



City of Cartersville

P.O Box 1390 – 10 Public Square – Cartersville, Georgia 30120
Telephone: 770-387-5616 – Fax 770-386-5841 – www.cityofcartersville.org

COUNCILPERSONS:

Matt Santini – Mayor
Calvin Cooley – Mayor Pro Tem
Gary Fox
Kari Hodge
Cary Roth
Jayce Stepp
Taff Wren

AGENDA

Council Chambers, Third Floor of City Hall– 7:00
PM – 5/21/2020
Work Session – 6:15PM

CITY MANAGER:

Tamara Brock

CITY ATTORNEY:

David Archer

CITY CLERK:

Meredith Ulmer

I. Opening of Meeting

- Invocation
- Pledge of Allegiance
- Roll Call

II. Regular Agenda

A. Council Meeting Minutes

1. May 7, 2020 (Pages 1 - 6)

[Attachments](#)

B. Public Hearing - 1st Reading of Zoning/Annexation Requests

1. SU20-1 N Erwin St - Shelter Beer Company (Pages 7 - 58)

[Attachments](#)

2. ZMA20-1 Annual Zoning Map Amendment (Pages 59 - 63)

[Attachments](#)

C. Contracts/Agreements

1. Canoe/Kayak Launch (Pages 64 - 67)

[Attachments](#)

D. Bid Award/Purchases

1. Telemetry for Transco Brown Farm Road Station (Pages 68 - 72)

[Attachments](#)

2. Electric Meter Testing (Pages 73 - 74)

[Attachments](#)

3. WPCP – Replacement Waste Activated Sludge Pumps (Pages 75 - 76)

[Attachments](#)

4. GPON Blade (Pages 77 - 78)

[Attachments](#)

5. Veeam Annual Software Renewal (Pages 79 - 82)

[Attachments](#)

6. Crowdstrike Annual Renewal (Pages 83 - 85)

[Attachments](#)

PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE HUMAN RESOURCES OFFICE, ADA COORDINATOR, 48 HOURS IN ADVANCE OF THE MEETING AT 770-387-5616.



City of Cartersville

City Council Meeting
5/21/2020 7:00:00 PM
May 7, 2020

SubCategory:	Council Meeting Minutes
Department Name:	Clerk
Department Summary Recommendation:	The minutes from May 7, 2020 have been uploaded for your review and approval.
City Manager's Remarks:	Your approval of the minutes is recommended with any changes or modifications you may have.
Financial/Budget Certification:	
Legal:	
Associated Information:	

City Council Meeting
 10 N. Public Square
 May 7, 2020
 6:15 P.M. – Work Session
 7:00 P.M. – Council Meeting

This meeting was held via ZOOM.

I. Opening Meeting

Invocation by Council Member Cooley.

Pledge of Allegiance led by Council Member Hodge.

The City Council met in Regular Session with Matt Santini, Mayor presiding and the following present: Kari Hodge, Council Member Ward One; Jayce Stepp, Council Member Ward Two; Cary Roth, Council Member Ward Three; Calvin Cooley, Council Member Ward Four; Gary Fox, Council Member Ward Five; Taff Wren, Council Member Ward Six; Tamara Brock, City Manager; Meredith Ulmer, City Clerk and Keith Lovell, Assistant City Attorney.

Mayor Santini held a moment of silence for Former City Council Member Lindsey McDaniel for his recent passing.

II. Regular Agenda

A. Council Meeting Minutes

1. April 16, 2020

A motion to approve the April 16, 2020 City Council Meeting Minutes as presented was made by Council Member Roth and seconded by Council Member Cooley. Motion carried unanimously. Vote: 6-0.

2. April 23, 2020 Special Called Council Meeting Minutes

A motion to approve the April 23, 2020 City Council Meeting Minutes as presented was made by Council Member Roth and seconded by Council Member Cooley. Motion carried unanimously. Vote: 6-0.

B. Appointments

1. Cartersville Building Authority

Tamara Brock, City Manager stated the terms of Cartersville Building Authority members Mike Fields, Ralph 'Sonny' Miller, and Tamara Brock will expire on May 15, 2020. All have agreed to continue to serve if reappointed. Their new terms would expire May 15, 2024.

Motion to approve was made by Council Member Fox and seconded by Council Member

Roth. Motion carried unanimously. Vote: 6-0.

C. Contracts/Agreements

1. Elevator Repair in City Hall Annex Building

Randy Mannino, Planning and Development Department Head stated due to high winds and storms during the week of April 20th, a power surge or lightning strike fried the motherboard and some other electronics on the elevator in the annex building. We received a quote from Thyssenkrupp Elevator Corporation in the amount of \$12,266 for repairs and upgrades to the system, including more surge protection. They are a sole source provider and are the City's service contractor for this elevator. Due to ADA requirements, this elevator needs to be repaired as soon as feasible. Your approval of this expenditure is recommended.

Motion to approve the elevator repair was made by Council Member Wren and seconded by Council Member Fox. Motion carried unanimously. Vote: 6-0.

D. Bid Award/Purchases

1. SEGAS Invoice

Derek Hampton, Electric Department Head stated the Electric Department is requesting authorization of a payment for an invoice from Southeastern Natural Gas Services of Rome, Inc. This invoice is for some directional boring needed to get power to an AT&T project. AT&T agreed to pay the expense to get the power to them and they have already submitted that reimbursement to us.

Motion approve the payment of the SEGAS Invoice was made by Council Member Cooley and seconded by Council Member Fox. Motion carried unanimously. Vote: 6-0.

2. Weather Warn Installation

Chief Scott Carter, Fire Department stated he respectfully requests approval to proceed with a new control system for the City of Cartersville Warning Siren System. The current control system is almost 20 years old and is a manually operated system with old dot matrix record keeping capabilities. This new Weather Warn PC siren controller allows for automatic National Weather (NWS) Service polygon activation. As an example, when the NWS activates a certain GIS polygon, it will send a signal to this control system and automatically activate the warning sirens within Cartersville. The system allows for manual override and a protection, a full diagnostic feedback on silent test with notification. It can automatically tweet a warning through the City of Cartersville twitter account and provides a digital record keeping system of all tests and activations.

This is a single source project that is specific to our Whelen sirens. We request the expenditure of \$15,700.00 to Mobile Communications America from Birmingham, AL. This is a time sensitive project due to our current weather pattern and could take up to 45 days for

completion and training. We respectfully request your approval and stand ready for any questions.

Motion to approve the Weather Warn Installation was made by Council Member Fox and seconded by Council Member Roth. Motion carried unanimously. Vote: 6-0.

3. Matthews Garage Vehicle Repair

Dan Porta, Assistant City Manager stated a City vehicle was involved in an accident where the other driver was at fault. Travelers Insurance has estimated the repairs at \$10,133.02 and these costs will be reimbursed by the other party's insurance company. I recommend approval to pay Matthews Garage for the vehicle repair.

