



CITY OF SPARTANBURG

SOUTH CAROLINA

CITY COUNCIL AGENDA

**City Council Meeting
Via Videoconference
Monday, May 11, 2020
5:30 p.m.**

“The upcoming City Council meeting will be held via publicly accessible videoconference. Links and instructions for how to access this meeting via telephone, computer, or mobile device will be posted in City Hall, available on the City’s webpage, and provided to the local media. The meeting will be broadcast live on the City’s Facebook page.”

Those wishing to utilize the public comment provisions of city code, can do so by contacting City Clerk Connie Kellner at (864) 596-2019 or ckellner@cityofspartanburg.org prior to 12:00 p.m. (noon) on the meeting date.”

- I. Moment of Silence**
- II. Pledge of Allegiance**
- III. Approval of the Minutes from the April 27, 2020 City Council Meeting**
- IV. Approval of the Agenda for the May 11, 2020 City Council Meeting**
- V. Public Comment**
*Refer to above instructions regarding Public Comment”
- VI. Proclamation Declaring the Week of May 10 – 16, 2020 as National Police Week**
Presenter: Mayor Junie White
- VII. Public Hearing**
 - 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 Parcels #7-12-08-028.00, 029.00, and 030.00 Located on 638 and 644 East Main Street, and 129 N. Fairview Avenue, Which are Zoned LOD, With a Land Use Designation of Limited Office District; to Zone LOD/Infill PDD, with a Land Use Designation of Limited Office Infill Planned Development District and Providing for Severability and an Effective Date (First Reading)**
Presenter: Natalia Rosario, Senior Planner

VIII. Ordinance

- A. Approving a Development Agreement Between the City of Spartanburg and Montgomery Development, LLC; Spartanburg RE Investments, LLC; Spartanburg RE Investments II, LLC; and Spartanburg RE Investments III, LLC (First Reading)**
Presenter: Chris Story, City Manager

IX. Consent Agenda

- A. To Enter into a Development Agreement with Equity Plus, LLC (Second Reading)**
Presenter: Chris Story, City Manager

- X. Award of Transit Management Contract**
Presenter: Dennis Locke, Finance Director

- XI. Declaration of 2020 Boards and Commissions Vacancies**
Presenter: Connie Kellner, City Clerk

- XII. Budget Discussion**
Presenter: Chris Story, City Manager
Dennis Locke, Finance Director

- XIII. Staff Update on Coronavirus COVID19 Related Activities**
Presenter: Chris Story, City Manager

XIV. City Council Updates

XV. Adjournment

** Non-Agenda Items*

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.

**Agenda Items*

City Code Sec. 2-56. Addressing Council, Comments or Remarks to Council on Agenda Items Not Requiring Public Hearing. On agenda items not requiring a Public Hearing, please provide to the City Clerk prior to the opening of the meeting, your desire to speak on an agenda item. Remarks shall be limited to five (5) minutes and total remarks on any agenda item shall not exceed twenty (20) minutes.



**City Council Meeting
Via Videoconference
Monday, April 27, 2020
5:30 p.m.**

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**(These minutes are subject to approval
at the May 11, 2019 City Council meeting.
The full content of the meeting can be found at
<https://www.cityofspartanburg.org/city-council>)**

City Council met this date with the following Councilmembers present via Zoom: Mayor White, Mayor pro tem Ruth Littlejohn, Councilmembers Erica Brown, Jerome Rice, Jamie Fulmer, Meghan Smith and Rob Rain. City Manager Chris Story and City Attorney Robert Coler were also in attendance. Notice of the meeting was posted with the Media 24 hours in advance according to the Freedom of Information Act. All City Council meetings are recorded for a complete transcript.

- I. Moment of Silence - observed**
- II. Pledge of Allegiance - recited**
- III. Approval of the Minutes from the April 13, 2020 City Council Meeting –**
*Mayor pro tem Littlejohn made a motion to approve the minutes as received.
Councilmember Brown seconded the motion, which carried unanimously 7 to 0.*
- IV. Approval of the Agenda for April 27, 2020 City Council Meeting –**
*Councilmember Fulmer made a motion to approve the agenda as received.
Councilmember Smith seconded the motion, which carried unanimously 7 to 0.*
- V. Public Comment – no public comment**
**Refer to above instructions regarding Public Comment”*

VI. Resolution

A. Allocating Fiscal Year 2020 Community Development Block Grant and HOME Partnership Funds

Presenter: Martin Livingston, Neighborhood Services Director

Mr. Livingston presented the item to Council as follows:

“The U.S. Department of Housing and Urban Development (HUD) provides the City with two recurring annual grants, the Community Development Block Grant (CDBG) and HOME Partnership Funding, to address low and moderate income neighborhoods in the City and affordable housing priorities. HUD attempts to ensure that cities utilize those programs strategically by requiring that the annual use of the funds be aligned with a five-year Consolidated Plan.

