superintendent**

**SUBJECT: Update on Parks and Recreation Improvement Projects**

**DATE: June 5, 2014**

I would like to provide an update on the parks improvement program at the June 9 City Council meeting. A copy of my PowerPoint presentation is attached.



# Playground Improvements



Design • Build • PLAY!



A PLAYCORE Company



# Hillcrest Park

Intersection of Maryland Avenue and Park Drive



- Current Playground
- Proposed Design and Cost: \$45,542



# Happy Hollow Park

Glendalyn Avenue between South Fairview Street and Connecticut Avenue



Current Playground



Proposed Design and Cost

\$60,062



# Duncan Park

81 West Park Drive



## Current Playground



## Proposed Design and Cost \$41,375.13



# Priscilla Rumsley

Alexander Avenue



Current Playground



Proposed Design and Costs  
\$36,014.82

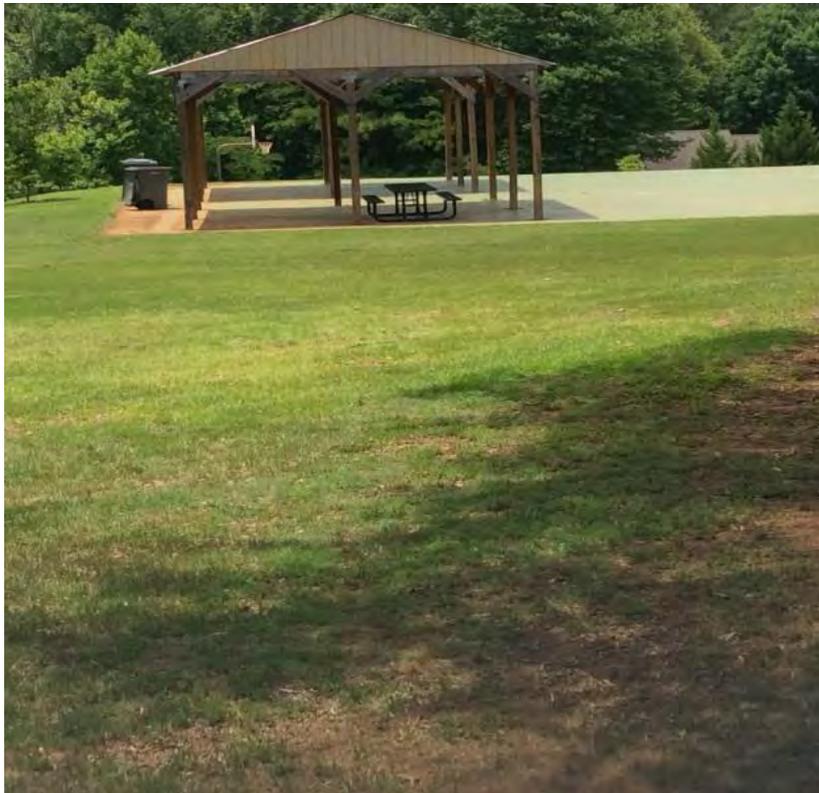


# Summer Hill Park

Hillandale Road



Current Playground



Proposed Design and Cost  
\$36,559.14





**TOTAL PLAYGROUND COST**  
**\$219,552.61**

# Other Parks Projects



## Westside Park

- Staff anticipates finalizing plans soon
- Will request Council approval of specific projects soon
- \$400,000 in funding is reserved

## Stewart Park Activity Center

- Construction specifications are being finalized and will be advertised for bid soon
- \$500,000 in funding is reserved





## REQUEST FOR COUNCIL ACTION

**TO:** Ed Memmott, City Manager  
**FROM:** Kim Moultrie, Parks and Recreation Superintendent  
**SUBJECT:** Approval to Purchase Playground Equipment  
**DATE:** June 5, 2014

### **BACKGROUND:**

Staff is requesting approval to contract with Cunningham Recreation in the amount of \$219,552.61 for the purchase and installation of playground equipment for Duncan Park, Hillcrest Park, Happy Hollow Park, Priscilla Rumsley Park, and Summer Hill Park.

Cunningham was the successful low bidder of a national playground equipment and installation services solicitation process conducted by US Communities, a nationwide purchasing alliance. Purchasing this playground equipment from Cunningham through US Communities allows the City to achieve the most competitive pricing available and fully complies with the City's procurement policy.