Motion approve payment of the Vehicle Repair was made by Council Member Hodge and seconded by Council Member Cooley. Motion carried unanimously. Vote: 6-0.

4. Carousel Industries Support Renewal

Mr. Porta stated the annual support renewal for our Fortinet software in the amount of \$10,157.61 is due and recommended for your approval.

Motion to approve the Carousel Industries Support Renewal was made by Council Member Roth and seconded by Council Member Fox. Motion carried unanimously. Vote:6-0.

5. Transco Delivery Point to Brown Farm Road Regulating Station

Michael Hill, Gas Department Head stated there were four bidders for the pipe installation for the 6" Transco Delivery Point to the Brown Farm Road regulating station. The bids received included all of the installation as well as directional boring with a rock clause. ElectriCom, LLC, of Paoli, IN, was the low bidder, totaling \$1,229,746.92. The bid tabulation is attached. After reviewing their references, the Gas System found they are fully capable of satisfactorily completing this project. Therefore, I recommend approval of this bid.

Motion to approve Transco Delivery Point to Brown Farm Road Regulating Station was made by Council Member Cooley and seconded by Council Member Roth. Motion carried unanimously. Vote: 6-0.

6. D & C Fire Hydrant Restock

Bob Jones, Water Department Head stated the Distribution & Collection Office (D&C) restocks on roughly an annual basis the most common fire hydrants in our system. This is done to get volume discounts rather than purchasing hydrants one or two at a time throughout the year.

Quotes were requested for 9 hydrants from the following vendors:

- Fortiline Waterworks \$11,745.00

· Core & Main \$12,456.00

· Ferguson Waterworks \$14,770.62

I recommend approval of the Fortiline Waterworks quote in the amount of \$11,745.00.

Motion to approve the D & C Fire Hydrant Restock was made by Council Member Roth and seconded by Council Member Fox. Motion carried unanimously. Vote: 6-0.

7. WPCP Grit Chamber #2 Repair

Mr. Jones stated the grit chamber removes fine particles that are heavier than water upon entry to the plant. Also, the material consists primarily of sand and stone less than 0.5-inches in diameter, syringe needles, bottle tops and various small metals. This equipment runs in the most severe duty environment in the plant.

Several weeks ago, the Number 2 Grit Chamber stopped working. The chamber consists of buckets which dredge the grit material out of the bottom and convey it to a dumpster above the chamber. Two shafts which drive the chain bent causing misalignment of the chain. The misalignment bent the chain and damaged the bearings on the drive shafts beyond repair.

I am asking approval to purchase, via sole source, the needed parts to repair this equipment from WSE Solutions in the amount of \$29,209.00.

Motion to approve the WPCP Grit Chamber #2 Repair was made by Council Member Hodge and seconded by Council Member Stepp. Motion carried unanimously. Vote: 6-0.

E. Monthly Financial Statement

1. February 2020 Financial Report

Tom Rhinehart, Finance Department Head stated revenues have declined, but it is too early to tell how the City will be affected long term.

2. March 2020 Financial Report

Mrs. Brock went over the financial report and stated once the April numbers are in the City will really know what the losses are.

F. Discussion

1. Canoe/Kayak Launch

Mrs. Brock stated Bartow County has applied for grant at Sam Smith Park to build a Canoe/Kayak launch with over 60 parking spaces. The County would receive the grant money and the City would maintain it.

Council Member Roth announced it was the National Day of Prayer.

After announcements a motion to adjourn the meeting was made by Council Member Wren and needing no second. Motion carried unanimously. Vote: 6-0.

Meeting Adjourned

/s/ _____
Matthew J. Santini
Mayor

ATTEST:

/s/ _____
Meredith Ulmer
City Clerk



City of Cartersville

City Council Meeting
5/21/2020 7:00:00 PM
SU20-1 N Erwin St - Shelter Beer Company

SubCategory:	Public Hearing - 1st Reading of Zoning/Annexation Requests
Department Name:	Planning and Development
Department Summary Recommendation:	The applicant wishes to open and operate a microbrewery at 19 N. Erwin St. In 2018, per text amendment T18-06, the City updated the zoning ordinances to allow microbreweries in certain zoning districts with a Special Use Permit. This includes the DBD (Downtown Business District). A lease agreement was executed between the Cartersville Building Authority and Shelter Beer Company on February 13, 2020. Per department comments and a contract agreement, all building codes, zoning and development standards are required to be met and will be addressed during the plan review. Planning Commission recommends approval (5-1).
City Manager's Remarks:	This is the first reading. Planning Commission did recommend your approval 5-1.
Financial/Budget Certification:	
Legal:	
Associated Information:	

SPECIAL USE APPLICATION SYNOPSIS

Petition Number(s): **SU20-01**

APPLICANT INFORMATION AND PROPERTY DESCRIPTION

Applicant: **Shelter Beer Company**
 Representative: **Michael Holder**
 Property Owner: **City of Cartersville/ Cartersville Building Authority**
 Property Location: **19 N. Erwin St. (C001-0010-003)**
 Access to the Property: **N. Public Sq and N. Erwin St.**

Site Characteristics:

Tract Size: Acres: **0.54** District: **4th** Section: **3rd** LL(S): **455**
 Ward: **4** Council Member: **Calvin Cooley**

1. LAND USE INFORMATION

Current Zoning: **DBD (Downtown Business District)**
 Proposed Zoning: **Same**
 Proposed Use: **Microbrewery**
 Current Zoning of Adjacent Property:
 North: **M-U (Multiple Use)**
 South: **DBD (Downtown Business District)**
 East: **DBD (Downtown Business District)**
 West: **DBD (Downtown Business District)**

The Future Development Map designates the subject property as: **DBD.**

The Future Land Use Map designates the subject property as: **DBD.**

SU20-01

2. City Department Comments:**Electric:** Takes no exception.**Fibercomm:** Takes no exception.**Fire:** Cartersville Fire takes no exceptions provided all adopted codes and ordinances are met. This includes, but not limited to, fire sprinklers, fire flow, hydrant placement, and hose lay distance.**Gas:** Takes no exception.**Public Works:** No comments received.

Water and Sewer: Attached are the Water Department comments for the referenced Special Use Request. Water and sewer service is available to the location. Any necessary upgrades to the water meters, backflow prevention devices and possible fire sprinkler system requirements will be addressed during the plan submittal and review process. Similarly possible requirement of a grease trap installation will be addressed during the plan submittal and review process.