Staff is requesting approval of the City of Spartanburg’s Fiscal Year 2020 Annual Action Plan. The consolidated Plan and Annual Action Plan documents determine by survey, public hearings, and consultations with neighborhood residents and partner organizations the needs of the community and develops a five-year plan for addressing those needs. The Annual Action Plan is an annual requirement of HUD for the City to continue to receive Community Development Block Grant (CDBG) and HOME Partnership Funding. Both documents focus on eligible low and moderate income neighborhoods in the City and affordable housing priorities for the use of CDBG and HOME funds. A Consolidated Plan is not a Comprehensive Plan. A Comprehensive Plan is much larger in scope and is a function of the City’s strategic vision of its development and zoning priorities over a ten-year period.

The City of Spartanburg will receive an allocation of Community Development Block Grant (CDBG) and HOME Partnership Funds for eligible activities to be implemented within City limits. CDBG Funds can be used for a variety of activities including administration, affordable housing, infrastructure, economic development, demolition, sub-recipient activities, and other eligible uses. HOME Partnership Funds can only be used for the development of affordable housing. The total estimated allocation for CDBG Funds is \$678,569 and the total allocation of HOME Partnership Funds is \$218,640.

After a thirty (30) day comment period which ends May 1, the documents must be submitted to HUD by the April 30, deadline.

ACTION REQUESTED: Staff is requesting approval of the City of Spartanburg’s Fiscal Year 2020 Annual Action Plan.⁴

BUDGET AND FINANCIAL DATA: Revenue - 678,569 in Community Development Block Grant Funds and 218,640 in HOME Partnership Funds.”

After discussion, Councilmember Rice made a motion to approve the resolutions presented. Mayor pro tem Littlejohn seconded the motion, which carried unanimously 7 to 0.

VII. Ordinance

A. To Enter Into a Development Agreement with Equity Plus, LLC (First Reading)

Presenter: Chris Story, City Manager

City Manager Story presented the item to Council as follows:

“As confirmed in the ongoing Highland Transformation Planning process, we have had a longstanding goal of replacing Norris Ridge, our community’s most distressed housing complex. We have been working for some time with a development team lead by Equity Plus, LLC to develop a workable plan to replace this privately-owned 190-unit complex with a modern, safe, and efficient townhome community, enabling residents to transition to a much better living environment.

The attached development agreement outlines the proposed commitments of the developer and the City to make this happen. We envision this to be the first phase of a multiphase endeavor which would ultimately include redevelopment of the current Norris Ridge site.

As proposed, the City would provide the land for the replacement development at no cost. The developer would make payments in lieu of taxes, the bulk of which would be specified for use in future affordable housing activities. Importantly, the plan includes resources to support tenants through the transition process.

We believe the proposed arrangement protects the interests of the City, the Highland neighborhood, and current Norris Ridge residents.

We believe that this is a significant positive step forward. We recommend your approval and welcome any questions you may have.”

After discussion, Councilmember Rice made a motion to approve the ordinance as presented on first reading. Mayor pro tem Littlejohn seconded the motion, which carried unanimously 7 to 0.

VIII. Staff Update on Coronavirus COVID19 Related Activities

Presenter: Chris Story, City Manager

City Manager Story updated Council on city efforts and activities concerning COVID19.

Council received the report as information.

IX. City Council Updates - Each Councilmember gave updates on their activities since the previous council meeting.

X. Adjournment – Mayor pro tem Littlejohn made a motion to adjourn the meeting. Councilmember Smith seconded the motion, which carried unanimously 7 to 0. The

meeting adjourned at 6:32 p.m.

Connie M. Kellner

Connie M. Kellner, City Clerk



REQUEST FOR COUNCIL ACTION

TO: Chris Story, City Manager

FROM: Natalia Rosario, AICP, Senior Planner

SUBJECT: PDD Small Infill Rezoning of 3 properties, 2 of which are located on East Main Street and one on N. Fairview Avenue, Tom Croft, The Croft Company Applicant & Developer, on behalf of Omnific Spartanburg LLC, Owner & Partner.

DATE: May 11, 2020

SUMMARY: On April 16, 2020, a Virtual Zoom Public Meeting was held by City Staff regarding a rezoning request to be held the next week before the Planning Commission would review the request. The public had a chance to be informed and provided their comments, although only 3 members of the public attended. Subsequent communications with nearby neighbors include providing the Planning Commission Packet to those who requested it, and walking through details of the project with concerned residents via phone call. Staff has not received any verbal or written opposition to the request at this time.