### **ACTION REQUESTED:**

Authorize the City Manager to execute necessary purchase agreements/contracts with Cunningham for purchase and installation of playground equipment as outlined above.

### **BUDGET AND FINANCE DATA:**

\$219,553 from Parks and Recreation Improvement Project Funds





## REQUEST FOR COUNCIL ACTION

**TO:** Ed Memmott, City Manager  
**FROM:** Tim Carter, Engineering Manager  
**SUBJECT:** C.C. Woodson Recreation Center Improvements  
**DATE:** June 9, 2014

### BACKGROUND:

Consistent with the City's Park and Recreation Improvement Program, staff has prepared specifications for athletic field and parking improvements at the CC Woodson Community Center. The athletic field improvements will allow for additional sports programming throughout the year. The parking lot improvements will accommodate high demand events and programming at the center. These improvements are shown in Attachment 1.

Bids were submitted from the following contractors. Based on the unit cost pricing, staff has made adjustments to the scope of work. Based on this revised scope of work, costs to construct the improvements are as follows:

Capitol Construction of the Carolinas, LLC	\$206,139
Vaughn Curbing Company (Woodruff, SC)	\$224,447
Raby Construction Company, LLC (Greenville, SC)	\$253,763

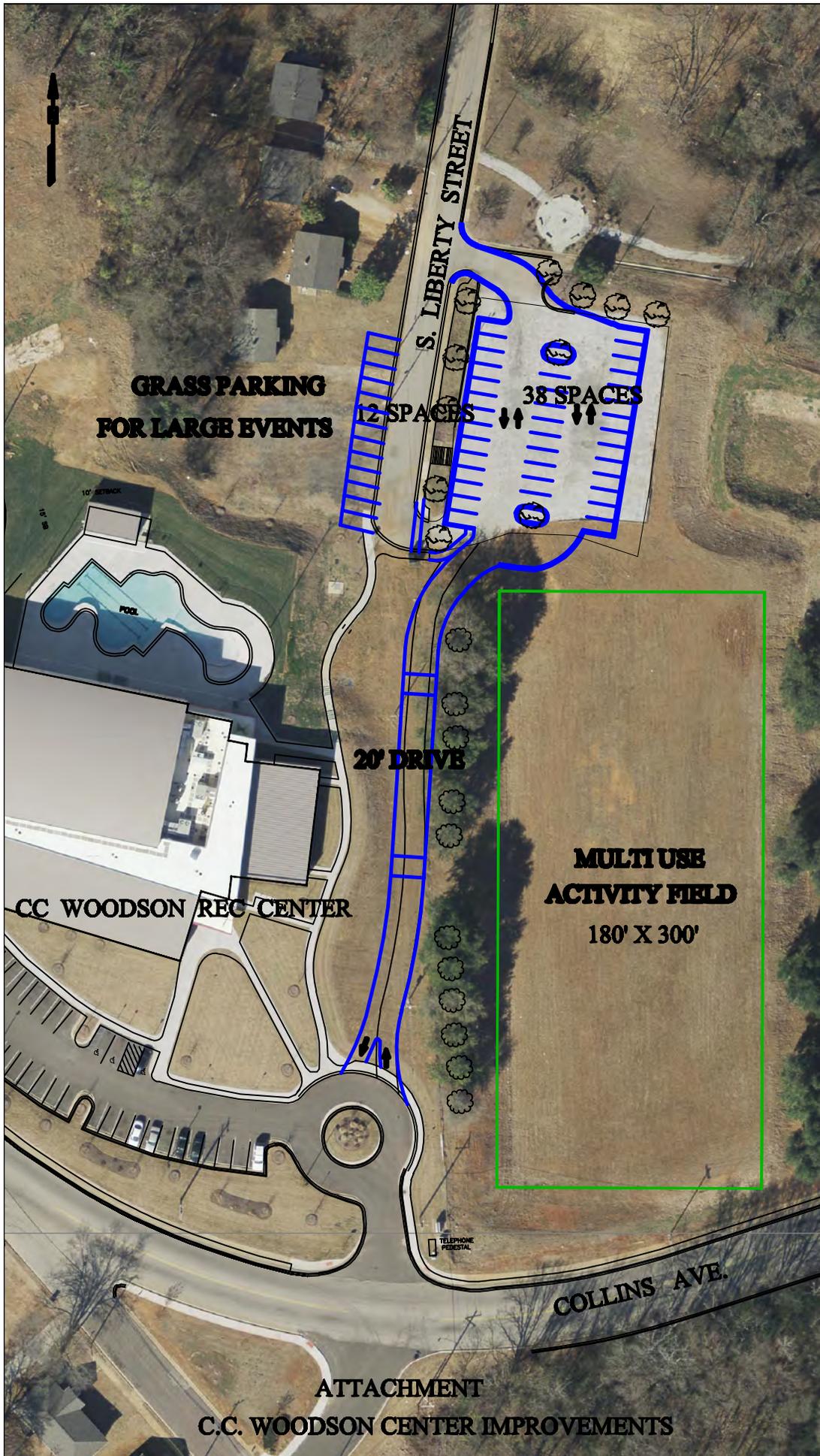
No bids were submitted from MWBE certified contractors. Staff is conducting its due diligence and confirming qualifications of Capitol. This company has not performed work for the City.