3. Public Comments: No comments received by Planning and Development as of 4-30-2020.**4. Special Use Review**

The applicant wishes to open and operate a microbrewery at 19 N. Erwin St. (Corner of Church St and Erwin St.) Operations will require the restoration and remodel of the old firehouse. In 2018 per text amendment T18-06, the City updated the zoning ordinances to allow microbreweries in certain zoning districts with a Special Use Permit. This includes the DBD (Downtown Business District) district.

A lease agreement was executed between the Cartersville Building Authority and Shelter beerCompany on February 13, 2020. Agreement attached.

Details of the proposed microbrewery:

- Building Square Footage: 10,550 approx. (multi-story)
- Outdoor Patio: approx. 1,780sf, east side of building, to be fenced.
- Max. Occupancy: TBD.
- Hours of Operation: Wed-Thurs: 4-10pm. Fri-Sat: 1-11pm. Sun: 1-9pm.
- Food prep and retail sales are allowed by contract agreement. Tenant is responsible for all required permitting and reporting for exhaust hood maintenance and/ or grease traps per contract agreement.

SU20-01

- Parking: 100+ public parking spaces to the south and east.
- No residential land uses or districts within 50ft.
- Distance to Sam Jones United Methodist Church: 416ft. from brewery main entrance to church front doors.

Per the department comments and contract agreement, all building codes, zoning and development standards are required to be met. These requirements will be addressed during the plan review process. City electric, fiber, natural gas, and water/ sewer utilities are available to serve the business.

5. Zoning Ordinance Findings

Please review the following findings, as stated in the Zoning Ordinance, which are to be utilized in determining justification for approval or denial of special use request(s).

B) Article XVI. Special Uses

Sec. 16.1. Scope and intent.

- A. This article specifies uses which are not classified as permitted uses as a matter of right in zoning districts, and are therefore only allowed through the approval of a Special use. The standards which apply to each use are enumerated and must be met in order for an application to be granted.
- B. In granting a Special use, conditions may be attached as are deemed necessary in the particular case for the protection or benefit of neighbors in order to assimilate the proposed development or use into the neighborhood with minimal impact.

Sec. 16.2. Application of regulations and approval.

Uses allowable with a Special use and the minimum standards for such uses are listed in section 16.4 of this article.

Uses in the districts enumerated herein may be authorized by Special use only. The regulations contained in this article shall not apply to any permitted use as a matter of right in any zoning district.

Any use which may be authorized by Special use shall be approved by the Mayor and Council in accordance with section 16.1, scope and intent, provided:

- A. The standards for the Special use as specified herein can be met;
- B. Recommendations have been received from the planning and development staff and other appropriate City departments.
- C. A public hearing has been held in relation to the Special use before the Planning Commission in conformance with the advertising standards outlined in article XXIV of this chapter. The Planning Commission shall make recommendations to the Mayor and Council regarding the application for a Special use; and
- D. A public hearing has been held in relation to the Special use before the Mayor and Council in conformance with the advertising standards outlined in article XXIV of this chapter.

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Sec. 16.3. Additional restrictions.

- A. In the interest of the public health, safety and welfare, the Mayor and Council may exercise limited discretion in evaluating the site proposed for a use which requires a Special use. In exercising such discretion pertaining to the subject use, the Mayor and Council may consider the following, which shall be stated in writing by the applicant and submitted to the department of planning and development to initiate an application for a Special Use permit:
1. The effect of the proposed activity on traffic flow along adjoining streets;
 2. The availability, number and location of off-street parking;
 3. Protective screening;
 4. Hours and manner of operation of the proposed use;
 5. Outdoor lighting;
 6. Ingress and egress to the property; and
 7. Compatibility with surrounding land use.
- B. Any use which may be authorized by special use shall comply with all other City regulations, zoning district regulations and other regulations contained herein, and conditions of zoning approval if applicable. Whenever a standard contained in this section is in conflict with another provision of this chapter, the more restrictive provision shall prevail.

6. How General Standards Are Met (Staff Comments below. Applicant's answers attached):***Standard #1: The effect of the proposed activity on traffic flow along adjoining streets.*****How Standard #1 has / will be met:** No negative effect to traffic along adjoining streets is expected due to hours of operation. Multiple ingress/egress points, and available parking.***Standard #2: The availability, location, and number of off-street parking.*****How Standard #2 has / will be met:** Approx. (100+) public parking spaces are available along east and south side of building in the DBD.***Standard #3: Protective screening.*****How Standard #3 has / will be met:** Not required.***Standard #4: Hours and manner of operation:*****How Standard #4 has / will be met:** Wed-Thurs: 4-10pm. Fri-Sat: 1-11pm. Sun: 1-9pm.***Standard #5: Outdoor lighting***

SU20-01

How Standard #5 has / will be met: Outdoor lighting provided as required by ordinance or safety needs.

Standard #6: Ingress and egress to the property.

How Standard #6 has / will be met: Via N. Public Square and N. Erwin St. Multiple entrances for building.

Standard #7: Compatibility with surrounding land use.

How Standard #7 has / will be met: Adjacent land uses include a variety of downtown businesses in the retail, service and food and beverage industries. Opposition, if any, may originate from members or staff of Sam Jones United Methodist Church.

7. Additional standards from Zoning Ordinance section 16.4 for use applied for and how they are met:

Sec. 16.4.19. Breweries. Breweries, including accessory tasting rooms.

(a) Production shall be in a wholly-enclosed building: Production will be in a wholly enclosed building. Map attached.

(b) Any building or structure established in connection with such use shall be set back not less than 50 feet from any residentially zoned property. There are no residential uses or districts within 50ft. Map attached.

8. Staff Recommendation: No objection to special use request. All building code and development standard requirements must be met per staff comments. The Cartersville Building Authority and City Council have reviewed and approved the building lease contract. Exterior architectural changes will be reviewed by the Historic Preservation Commission.

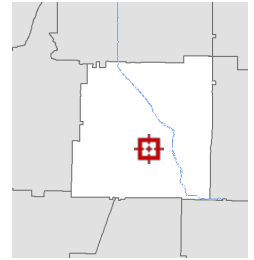
9. Planning Commission Recommendation:



Bartow County, GA



Overview



Legend

- ☐ Parcels
- Structural Numbers**
 - <all other values>
 - Abandoned or Inactive
 - Active
 - Proposed
- Roads

Parcel ID	C001-0010-003	Alternate ID	31846	Owner Address	CITY OF CARTERSVILLE
Sec/Twp/Rng	n/a	Class	Exempt		P O BOX 1390
Property Address	19 N ERWIN ST	Acreage	0.53		CARTERSVILLE GA 30120
	Cartersville				
District	Cartersville				
Brief Tax Description	LL455 LD4 S3 OLD CARTERSVILLE FIRE STATION #1				
	(Note: Not to be used on legal documents)				