This rezoning is intended to overlay a planned development district site plan over the existing Limited Office District Zoning. Under the new qualifications for infill PDD projects, this project qualifies at a little over an acre of land for residential development. The proposed homes will be custom build, pre-sold, and the developer expects them to sell for \$250.00/sq ft and upwards, anywhere from 2500sqft-3200sq ft. There will be a total of 8 units in 7 structures, one of which is a duplex style in order to maintain the area where there is an existing alleyway that is utilize by adjacent property users for rear access. The owner and developer are working with adjacent properties to customize buffer specifications in order to preserve existing tree canopy, and potentially upgrade existing buffer/barriers as part of the construction of the project. For reference to a similar project that Mr. Croft developed in neighboring Greenville City, please see the attached information about McBee Park, the closest representation to what is planned for this project in his portfolio.

The Planning Commission held a public hearing on the proposal on April 23, 2020. After consideration of the staff report, public comments, and the criteria set forth in the City of Spartanburg Zoning Ordinance and 2004 City Comprehensive Plan, the Planning Commission voted to recommend approval of the request to City Council for the rezoning of the parcels from LOD to LOD/PDD. Please note that the original packet was mislabeled as a rezoning from LOD to R6/PDD; the correct rezoning is from LOD to LOD/PDD.

PLANNING COMMISSION RECOMMENDATION: The request was endorsed by the Planning Commission on April 23, 2020 by a vote of 4 to 0. Staff's recommendation concerning this application is explained in detail in the attached staff report to the Planning Commission.

ADDITIONAL INFORMATION: Draft Transcript from Rev.com of this portion of the Planning Commission Meeting from April 23, 2020 and Staff Report with attachments are included. In addition, enclosed is a proposed Ordinance in the event that Council approves the rezoning request.

BUDGET AND FINANCE DATA: N/A

AN ORDINANCE

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 PARCELS #7-12-08-028.00, 029.00, & 030.00 LOCATED ON 638 & 644 EAST MAIN STREET, & 129 N. FAIRVIEW AVENUE, WHICH ARE ZONED LOD, WITH A LAND USE DESIGNATION OF LIMITED OFFICE DISTRICT; TO ZONE LOD/ INFILL PDD, WITH A LAND USE DESIGNATION OF LIMITED OFFICE INFILL PLANNED DEVELOPMENT DISTRICT AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Spartanburg now finds that, upon further review, it is in the public interest that the land use designation for the parcels identified on the Official Zoning Map of the City of Spartanburg, South Carolina, dated August 6, 1973, as amended, by changing the zone of Lots 028.00 & 029.00; and 030.00 as shown on Spartanburg County Block Map Sheet 7-12-08, from Zone LOD, Limited Office District to Zone LOD/ PDD, Limited Office Infill Planned Development District, in order to enable the construction of a condominium development upon the property; and

WHEREAS, this zoning change would be compatible with surrounding land uses and neighborhood character, would not be detrimental to the public health, safety and welfare, and, further, would be in conformance with the Comprehensive Plan; and

WHEREAS, the Planning Commission held a Virtual Zoom Public Hearing on April 23, 2020, at which time a presentation was made by staff and an opportunity was given for the public to comment on the rezoning request; and

WHEREAS, the Planning Commission, after consideration of the staff report, public comments, and the criteria set forth in Section 605 of the Zoning Ordinance, subsequently voted at that meeting to recommend to City Council that the rezoning request be approved as recommended by City Staff.

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

Section 1. Amendment. That the official zoning map of the City of Spartanburg, as referenced by Section 206 of the Zoning Ordinance, be, and the same hereby amended as follows:

- The Lots currently identified as 028.00, 029.00 & 030.00 as shown on Spartanburg County Block Map Sheet 7-12-08, shall be now designated as LOD/PDD, Limited Office Infill Planned Development District.

(continued)

Section 2. Severability. If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. Effective Date. 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 _____, 2020.

Junie L. White, Mayor

ATTEST:

Connie M. Kellner, City Clerk

APPROVED AS TO FORM:

Robert P. Coler, City Attorney

___/___/___ (First Reading)

___/___/___ (Second Reading)



REQUEST FOR COUNCIL ACTION

TO: Spartanburg City Council

FROM: Chris Story, City Manager

SUBJECT: Ordinance Authorizing City Manager to Execute Development Agreement for Northside Mixed-Income Townhomes

DATE: May 7, 2020

We recommend your approval of the attached ordinance which would authorize a development agreement, also attached, for a unique multi-phase townhome development on the Northside. The three phase project would ultimately total over 135 units and total investment of over \$28 million. This project is the result of significant negotiations between the Northside Development Group (the landowner), the City, and Montgomery Development (developer). The 43 unit first phase will be located on Raindrop and Milan Streets. This project is consistent with the vision outlined in the Northside Transformation Plan.