### ACTION REQUESTED:

Authorize the City Manager to negotiate final terms and sign contract with the responsive low bidder.

### BUDGET AND FINANCE DATA:

Park and Recreation Capital Improvement Budget



**GRASS PARKING  
FOR LARGE EVENTS**

**12 SPACES**

**38 SPACES**

**20' DRIVE**

**CC WOODSON REC CENTER**

**MULTI USE  
ACTIVITY FIELD  
180' X 300'**

**COLLINS AVE.**

**ATTACHMENT**

**C.C. WOODSON CENTER IMPROVEMENTS**





## REQUEST FOR COUNCIL ACTION

**TO:** Mayor and Members of City Council

**FROM:** Ed Memmott, City Manager

**SUBJECT:** Butterfly Branch

**DATE:** June 10, 2014

**BACKGROUND:** In February, Council was briefed on plans to extend the runway at the Downtown Memorial Airport. The airport project will require a creek to be piped and covered with a substantial amount of dirt to achieve a level grade. Federal wetlands protection regulations require the City to mitigate the impact to this stream by purchase of mitigation credits or by the construction of a qualifying offsite stream protection project. Purchase of mitigation credits outside of the City was an unappealing option. Staff wanted to keep these resources in Spartanburg if possible while not delaying work at the airport.

After evaluating options, staff believes that the “day lighting” of the Butterfly Branch on the Northside is the best option. This project provides an opportunity to move forward with a significant element of the Northside Master Plan. Exhibit 1 is a conceptual rendering of the project. The design is intended to return to the stream to its natural condition and will include a mix of native plant materials. The City would not be allowed to construct improvements (trails, benches, lighting, public art, etc.) inside the buffer but could construct those improvements immediately adjacent to the buffer. Airport project funds cannot be used to construct park/trail features. Staff is, however, optimistic that those funds can be identified as the Northside project moves forward. The day lighted stream and liner park/trail would provide direct connectivity from VCOM to the proposed site of the new TK Gregg Center.

The project has been submitted to Army Corps of Engineers and is under review. Staff is encouraged by initial feedback and is hopeful that approval will be granted soon. If approved, all project expenses would be reimbursed to the City under the terms of the airport grant.

A total of 22 parcels would have to be acquired. The Northside Development Corporation owns 15 of these 22 parcels. 3 of the remaining properties are occupied rental structures. These tenants would receive relocation benefits in accordance with the Federal Uniform Relocation Act (“URA”). The owners of these investment properties would be paid fair market value.

One of the properties is an owner occupied home. This owner would receive fair compensation for her property and would also receive any difference in the cost to purchase a comparable (size, number of bedrooms, number of bathrooms) replacement home. City staff has met with this