Date created: 4/28/2020

Last Data Uploaded: 4/28/2020 8:25:57 AM

Developed by Schneider
GEOSPATIAL

Application for Special Use
City of Cartersville

Case Number: SV20-01
Date Received: 2-21-2020

Public Hearing Dates:

Planning Commission 4/7/2020 5:30pm 1st City Council 4/16/20 7:00pm 2nd City Council 5/7/20 7:00pm

Applicant <u>Shelker Beer Company</u> (printed name)	Office Phone _____
Address <u>19 N. Erwin ST</u>	Mobile/ Other Phone <u>770 855 4145</u>
City <u>Cartersville</u> State <u>GA</u> Zip <u>30120</u> Email <u>holdermwo@gmail.com</u>	
<u>Michael Holder</u> Representative's printed name (if other than applicant)	Phone (Rep) _____
<u>[Signature]</u> Representative Signature	<u>[Signature]</u> Applicant Signature
Signed, sealed and delivered in presence of: <u>Cheryl Jackson</u> Notary Public	My commission expires: <u>2/7/2021</u>

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* Titleholder <u>Cartersville Building Authority</u> (titleholder's printed name)	Phone <u>770-387-5616</u>
Address <u>19 N. Erwin St Cartersville, GA</u>	Email <u>holdermwo@cityofcartersville.org</u>
Signature <u>[Signature]</u>	
Signed, sealed, delivered in presence of: <u>Connie L. Salter</u> Notary Public	My commission expires: <u>Feb. 3, 2021</u>

Present Zoning District <u>DBD</u>	
Acreage <u>.54</u> Land Lot(s) <u>455</u> District(s) <u>Ward 4</u> Section(s) <u>3rd</u>	
Location of Property: <u>19 N. Erwin ST Cartersville GA 30120</u> (street address, nearest intersections, etc.)	
Reason for Special Use Request: <u>REQUIRED BY ORDINANCE</u>	
(attach additional statement as necessary)	

* Attach additional notarized signatures as needed on separate application pages.

SPECIAL USE JUSTIFICATION

The Mayor and City Council, upon review, may authorize a Special Use which is not classified as a permitted use by right in a zoning district.

Zoning Ordinance section 16.3.A

In the interest of the public health, safety and welfare, the Mayor and Council may exercise limited discretion in evaluating the site which requires a Special use. In exercising such discretion pertaining to the subject use, the Mayor and Council may consider the following, which shall be stated in writing by the applicant and submitted to the department of planning and development to initiate an application for a Special use:

1. The effect of the proposed activity on traffic flow along adjoining streets;
2. The availability, number and location of off-street parking;
3. Protective screening;
4. Hours and manner of operation of the proposed use;
5. Outdoor lighting;
6. Ingress and egress to the property; and
7. Compatibility with surrounding land use.

Zoning Ordinance section 16.4 states standards for specific uses – if the use you are applying for has additional standards, these must also be addressed below.

Use applied for:

Micro Brewery

Standard #1: The effect of the proposed activity on traffic flow along adjoining streets.

How Standard #1 has / will be met:

Property is located directly across from town town district public parking. There will be no parking on either Erwin or Church Street so traffic will not be affected.

Standard #2: The availability, number, and location of off-street parking.

How Standard #2 has / will be met:

The property is surround on 3 side by 100+ public parking spaces

Standard #3: Protective screening.

How Standard #3 has / will be met:

Guardrail will be installed around Front Patio entrance and secondary entrances. To also include planters with shrubs.

Item # 2

Standard #4: Hours and manner of operation of the proposed use.

How Standard #4 has / will be met:

Wednesday - Thursday 4:00pm - 10:00pm
Friday - Saturday 1:00pm - 11:00pm Sunday 1:00pm - 9:00pm

Standard #5: Outdoor lighting.

How Standard #5 has / will be met:

Outdoor lighting will be installed on outside deck and entrances.

Standard #6: Ingress and egress to the property.

How Standard #6 has / will be met:

3 entry/exits - large store front (Bay side) 1 - man door (Bay side)
1 - Small store front (Facing City hall). 3 - Emergency Exits only on
(North East and South)

Standard #7: Compatibility with surrounding land use.

How Standard #7 has / will be met:

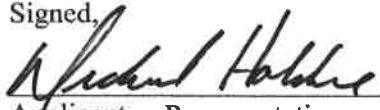
The Brewery is located in the heart of downtown district
and will serve as a gathering place for the City of Centerville
and its visitors.

Additional standards from Zoning Ordinance section 16.4 for use applied for and how they are met:

A) production will be in a wholly enclosed building

B) There ARE NO residential uses or districts within 50ft.

Signed,


Applicant or Representative

2/15/2020

Date

Item # 2

CAMPAIGN DISCLOSURE REPORT
FOR REZONING ACTIONS

Pursuant to O.C.G.A. 36-67A-3 any and all applicants to a rezoning action must make the following disclosures:

Date of Application: 02/21/2020

Date Two Years Prior to Application: 02/21/2018

Date Five Years Prior to Application: 02/21/2015

1. Has the applicant within the five (5) years preceding the filing of the rezoning action made campaign contributions aggregating \$250.00 or more to any of the following:

	YES	NO
Mayor: Matt Santini	_____	<u>X</u>
Council Member:		
Ward 1- Kari Hodge	_____	<u>X</u>
Ward 2- Jayce Stepp	_____	<u>X</u>
Ward 3- Cary Roth	_____	<u>X</u>
Ward 4- Calvin Cooley	_____	<u>X</u>
Ward 5- Gary Fox	_____	<u>X</u>
Ward 6- Taff Wren	_____	<u>X</u>
Planning Commission		
Greg Culverhouse	_____	<u>X</u>
Harrison Dean	_____	<u>X</u>
Lamar Pendley	_____	<u>X</u>
Lamar Pinson	_____	<u>X</u>
Travis Popham	_____	<u>X</u>
Jeffery Ross	_____	<u>X</u>
Stephen Smith	_____	<u>X</u>

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2. If the answer to any of the above is **Yes**, please indicate below to whom, the dollar amount, date, and description of each campaign contribution, during the past five (5) years.