We consider this project to be strategically significant for a number of reasons including the fact that it will be our first with “floating” affordable units mixed among market rate units. The developer will master lease 25% of the units to the Northside Development Group (“NDG”) at below market rents. NDG will then lease them to tenants at or below 80% of area median income at affordable rents. The units subject to the NDG master lease will not be for specific predetermined units – a particular unit may be subject to the affordability master lease for one tenant but not for the next. There will be no difference in physical characteristics of the affordable units in comparison to the market rate units. Tenants and visitors will be unaware of which of their neighbors are paying market rents and which are paying restricted rents.

Having successful developments with this seamless mixed income management structure has been a goal for us for some time. We hope this project will perhaps serve as a model for addressing a portion of our affordability challenges in the long term.

We look forward to any questions you may have.

ORDINANCE

APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SPARTANBURG AND MONTGOMERY DEVELOPMENT, LLC; SPARTANBURG RE INVESTMENTS, LLC; SPARTANBURG RE INVESTMENTS II, LLC; AND SPARTANBURG RE INVESTMENTS III, LLC

WHEREAS, the City of Spartanburg (herein referred to as “City”) has determined that it is in the public interest to encourage redevelopment and private investment in the Northside Redevelopment area; and

WHEREAS, the City has in the past entered into public-private partnerships to induce private investment, create private jobs, and increase the tax base; and

WHEREAS, the City in these public-private partnerships has provided incentives and received the commitment of private parties under the terms of development agreements; and

WHEREAS, the City has reached a tentative agreement on certain terms and conditions with Montgomery Development, LLC; Spartanburg RE Investments, LLC; Spartanburg RE Investments II, LLC; and Spartanburg RE Investments III, LLC (herein referred to collectively as the “Developer”) for the development of a 138 unit mixed income townhome project; and

WHEREAS, a development agreement would memorialize the respective obligations of the City and the Developer; and

WHEREAS, should Council conclude that it is in the City’s best interest to finalize an agreement with Montgomery Development, LLC; Spartanburg RE Investments, LLC; Spartanburg RE Investments II, LLC; and Spartanburg RE Investments III, LLC, it will be necessary for Council to formally act and authorize the City Manager to take certain actions.

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

SECTION 1. A Development Agreement between the City and Montgomery Development, LLC; Spartanburg RE Investments, LLC; Spartanburg RE Investments II, LLC; and Spartanburg RE Investments III, LLC is substantially in its final form and is hereby approved.

SECTION 2. The City Manager is authorized to execute the Development Agreement and any other documents necessary to meet the City obligations as set forth in

the Development Agreement provided such documents are consistent with the intent of this Ordinance.

SECTION 3. The City Manager, upon the advice of the City Attorney, is authorized to make minor, nonmaterial modifications to the Development Agreement prior to its signature.

SECTION 4. This Ordinance shall become effective upon the date of enactment.

DONE AND RATIFIED this ____ day of _____, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

___/___/___ 1st Reading

___/___/___ 2nd Reading

STATE OF SOUTH CAROLINA) DEVELOPMENT AGREEMENT FOR
) NORTHSIDE MIXED INCOME
COUNTY OF SPARTANBURG) TOWNHOMES

This Agreement (the “Agreement”) by and between Montgomery Development, LLC; Spartanburg RE Investments, LLC; Spartanburg RE Investments II, LLC; and Spartanburg RE Investments III, LLC, each a South Carolina limited liability company (collectively the “Project Developer”) and the City of Spartanburg, a municipal corporation under the laws of South Carolina (the “City”), is entered into this ___ day of _____ 2020.

In consideration of and for the mutual exchange of promises set forth in the Agreement, the parties covenant with one another to perform as follows:

1. Project Developer Commitments:

- a. *Development Size and Purpose.* Project Developer, its agents or assigns, shall be responsible for the design and construction of a townhome development in the Northside, to be completed in three phases (the “Project”). Phase I shall be constructed between Milan and Raindrop Streets; Phase II between Milan and Weldon Streets; and Phase III on Weldon Street, with said phases shown more fully on **Exhibits A** attached hereto. Project Developer’s initial renderings for Phase I are attached hereto as **Exhibit B (Phase I renderings)**. Phase I shall consist of approximately 44 townhome units. Phases II and III are in the planning/design phase.
- b. *Development Objectives and Relevance to City.* The Project is estimated to consist of an investment of approximately \$28,000,000 and approximately 138 townhome units. The project is intended to complement and further the planned redevelopment of the Northside as lead by the Northside Development Group and the Northside Voyagers. The Northside Transformation Plan envisions a mix of residential housing types and price points. This project is intended to provide an offering consistent with that plan.
- c. *Affordable Units.* Project Developer commits to master leasing 25% of the units in each phase to the Northside Development Group or its designee at below market rents. Northside Development Group will then lease those units to qualifying low to moderate income tenants. There will be nothing that distinguishes these affordable units from the other units in the Project.
- d. *Architectural Design.* Project Developer acknowledges that the architectural design is a key consideration for City. Project Developer recognizes that the Project is subject to design review by the City’s Design Review Board. Project Developer will fully comply with the City’s development codes.
- e. *Investment Required.* Project Developer covenants that it shall make an investment through equity, loans, and other sources of not less than Eight Million Dollars (\$8,000,000) in design, development and construction of Phase I (the “Phase I Investment”) as evidenced by documentation which is reasonably acceptable to the