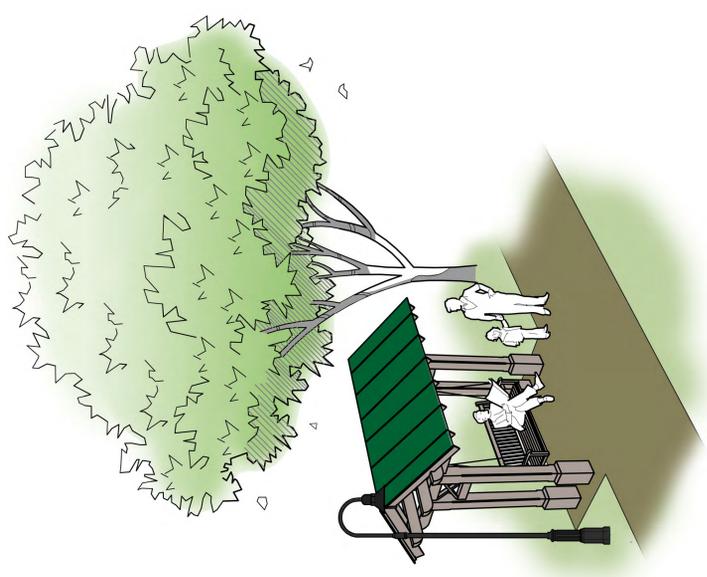
owner and her family and believes she is willing to sell her property with the intention of buying another home in the Northside.

**ACTION REQUESTED:** Authorize staff to proceed with project. In order to implement this project, the City will have to:

1. Purchase all of the property necessary including the rental and owner occupied structures using its power of eminent domain (if necessary) to acquire the necessary property.
2. Relocate residents directly impacted by property purchases in accordance with the URA.
3. Manage construction of the mitigation project.
4. Establish and record protective covenants on the buffer.
5. Maintain the buffer.

If approved, staff will return to Council periodically over the next several months requesting approval to purchase individual properties.

**BUDGET AND FINANCE DATA:** All Butterfly Branch project expenses would be paid by Airport Runway Safety Zone Project funds. Other funds will have to be found for the park/trail improvements.



SEATING AREAS - SWING  
ARBORS, PEDESTRIAN SCALED  
LIGHTING, INTERPRETIVE  
SIGNAGE AND SHADE TREES



PERMEABLE TRAIL  
DEMONSTRATION GARDEN  
AND SWING ARBORS  
PEDESTRIAN BRIDGE,  
OVERLOOK AND  
OUTDOOR CLASSROOM  
TRAILHEAD PICNIC AREA

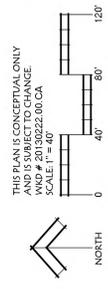
- Proposed Culvert
- Proposed Stream
- Proposed SW Channel
- Proposed Table
- Proposed Bench
- Conceptual Stream Buffer (150')
- Proposed Trail Easement (20' Wide)
- Gravity Sewer Main
- Pressurized Water Main
- Storm Water
- Approx. Water & Sewer Easement
- City/NDC Owned Parcels
- Parcels Needed
- Parcels

TOP OF BANK  
DESIGNED STREAMBED  
HIGH / LOW MARSHES  
GRADE CONTROL STRUCTURES  
NATIVE / RIPARIAN PLANTING

# GREENVILLE BRANCH RESTORATION SITE

SPARTANBURG, SC

CONCEPTUAL SITE PLAN ILLUSTRATIVE  
JUNE 4, 2014



THIS PLAN IS CONCEPTUAL ONLY  
AND IS SUBJECT TO CHANGE  
WWD # 20130222.00 CA  
SHEET 1-40





## REQUEST FOR COUNCIL ACTION

**TO:** Mayor and Members of City Council  
**FROM:** Ed Memmott, City Manager  
**SUBJECT:** Discussion of Parking in Residential Areas  
**DATE:** June 5, 2014

**BACKGROUND:** From time-to-time, city code enforcement and police personnel deal with citizen concerns about vehicles being parked in a location which blocks or partially blocks pedestrian passage or which causes concern about neighborhood appearances. Typically, when city staff is contacted, a vehicle is parked near or over the front yard property line and the public right-of-way. In situations where a vehicle is actually blocking pedestrian traffic or otherwise creating a hazard, staff is typically able to address the situation by asking the vehicle owner to move the vehicle. If a parked vehicle is not causing a hazard and the concern is about neighborhood appearances, staff has not intervened.

Councilwoman Brandt-Ryba has asked staff to research this matter and present Council with options that would give the City more regulatory authority in these situations.

Draft Ordinance Amendment #1 would prohibit vehicles from being parked in such a way to straddle a curb, the grass strip between the outer edge of a sidewalk and curb, the edge of pavement/property line, or blocking any portion of a sidewalk. Staff cautions that adoption of this standard may prompt car owners to simply park their vehicles fully on private property in their front or side yards. The City does not currently regulate where a vehicle is parked on private property in residential areas.