Michael Holder 2/15/2020
Signature Date

Michael Holder
Print Name

LIST OF ADJACENT PROPERTY OWNERS

(Not required if City mails public notices)

The following are all of the individuals, firms, or corporations owning property on the sides, rear, and in front of (across street from) the property sought to be rezoned:

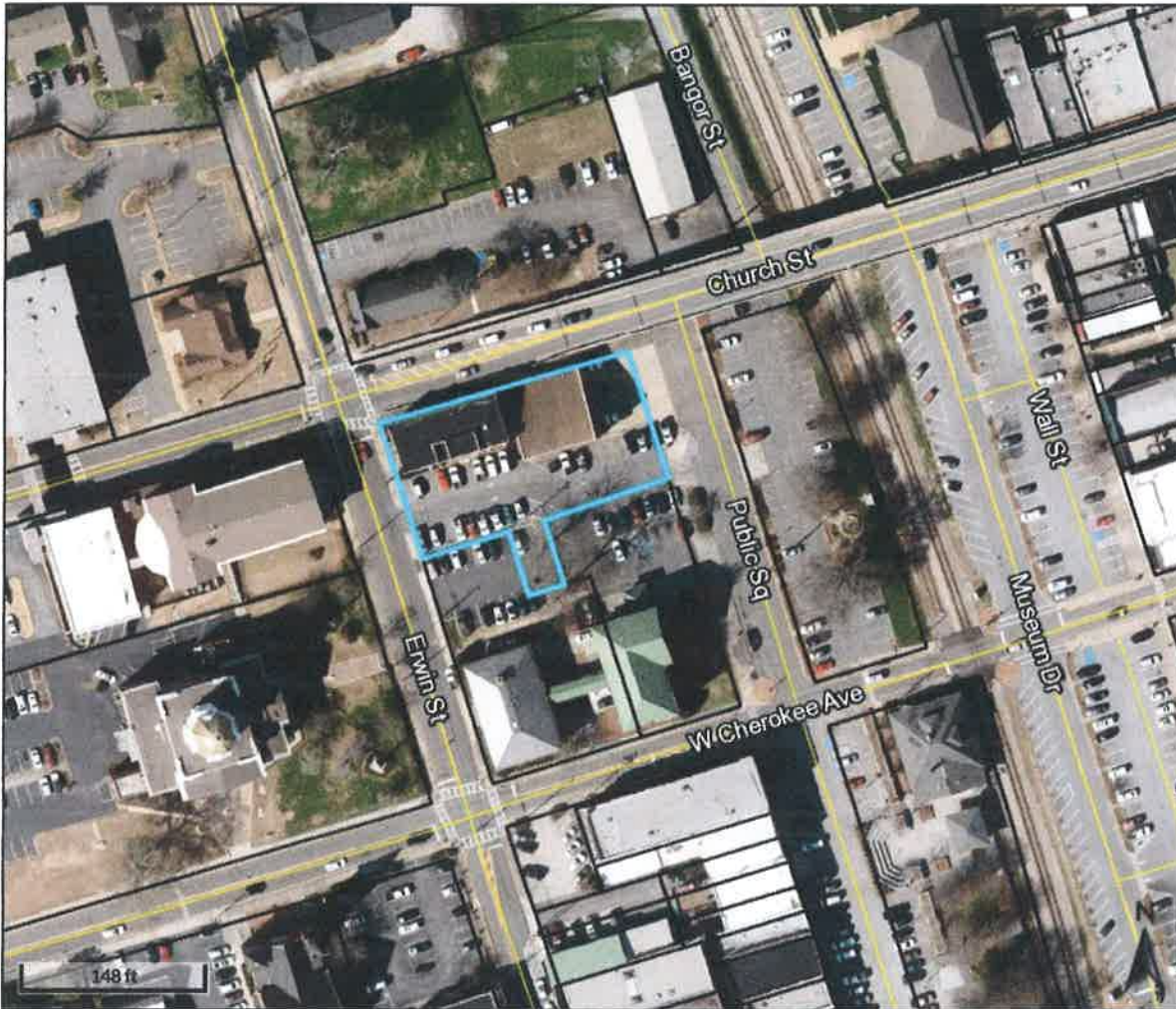
	<u>NAME</u>	<u>ADDRESS</u>
1.	SAM Jones United Methodist	100 W Church ST. Cartersville GA
2.	TIC Jordan LLC	1 Church ST. Cartersville GA
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		

Item # 2

Item # 2

Attach additional names if necessary.

(Indicate property owned by the above persons on plat accompanying this application.)



Overview



Legend

- Parcels
- Roads

Item # 2

Parcel ID	C001-0010-003	Alternate ID	31846	Owner Address	CITY OF CARTERSVILLE
Sec/Twp/Rng	n/a	Class	Exempt		P O BOX 1390
Property Address	19 N ERWIN ST	Acreage	0.53		CARTERSVILLE GA 30120
	Cartersville				
District	Cartersville				
Brief Tax Description	LL455 LD4 S3 OLD CARTERSVILLE FIRE STATION #1				
	(Note: Not to be used on legal documents)				