City. Project Developer agrees to provide the City with investment documentation for the Phase II Investment and Phase III Investment for City's consent, which shall not be unreasonably withheld, prior to beginning work on those phases.

f. *Implementation of Investment.*

A. *Phase I:* Subject to any delays caused by City or by force majeure, Project Developer covenants that it shall use best efforts to substantially complete construction of Phase I not later than three (3) years from the date of this Agreement. In the event the Project Developer does not complete the Phase I as stated above, the City shall not be required to reimburse the Project Developer for any Project-related public improvements, if any, performed by the Project Developer for Phase I.

B. *Phase II and Phase III:* Subject to any delays caused by City or by force majeure, Project Developer covenants that it shall use best efforts to substantially complete construction of Phase II and Phase III not later than five (5) years from the date of this Agreement. In the event the Project Developer does not complete the Phase II and Phase III as stated above, the City shall not be required to reimburse the Project Developer for any Project-related public improvements, if any, performed by the Project Developer for Phase II and Phase III.

g. *Public Infrastructure Improvements.* The Project Developer agrees to install public infrastructure improvements along Raindrop, Milan, and Howard Street in the right of way immediately adjacent to Phase I, which shall include, but are not limited to, landscaping and sidewalks, and if feasible on-street parking (the "Phase I Public Improvements") to the satisfaction, in his reasonable determination, of the City Manager based on plans approved by the City, in accordance with this Agreement and in accordance with all applicable laws and regulations. The Project Developer shall submit plans for City's consent, which shall not be unreasonably withheld, for the public improvements for Phase II and Phase III prior to obtaining building permits for Phase II and Phase III, as applicable (collectively the Phase I Public Improvements, Phase II Public Improvements, and Phase III Public Improvements shall be referred to as the "Public Improvements").

h. *Reimbursements subject to standard of Reasonableness.* Those costs, if any, which are to be reimbursed or paid as consideration by the City for the Public Improvements must be reasonably incurred and substantiated in accordance with City of Spartanburg's Procurement process. The Project Developer's procurement practices therefore shall adhere to fairness, efficiency, value for the use of public funds and principles of competitiveness, even though bids may not be required.

i. *Compliance with Law.* Construction of the Public Improvements shall be performed in a good, safe and workmanlike manner and in accordance with all applicable laws, rules, orders, ordinances, regulations and legal requirements of all governmental entities, agencies or instrumentalities relating to the Public Improvements including, without limitation the Americans with Disabilities Act as well as all building code requirements then in effect.

- j. *Performance Data:* Because City is interested in continuing to provide quality affordable, workforce, and upscale housing options to its residents, Project Developer agrees to share with City its data indicating the Project's performance, including but not limited to rent rolls and financial performance. City shall keep and protect said data in a confidential manner, exempting it from Freedom of Information Act requests pursuant to the economic development exceptions.

- k. *Insurance Requirements.* Project Developer shall procure and maintain insurance coverage for occurrences during the term of the Agreement against any claim for injuries to persons or damages to property which may arise from, or in connection with, the construction of the Public Improvements by Project Developer, its employees, agents, contractors, or representatives. Such insurance shall be in the following minimum amounts:
 - A. Commercial General Liability \$1,000,000.00 per occurrence
 - B. Comprehensive Motor Vehicle Liability \$1,000,000.00 per occurrence
 - C. Workers Compensation - Statutory limits
 - D. Employers Liability \$500,000/\$500,000/\$500,000

Project Developer shall deliver certificates of insurance to establish proof of current and ongoing coverage to the City's Risk Manager via email at cwright@cityofspartanburg.org.

The City of Spartanburg must be shown as the certificate holder. Further, in the event Project Developer receives notice of insurance cancellation in any form from an insurance provider or its agent, then Project Developer must assure receipt of written notice within two (2) days of the Project Developer's receipt of notice by delivery in one of the above referenced means of contact.