Draft Ordinance Amendment #2 would set standards comparable to those found in some other communities with regard to parking in front or side yards. Staff cautions, however, that many owners park vehicles in their front or side yards temporarily when hosting guests. Vehicles are sometimes parked partially in driveways. Staff is concerned that enforcement of this standard on a consistent basis could prove difficult. Additionally, full compliance to this standard would require many property owners to modify existing driveways or make changes to pave or install gravel in a portion of their yards. Finally, staff cautions Council that adoption of more rigorous code standards in this area will trigger additional enforcement actions which could divert staff from more pressing code enforcement needs.

In any event, staff wanted to provide Council with information for its consideration. I am asking that should Council want to move to adopt either new standard, it allow staff a final

opportunity to review proposed language and then bring a proposed amendment(s) back to Council at the June 23 meeting. Council may also want to consider incorporating a specific grace period before implementation of new standards.

**ACTION REQUESTED:** Council discussion of options to regulate parking in residential areas.

**BUDGET AND FINANCE DATA:** N/A

**Draft Ordinance #1**

AN ORDINANCE

TO AMEND CHAPTER 12, "NUISANCES," BY ADDING SECTION 12-5, "PROHIBITING THE DRIVING AND/OR PARKING OF MOTOR VEHICLES IN GREENWAYS AND OVER CURBS."

WHEREAS, the parking of motor vehicles in certain locations in residentially zoned areas can become problematic and create obstructions; and

WHEREAS, the Council believes it is in the City's interest to establish reasonable standards to maintain the quality of life, character and safety of the residential neighborhoods throughout the City; and

WHEREAS, the Council supports the enforcement powers of appropriate city personnel and encourages them to use their discretionary powers to work cooperatively with and educate our residents regarding these changes, but that it is essential for City code enforcement and police personnel have the authority to resolve situations involving repeat violators or imminent public safety.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND MEMBERS OF COUNCIL OF THE CITY OF SPARTANBURG, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1. To amend the Code of the City of Spartanburg 1988, Chapter 12, "NUISANCES," by adding Section 12-5, "Driving/Parking Prohibited in Sidewalk Greenways and Over Curbs," which shall read as follows:

**Sec. 12-5. Driving/Parking Prohibited in Greenways, Over Curbs, or Straddling the Edge of Pavement.**

**(a) Definitions.**

- (1) ***Sidewalk Greenway*** means the area, excluding the sidewalk, if any, between the property line and the curb or in the absence of a curb, between the property line and the nearest edge of the street paving, which is usually used for planting lawn, low ground cover and/or street trees.
- (2) ***Motor Vehicle*** means every vehicle which is self-propelled, including but not limited to, an automobile, truck, recreational vehicle, antique motor vehicle, motorcycle, private bus, school bus, low speed vehicle, or other vehicle. In addition, the definition of *motor vehicle* includes a trailer.
- (b) **Curb Cuts.** No person shall operate or park any motor vehicle on any portion of a lot in any residential district whereby the motor vehicle is driven over the curb instead of through a curb cut.
- (c) **Public Nuisance.** Driving/Parking of any motor vehicle over a sidewalk greenway or straddling over a curb, in violation of this Section, are deemed public nuisances.
- (d) **Enforcement: Violation and Towing Vehicle.** This Section shall be enforced by the City Public Safety Department and/or the City Code Enforcement Department. Any owner of any motor vehicle in violation of this Section is subject to penalties of up to and including Five Hundred Dollars (\$500) per day per violation and up to Thirty (30) days in jail.

Moreover, it is the opinion that if a motor vehicle is substantially interfering with the ingress and egress of any foot or vehicular traffic by preventing free movement of traffic and/or pedestrians and the owner fails to cure the violation within 24 hours of the issuance of the citation for violation of this Section, the vehicle may be towed and impounded. The owner of any vehicle which has been towed pursuant to this Section shall be responsible for all storage and towing fees. The City, its agents, servants or employees, shall not be responsible or liable in any manner for the damage incurred in the towing, storage, possession or disposition of such vehicle.

Section 2. This Ordinance shall become effective upon the date of enactment.

DONE AND RATIFIED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
MAYOR.

ATTEST:

\_\_\_\_\_  
CITY CLERK.

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY.