Date created: 2/20/2020

Last Data Uploaded: 2/20/2020 8:38:16 AM

Developed by  Schneider
GEOSPATIAL

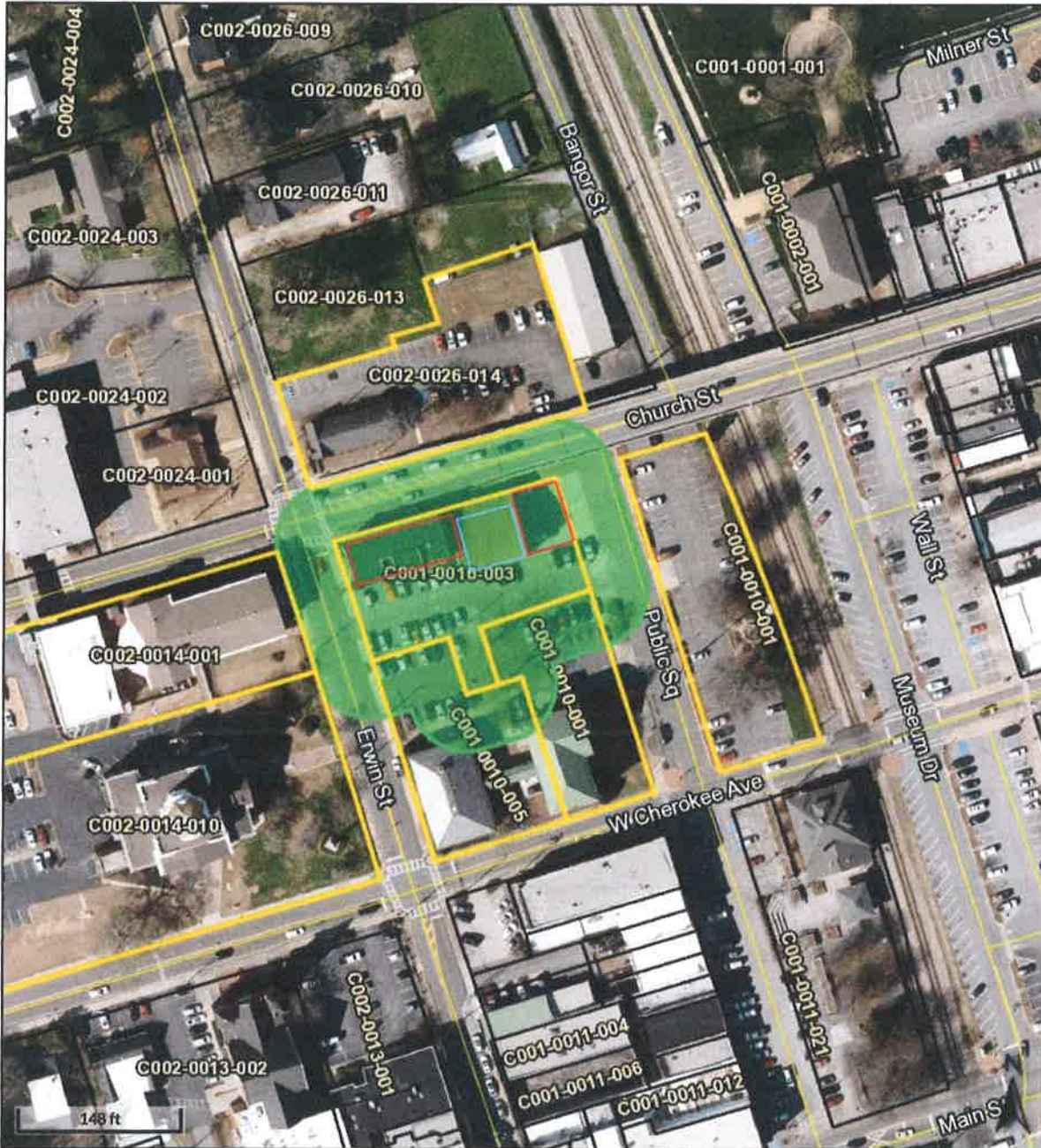
19 NORTH ERWIN STREET
CARTERSVILLE, GA
BARTOW COUNTY, GEORGIA



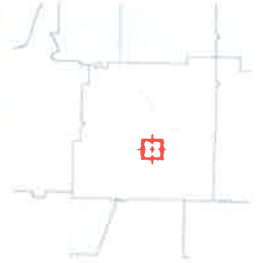
The red line shows the code accepted safe path of travel along sidewalks and pedestrian crosswalks from the front door of the church to the main entrance of the brewery. The measured distance is 416', which is greater than the code requirement of 300'.

The blue line shows the code accepted safe path of travel along sidewalks and pedestrian crosswalks from the front door of the church to the secondary entrance of the brewery. The measured distance is 478', which is greater than the code requirement of 300'.

Note: The fenced patio will be fully enclosed around the perimeter except for the opening at the main entrance on the south east side of the patio



Overview



Legend

- Parcels
- Roads

Item # 2

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USES OR DISTRICTS WITHIN 50FT. OF
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SERVING AREA



BREWING AREA

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CARTERSVILLE BUILDING AUTHORITY
AND CITY OF CARTERSVILLE FOR THE OPERATION OF
19 N. ERWIN STREET, CARTERSVILLE, GA**

This Intergovernmental Agreement ("IGA") is entered into by and between the **Cartersville Building Authority**, a public corporation of the State of Georgia ("CBA") and the **City of Cartersville**, Georgia, a municipal corporation of the State of Georgia (sometimes hereinafter referred to as "City," acting through its Mayor and Council. This IGA is created under the existing laws of the State of Georgia.

WITNESSETH:

WHEREAS, the City desires to rehabilitate the old fire station located at 19 N. Erwin Street, Cartersville, Georgia; and

WHEREAS, the City solicited proposals for the use and rehabilitation of the old fire station located at 19 N. Erwin Street, Cartersville, Georgia; and

WHEREAS, Shelter Beer Company submitted the only proposal for rehabilitation to the City; and

WHEREAS, the City cannot meet all of the terms and conditions of the proposal by Shelter Beer Company; and

WHEREAS, the CBA can enter into longer term leases than the City; and

WHEREAS, in order to facilitate the rehabilitation of the old fire station located at 19 N. Erwin Street, Cartersville, Georgia, the Mayor and City Council determined that it is in the best interest of the City to transfer the old fire station, pursuant to Resolution No. 01A-20 to the CBA in order to enter into a lease with Shelter Beer Company, Inc. to rehabilitate said building and to operate a brewery out of same; and

WHEREAS, the CBA and the City desire to enter into this IGA relating to the conveyance and maintenance of 19 N. Erwin Street, Cartersville, Georgia, and other provisions; and

WHEREAS, Article IX, Section III, Paragraph I, of the Constitution of the State of Georgia provides that local governments and authorities of the State of Georgia may contract with one another for any period not exceeding fifty (50) years; and

WHEREAS, the CBA and City deem it to be in the best interest of the citizens of their respective jurisdictions that this IGA be entered into; and

WHEREAS, the CBA has reviewed this IGA and did, at a special called meeting of the CBA, authorize its Chairman or Vice Chairman to execute this IGA; and

WHEREAS, the Mayor and City Council of Cartersville have reviewed this IGA and did, at the regular meeting of the City Council, authorize its Mayor and City Clerk to sign this IGA, per Resolution No. 01A-20.

NOW, THEREFORE, for and in consideration of the mutual benefits flowing from one party to the other, the adequacy and sufficiency of which is hereby acknowledged, it is hereby agreed to as follows:

1.

Definition. "Facility" as used herein refers to the old fire station and bay area at 19 N. Erwin Street, Cartersville, Georgia, including the grounds, parking areas, access roads, outbuildings and the amphitheater, and also to any part thereof.

2.

Resolution Authorizing Transfer. Pursuant to Resolution No. 01A-20, the City is conveying the Facility to the CBA based on the terms and conditions contained herein.

3.

CBA Agreement of Terms and Conditions. The CBA agrees to the terms and conditions related to the transfer of the Facility and hereby accepts said terms and conditions.

4.

Duties of the Parties. In exchange for the Facility being conveyed by the City to the CBA, the CBA shall perform the following:

- (a) CBA shall maintain detailed financial records of all revenue collected and expended in the operation of the Facility. CBA shall maintain separate accounts for the funds contributed by the City for the operation and maintenance of this Facility and rental income, separate from its general accounts used to run CBA and perform its other functions. CBA shall be required to expend funds provided for the operation and maintenance of this Facility only for these purposes.
- (b) CBA shall open its records and books to the City upon demand.
- (c) CBA shall provide an annual independent financial audit of its operations of the Facility to the City if requested by the City and said audit shall be paid for by the City.
- (d) The City shall pay all costs of operation of the Facility, including maintenance, utilities, staff costs and insurance, until such time as the rental income for said Facility shall be sufficient to pay such expenses.

5.

Expenses of Operation. It is intended by the parties and the CBA that the rent for the Facility, shall eventually generate sufficient revenue to offset the costs of operation and maintenance of the Facility. Until such time, the City shall be responsible for said costs.

6.