The General Liability Coverage must list the City, its officers, officials, and employees as additional insured for activities arising under Project Developer's performance under the Agreement. The coverage shall be primary as to Project Developer's negligent acts and omissions or willful misconduct. It shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability coverage.

The Workers' Compensation Coverage shall apply to all of Project Developer's employees who are in any way connected with Project Developer's performance under the Agreement. The coverage shall comply with all applicable state laws and provide a waiver of subrogation from Project Developer against the City, its officers, officials, agents and employees, unless otherwise approved by the City.

Project Developer must obtain insurance coverage from insurers with a current A. M. Best's rating of net less than A: VII. The insurers must be licensed to do insurance business in the State of South Carolina, unless otherwise approved by the City. Project Developer cannot be a self-insured in order to meet these requirements, unless the City in writing consents for the particular named Project Developer for the specific Agreement.

Project Developer shall be solely liable and the City in no way shall be responsible for any coverage deductible, co-insurance penalty, or self-insured retention (if applicable), including any loss sustained because of the operation of the deductible, penalty, or retention.

Further, Project Developer has an affirmative duty, and shall carry out that duty, to see that any subcontractor performing on Project Developer's behalf shall also have the same insurance obligations as are borne by Project Developer under these general terms and conditions.

2. City Commitments

- a. *Maintenance of Public Improvements.* The City shall maintain the Public Improvements, if any, (other than those items which are the responsibility of Project Developer under Section 1(g) and/or 1(h) above) upon completion, dedication and acceptance by the City.
- b. *Real Property Tax Abatement.* City will provide its consent and will use its best efforts, acting in good faith, to secure Spartanburg County's approval of a Special Source Credit Agreement (SCC Agreement) through a Multicounty Industrial Park, or similar mechanism to effectively cap fee in lieu of taxes for each phase as follows: For Phase 1 at \$750.00 per unit for year one and escalating annually at two and one fourth (2.25%) percent for a twenty five-year term; for Phase II at \$850.00 per unit for year one and escalating annually at two and one fourth (2.25%) percent for a twenty five-year term; and for Phase III at \$950.00 per unit for year one and escalating annually at two and one fourth (2.25%) percent for a twenty five-year term. City agrees that such consent and best efforts shall apply to all three Phases and the City agrees that Project Developer may use different real property holding companies and separate SSC Agreements for each phase.

3. No Assignment Without Consent.

Prior to completion of the duties set forth herein, neither the City nor the Project Developer are authorized to assign its respective duties under the Agreement to third parties without first having received from the other party a written consent, which consent shall not be unreasonably withheld, executed with the same formality of the Agreement. Notwithstanding the foregoing, City does acknowledge and agree that Project Developer may be utilizing a general contractor to perform the work on the Project.

4. Modification.

No modification of the Agreement shall be binding upon the parties unless the same is first reduced to writing in a document having the same formality as the Agreement and executed by the duly authorized officer for each party. However, minor changes and modifications to the Development Agreement are authorized as may be necessary or appropriate to allow for a final version mutually acceptable to the parties, with said minor changes and modification being approved by the City Manager and the City

Attorney. Should the City Manager or City Attorney, or both, determine that any modification of previously negotiated terms is significant and warrants further action by Council, then the matter shall be presented to and reviewed by City Council before the final execution.

5. Merger of Negotiations.

All prior negotiations and representations of both parties are merged into the Agreement, and no prior statement, whether written or oral, shall be binding upon either party unless reduced to writing and contained in the Agreement.

6. Applicable Law.

The Agreement is entered into under the laws of South Carolina, the City is a political subdivision of South Carolina, and the subject real property and improvements are located in South Carolina. The Agreement shall be construed in accordance with the laws of South Carolina.

7. No Joint Venture.

The parties acknowledge the City is acting solely in a governmental capacity in expanding/enhancing the City's public infrastructure and spaces, in approving the Agreement and in providing any other approvals related to the Project. Accordingly, the parties further acknowledge that no joint venture is intended or created between the Project Developer (or its affiliates or principals) and the City, and the parties expressly disclaim the same.

8. Indemnification.

The Project Developer shall indemnify, defend and hold harmless the City, as well as its officers, officials and employees, from and against all claims of any nature whatsoever, at law or in equity, arising out of, or related in any manner to the Agreement, the design and construction of the Public Improvements, or the Project Developer's maintenance obligations, excluding only those claims resulting from the breach of this Agreement by the City or the gross negligence or willful misconduct of the City, its officers, contractors, agents, officials and/or employees. This provision shall survive termination of the Agreement.