\_\_\_/\_\_\_/\_\_\_ 1st Reading

\_\_\_/\_\_\_/\_\_\_ 2nd Reading

**Draft Ordinance #2**

AN ORDINANCE

TO AMEND CHAPTER 12, "NUISANCES," BY ADDING SECTION 12-5, "PROHIBITING THE DRIVING AND/OR PARKING OF MOTOR VEHICLES IN LAWNS, GREENWAYS AND OVER CURBS."

WHEREAS, the parking of motor vehicles throughout the City has become problematic, namely vehicle owners have parked in the lawn areas and greenway areas throughout the City; and

WHEREAS, the Council believes that reasonable health and public safety regulations addressing parking with the aid of City Enforcement officials who can enforce parking, including Public Safety, are needed to protect and improve the quality of life, character and safety of the residential neighborhoods throughout the City; and

WHEREAS, the Council supports the enforcement powers of Public Safety and Code Enforcement by using their discretionary powers to work with our residents to implement this change and enforcement by educating our residents and by issuing warnings in situations deemed appropriate but by the same token the Council believes that it is essential that the Code Enforcement and Public Safety have the power for full enforcement for repeat violators or imminent safety issues.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND MEMBERS OF COUNCIL OF THE CITY OF SPARTANBURG, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1. To amend the Code of the City of Spartanburg 1988, Chapter 12, "NUISANCES," by adding Section 12-5, "Driving/Parking Prohibited in Lawns, Greenways and Over Curbs," which shall read as follows:

**Sec. 12-5. Driving/Parking Prohibited in Lawns, Greenways and Over Curbs.**

**(a) Definitions.**

- (1) *Front yard* is defined in Section 108 of the City's Zoning Ordinance to be a yard extending along the full width of a lot measured from the street setback line inward towards the interior of the lot.
  - (2) *Rear yard* is defined in Section 108 of the City's Zoning Ordinance to be a yard extending across the full width of the lot and measured between the rear line of the lot and the rear line of the main building.
  - (3) *Side yard* is defined in Section 108 of the City's Zoning Ordinance to be a yard between a principal building and a side lot line extending from the front yard to the rear yard.
  - (4) *Greenway* means the area, excluding the sidewalk, if any, between the property line and the curb or in the absence of a curb, between the property line and the nearest edge of the street paving, which is usually used for planting lawn, low ground cover and/or street trees.
  - (5) *Motor Vehicle* means every vehicle which is self-propelled, including but not limited to, an automobile, truck, recreational vehicle, antique motor vehicle, motorcycle, private bus, school bus, low speed vehicle, or other vehicle . In addition, the definition of *motor vehicle* includes a trailer.
- (b) **Parking Prohibited in Lawns/Greenways.** It shall be unlawful to drive and/or park a motor vehicle in a front yard, in a side yard, or in a rear yard which abuts a street of a lot zoned for a residential use or a dwelling, except that driving and/or parking shall be permitted on a hard-surfaced driveway or approved parking space. In addition, it shall be unlawful to drive and/or park a motor vehicle in a greenway area.
- (c) **Curb Cuts.** No person shall operate or park any motor vehicle on any portion of a lot in any residential district whereby the motor vehicle is driven over the curb instead of through a curb cut.
- (d) **Public Nuisance.** Driving/parking of any motor vehicle in a lawn, greenway or over a curb, in violation of this Section, are deemed public nuisances.
- (e) **Enforcement: Violation and Towing Vehicle.** This Section

**shall be enforced by the City Public Safety Department and/or the City Code Enforcement Department. Any owner of any motor vehicle in violation of this Section is subject to penalties of up to and including Five Hundred Dollars (\$500) per day per violation and up to Thirty (30) days in jail.**

**Moreover, it is the opinion that if a motor vehicle is substantially interfering with the ingress and egress of any foot or vehicular traffic by preventing free movement of traffic and/or pedestrians and the owner fails to cure the violation within 24 hours of the issuance of the citation for violation of this Section, the vehicle may be towed and impounded. The owner of any vehicle which has been towed pursuant to this Section shall be responsible for all storage and towing fees. The City, its agents, servants or employees, shall not be responsible or liable in any manner for the damage incurred in the towing, storage, possession or disposition of such vehicle.**

Section 2. This Ordinance shall become effective upon the date of enactment.

DONE AND RATIFIED this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
MAYOR.

ATTEST:

\_\_\_\_\_  
CITY CLERK.

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY.

\_\_\_/\_\_\_/\_\_\_ 1st Reading

\_\_\_/\_\_\_/\_\_\_ 2nd Reading