Shortfalls. To the extent the revenue from the Facility does not offset the costs of the facility, the CBA shall be required to present a budget request to the City for revenue support for the facility, in a timely fashion for the budget preparation deadlines of the City.

7.

Insurance. The City shall maintain property and general insurance on the Facility for the CBA, being property and general liability insurance with limits of \$1,000,000 on the Facility. When sufficient revenue has been generated, it shall become the CBA's responsibility to maintain property and general insurance on the Facility.

8.

Notices. Official notices, payments, and correspondence to the parties shall be delivered in person or transmitted via U. S. Mail, postage prepaid addressed:

CBA: Chairman
Cartersville Building Authority
PO Box 1024
Cartersville, GA 30120

CITY: City Manager
City of Cartersville
PO Box 1390
Cartersville, GA 30120

9.

Term. This IGA shall be in effect for fifty (50) years or until such time as the Facility is no longer occupied by Shelter Beer Company, Inc., or its successors, whichever event first occurs.

10.

Reversion. In the event that Shelter Beer Company, Inc. or its successors no longer occupy the Facility or upon the expiration of this IGA, the Facility is to be conveyed back to the City, at no cost to the City.

11.

E-Verify. CBA shall be required to be registered for and comply with Federal E-Verify requirements and the requirements of the Georgia Security and Immigration Compliance Act, O.C.G.A. § 13-10-91. CBA shall submit the required affidavit promulgated by the Georgia Department of Labor to affirm its compliance. "E-Verify" is an internet-based employment eligibility verification program, operated by the U.S. Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA), that allows employers to electronically verify through an online government database the work eligibility of newly hired employees. E-Verify is administered by U.S. Citizenship and Immigration Services (USCIS).

12.

Compliance with Laws. CBA agrees to comply with any other applicable laws in its operation of the Facility.

13.

Hazardous Materials. CBA shall not place, use, store, spill or discharge any hazardous, toxic or dangerous substances on the Property, or permit to be placed, used, stored, spilled or discharged any hazardous, toxic or dangerous substances on the Property. It is contemplated that automobile-type shows, RV-type shows, boat shows, and gun shows may be vendors, and that materials and substances related to those types of events are permitted.

14.

Entire Agreement. This IGA constitutes the entire agreement between the parties, and may be modified only in writing. This IGA may not be assigned by CBA without the prior written consent of the City, which approval may be granted or withheld at the City's sole discretion.

15.

Headings. The headings used in this IGA are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this IGA nor the intent of any provision thereof.



CITY OF CARTERSVILLE,
a Municipal Corporation of the State of Georgia

Attest: Meredith Ulmer
Meredith Ulmer, City Clerk

By: Matthew J. Santini
Matthew J. Santini, Mayor

[AFFIX SEAL]

Date: February 13, 2020

16.

Waiver. No waiver of any of the provisions of this IGA shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

17.

Severability. In the event any provision of this IGA or the application thereto to any person or circumstance shall be inapplicable, invalid, illegal or unenforceable in any respect, the remainder of this IGA and application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the fullest extent permitted by law.

18.

Governing Law. This IGA shall be governed by, construed and enforced in accordance with the laws of the State of Georgia.

19.

Effective Date. This IGA shall be effective February 13, 2020 or upon the date of the last signature by either party, whichever is later.

IN WITNESS WHEREOF, the CBA and City have caused this IGA to be duly executed by their proper officers and attested with their corporate seals affixed hereto as set forth in duplicate originals.

CARTERSVILLE BUILDING AUTHORITY,
a Public Corporation of the State of Georgia

Attest:

Ralph H. Miller
Ralph H. Miller, Secretary

By:

Tamara Brock
Tamara Brock, Chairman

[AFFIX SEAL]

Date:

13 Feb. 2020

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") made as of the 13th day of February, 2020 (the "Effective Date") between the Landlord set forth in Paragraph 1 of the Summary of Basic Lease Provisions on the previous page (the "Summary") and the Tenant set forth in Paragraph 2 of the Summary.

WITNESSETH:

ARTICLE I

PREMISES

Landlord, in consideration of the rents to be paid and the covenants and agreements to be performed and observed by Tenant, hereby leases to Tenant, and Tenant does lease and take from Landlord, the Premises described in Paragraph 4 of the Summary. Landlord and Tenant agree that the Premises consists of approximately 10,550 square feet of gross leasable area.

TERM

Section 1.01. Initial Term. Although this Lease shall become effective on the Effective Date, the term of this Lease shall begin on the Commencement Date (as defined in Paragraph 5 of the Summary) and shall, unless extended pursuant to Section 2.03, terminate on the last day of the **tenth (10th)** Lease Year of the term hereof. For purposes of this Lease, the first Lease Year shall begin on the Commencement Date and end on the last day of the twelfth (12th) full calendar month thereafter and each succeeding twelve (12) month period shall constitute a "Lease Year".

Section 1.02. Intentionally Deleted.

Section 2.03 Renewal Option. Tenant shall have the right to extend the Initial Term of this Lease as set forth in Paragraph 6 of the Summary, which Renewal Option shall be exercisable upon the following terms and conditions:

- (a) Tenant shall give Landlord written notice of such election to extend the term hereof two hundred seventy (270) days prior to the expiration of the then current term;
- (b) At the time of exercise of such election and at the commencement of any option term, Tenant shall not be in default under this Lease beyond any applicable grace or notice periods; and
- (c) The Renewal Option terms shall be upon the same terms and conditions as during the Initial Term hereof, except that Tenant shall have no further option to extend the term of the Lease beyond the Renewal Option term(s) set forth in Paragraph 5 of the Summary, any additional term may not be exercised unless the prior term was exercised and Tenant shall pay to Landlord Annual Rent during such additional terms at the rates set forth in Paragraph 8 of the Summary and Section 3.01 below, multiplied by the actual square footage of the Premises as determined pursuant to Article 1, payable in twelve (12) equal installments, in advance and without notice, on the first day of each calendar month.

If Tenant elects to exercise any such option, the term of this Lease shall be automatically extended for the period of such additional term without necessity for the execution of any instrument to effect the same. In such event the phrases "the term", "the term of this Lease" and "the term hereof" as used in this Lease shall include such additional term(s).

ARTICLE II

RENT

Section 2.01. Annual Rent.

(a) Tenant agrees to pay Landlord and Landlord agrees to accept, commencing on the Commencement Date and during the term hereof, at such place as Landlord shall from time to time direct by notice to Tenant, a minimum guaranteed annual rent ("**Annual Rent**") for the term of this Lease at the yearly rates set forth in Paragraph 8 of the Summary, multiplied by the actual square footage of the gross leasable area of the Premises as determined pursuant to Article 1, payable in advance, without notice, and in legal tender of the United States of America, drawn on a national banking institution located in the continental United States, in equal monthly installments on or prior to the first day of each and every calendar month during the term of this Lease, and pro-rated for the fractional portion of any month.