9. Notice.

All notices and communications hereunder shall be in writing and shall be delivered personally or sent by certified mail, return receipt requested, addressed to the parties as follows:

CITY:
City of Spartanburg
Attention: City Manager
P.O. Box 1749
Spartanburg, SC 29304

PROJECT DEVELOPER:
Montgomery Development, LLC
Attention: John Montgomery
PO Box 5565
Spartanburg, SC 29304

with a copy to:
JSHW Law Firm
Attn: Daniel Craig
PO Box 5587
Spartanburg, SC 29304

10. Miscellaneous.

If any part or provision of this Agreement is held invalid or unenforceable under applicable law, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining parts and provisions of this Agreement. The waiver of a breach of this Agreement by either party shall not operate as a waiver of any subsequent breach, and no delay in acting with regard to any breach of this Agreement shall be construed to be a waiver of the breach. Headings are inserted for convenience only and shall not be considered for any other purpose. All exhibits referenced above (including all attachments thereto) are attached hereto and incorporated herein as part of the Agreement.

[Remainder of Page Intentionally Blank]

[Signatures Follow Immediately]

WHEREFORE, in consideration of the foregoing, the Project Developer does bind itself by terms and conditions of the agreement by providing below the signature of its authorized officers.

WITNESSES:

Montgomery Development, LLC
Spartanburg RE Investments, LLC
Spartanburg RE Investments II, LLC
Spartanburg RE Investments III, LLC

By: _____
Name: John Montgomery
Its: Authorized Member

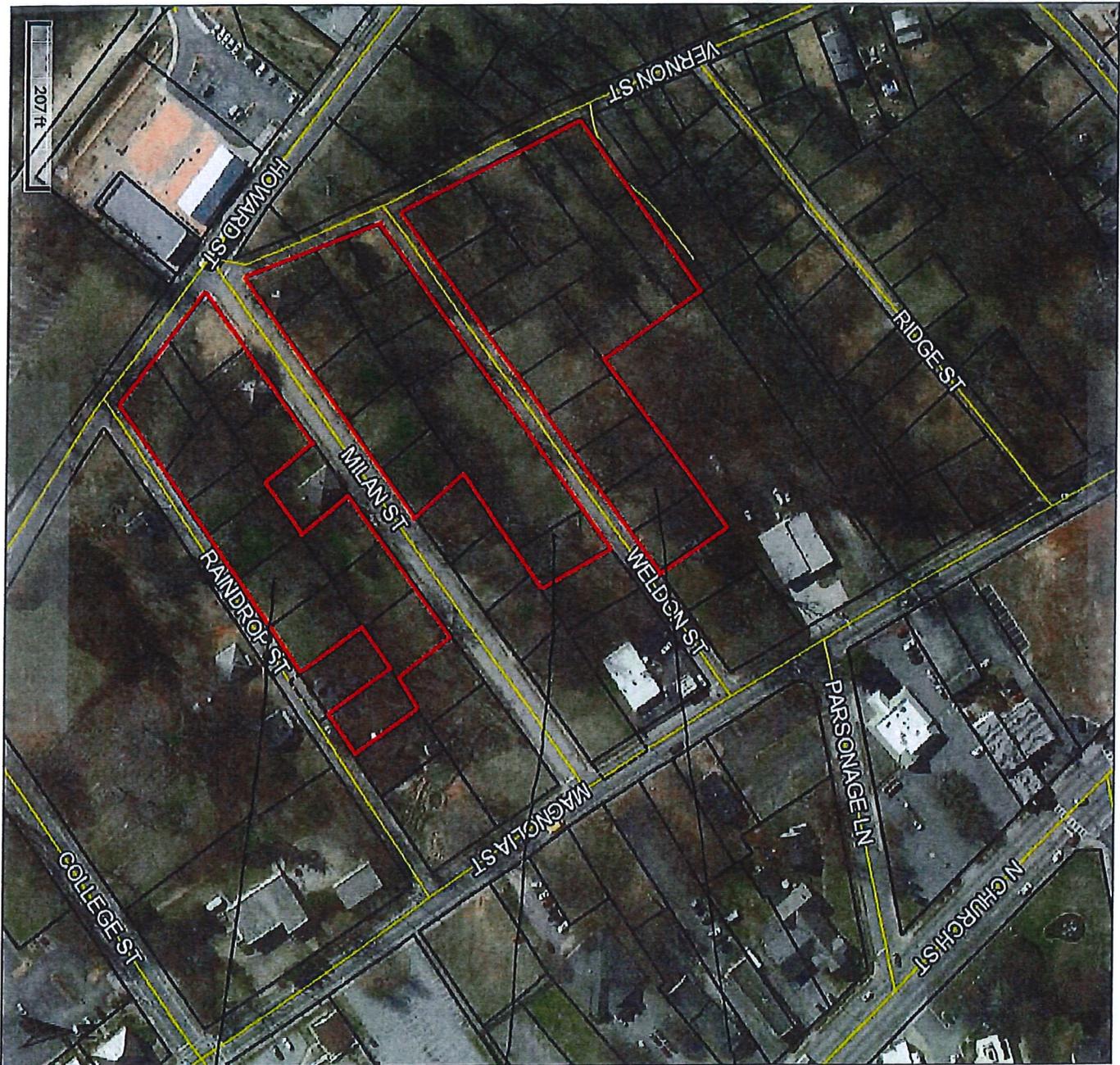
STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

ACKNOWLEDGEMENT

The foregoing instrument was acknowledged before me this _____ day of _____, 2020 by the duly authorized officer for the above referenced entities.

Notary Public for South Carolina
My Commission Expires: _____

EXHIBIT A



PHASE I

PHASE II

PHASE III

EXHIBIT B



FRONT ELEVATION - 4-PLEX - MODERN TRADITIONAL
SCALE: 1/8"=1'-0"



FRONT ELEVATION - 4-PLEX - URBAN
SCALE: 1/8"=1'-0"

SHEET NO. A4.0	EXTERIOR ELEV 2-PLEX	DATE: 04.17.20	 MONTGOMERY DEVELOPMENT GROUP	NORTHSIDE TOWNHOMES SPARTANBURG, SC	
		DRAWN BY:			



REQUEST FOR CITY COUNCIL ACTION

TO: Chris Story, City Manager
FROM: Dennis R. Locke, Finance Director
SUBJECT: Transit Management Contract
DATE: May 6, 2020

As you know, SPARTA, our fixed route bus service, is managed by a third party transit management firm. In anticipation of the expiration of our current management contract, we sent an RFP for Transit Management Services on February 28, 2020 to several vendors who provide this service. We advertised in our local newspaper and the South Carolina Business Opportunities website in addition to the city's website. Besides the primary function of managing the daily operations of the bus system we had several significant objectives we were looking for.

- A company who would assist with implementation of our Comprehensive Operational Analysis Plan.
- Respond to the City's request for service changes and recommend service changes which will increase ridership.
- Adhere to all FTA regulations and guidelines as it pertains to grants management.

We only received one response from our advertisements. This was from our current provider First Transit. The terms listed in the RFP were for a five (5) year contract with five (5) one year options by mutual agreement. The fee per year is listed below.

Year One - \$139,329
Two - \$143,462
Three - \$147,731
Four - \$152,142
Five - \$156,698

Contract amounts include the salary and benefits of the system's General Manager as well as legal, operational, and purchasing oversight and support. We believe the terms are reasonable. The five one (1) year options continue to increase at 3% annually if the decision is made to exercise the options.

ACTION REQUESTED:

Staff is requesting we authorize the City Manager to award the bid to First Transit Inc.

BUDGET AND FINANCIAL DATA: We receive grant funds from FTA and SCDOT to cover at least 50% of the annual fee to manage our system.



REQUEST FOR COUNCIL ACTION

TO: Chris Story, City Manager

FROM: Connie Kellner, City Clerk

SUBJECT: Annual Review of Vacancies/Reappointments on City of Spartanburg Boards and Commissions

DATE: May 7, 2020

BACKGROUND: City Council annually reviews term expirations of individuals who are appointed by Council to serve on City of Spartanburg Boards and Commissions. Attached you will find a summary of vacancies. These vacancies are also listed on the City's website under Boards and Commissions.

ACTION REQUESTED: Staff requests that City Council begin the annual review process of vacancies for appointment and/or reappointment of individuals to City of Spartanburg boards and commissions.

BUDGET AND FINANCE DATA: N/A



Boards and Commissions 2020-2021 Summary of Vacancies

Accommodations Tax Advisory Committee	1 vacancy 1 served max term
Airport Advisory Committee	4 vacancies 1 served max term 3 eligible to serve another term
Board of Architectural Design and Historic Review	4 vacancies 2 served max terms 2 eligible to serve another term
Bicycle and Pedestrian Committee	4 vacancies 1 served max term 3 eligible to serve another term
Civil Service Commission	1 vacancy Served max term
Construction Board of Adjustments and Appeals	6 vacancies 2 served max term 4 eligible to serve another term
Design Review Board	2 vacancies 1 served max term 1 eligible to serve another term
Hospitality Tax Committee	3 vacancies 3 eligible to serve another term
Spartanburg Housing Authority	3 vacancies 1 resignation 2 do not want to serve another term
Planning Commission	3 vacancies 2 resignations 1 eligible to serve another term
Public Safety Committee	5 vacancies 2 eligible to serve another term
Storm Water Appeals Board	4 vacancies 2 served max term 2 eligible to serve another term
Zoning Board of Adjustments and Appeals	2 vacancies 1 eligible to serve another term 1 served max term