(b) As used herein, the term "**Additional Rent**" shall consist of all other sums of money including, but not limited to, Taxes and Operating Costs and Insurance pursuant to Sections 3.03 and 3.04 (if applicable) as shall become due from and be payable by Tenant hereunder (for default in the payment of which Landlord shall have the same remedies as for a default in the payment of Annual Rent).

(c) The Annual Rent and Additional Rent payable hereunder by Tenant shall be paid without setoff, counterclaim, deduction, or defense and, except as otherwise expressly provided herein, without abatement or suspension. If Tenant fails to pay any installment of Annual Rent, Additional Rent, or any other payment due to Landlord from Tenant when due under this Lease ("collectively, "**Rent**"), Landlord may assess Tenant a late charge as set forth in Section 3.06 hereof.

Section 2.02. Percentage Rent. Intentionally Deleted.

Section 2.03. Taxes. Tenant shall be responsible for all taxes. Tenant shall also be responsible for paying the Business Improvement District Ad Valorem tax, regardless of whether or not they are required to pay other ad valorem property taxes.

Section 2.04. Operating Costs. Intentionally Deleted.

Section 3.05 Gross Sales Report. Intentionally Deleted.

Section 3.06 Late Charge. If Tenant fails to pay any installment of Monthly Rent, Additional Rent, or any other payment due to Landlord from Tenant when due under this Lease, Landlord will assess Tenant a late charge equal to five percent (5%) of the amount past due. Landlord and Tenant agree that such late charge represents a reasonable estimate of such costs and expenses and is fair compensation to Landlord for Landlord's loss caused by Tenant's late payment. Notwithstanding the foregoing, with respect to the first time in any calendar year that Tenant has failed to pay any such installment of Monthly Rent, Additional Rent, or other payment due from Tenant to Landlord under this Lease, such late charge shall not apply unless Tenant has failed to make such payments within five (5) business days after receipt of Landlord's written notice of such delinquency. Landlord shall not be required to give Tenant such notice more than once in any calendar year prior to assessing such late charge.

ARTICLE III

PREPARATION OF THE PREMISES

Section 3.01. Landlord shall deliver the Premises to Tenant within one (1) day following the Effective Date. Landlord shall deliver the Premises in As-Is Condition and in accordance with **Exhibit B** to this Lease. The "**Delivery Date**" shall be the date on which the Landlord surrenders the Premises to Tenant in broom clean condition with all personal property removed. In the event that Landlord is unable to deliver the Premises within the 1-day period set forth above, then the Rent Commencement Date shall be extended by one (1) day for each day of delay beyond such 1-day period. In the event the Delivery Date does not occur within one hundred twenty (120) days following the Effective Date, then Tenant shall have the right to terminate this Lease with written notice to Landlord on or before fifteen (15) days following the expiration of such 120-day period. Should Tenant waive its right to terminate the Lease under this provision, the Rent Commencement date will continue to be extended until such date that the Premises is delivered.

Section 3.02. Utilities. Tenant shall be responsible for obtaining water, gas, electric and telephone services directly from the utility supplier and paying all applicable charges with respect thereto. If Landlord provides any such utility services to all tenants in the Property, Tenant shall pay, as Additional Rent, such utility charges.

Section 3.03. Tenant's Improvements. Tenant shall, at its cost, perform improvements to the interior of the Premises to ready the Premises for Tenant's occupancy (collectively, "**Tenant's Work**"). The plans and specifications depicting Tenant's Work shall be prepared and approved in accordance with the terms of this Section and **Exhibit B** hereto. Plans and specifications shall be prepared by Tenant's architect and shall be submitted to Landlord for Landlord's approval. Within fifteen (15) days after submission by Tenant, Landlord shall approve the plans and specifications or provide Tenant's architect with comments regarding the plans and specifications. If comments are provided by Landlord, the plans and specifications shall be revised by Tenant's architect and returned to Landlord within fifteen (15) days from the receipt of Landlord's comments. The submission of revised plans and specifications and providing of comments thereon shall continue (subject to the same fifteen (15) day deadlines as to responses by Tenant and Landlord) until such time as the plans and specifications are approved by Landlord. Landlord agrees that Landlord shall not unreasonably withhold and shall not delay Landlord's approval of the plans and specifications, nor condition said approval on unreasonable notes to the plans and specifications. Tenant shall cause all improvements to be built substantially in compliance with plans approved by Landlord by a general contractor approved by Landlord, such approval not to be unreasonably conditioned, delayed or withheld. Tenant shall cause all improvements to the Premises performed by Tenant to be constructed in compliance with all lawful requirements of governmental authorities, including the Americans with Disabilities Act and with all applicable environmental laws, and Tenant shall indemnify and hold Landlord harmless for all damages, liability, costs and expenses (including reasonable attorneys' fees) suffered by reason of breach of the foregoing.

Tenant hereby grants to Landlord a contingent license to use all plans, designs, specifications, work product, licenses, permits, approvals, certificates, rights and agreements of every type and nature with or from all architects, engineers, third party vendors, boards, agencies departments, governmental or otherwise, relating directly or indirectly to the Tenant Work whether heretofore or hereafter issued or executed, in the event the Lease is terminated prior to completion of the Tenant Work. Tenant agrees to execute such further and additional instruments and assignments as may be requested by Landlord to vest in Landlord all rights of Tenant under any of the foregoing.

ARTICLE IV

REPAIRS, ALTERATIONS AND SIGNS

Section 4.01. Landlord's Repairs/Maintenance. The Premises is being leased in its "as in" condition; and as referenced on the reports attached as Exhibit "E." Landlord, in its reasonable discretion, shall make all necessary repairs to the exterior walls of the Premises, the roof, and foundation at its sole cost and expense, except as otherwise agreed to by the parties. All such repairs shall not be considered Operating Costs for purposes of this Lease. The Authority shall lease "as is" initially, and make repairs to the exterior, roof, walls, and foundation, as needed, in its sole discretion and as mutually agreed to by the Parties hereto, which shall not be unreasonably conditioned, delayed, or withheld.

Section 4.02. Tenant's Repairs/Maintenance. Except with respect to Landlord's repair obligations, Tenant shall repair, keep and maintain, at Tenant's sole cost and expense, the entirety of the Premises and the Property, including without limitation, Tenant's signage, elevator/lift, storefront, plate glass, and all elements thereof and systems therein (including the HVAC and mechanical, electrical and plumbing systems) or attached thereto in good order and condition making, when required, replacements thereto. Landlord agrees to assign to Tenant any and all assignable warranties, extended warranties and guarantees given to Landlord by Landlord's contractors or materialmen with respect to mechanical parts of the heating, ventilating and air conditioning (HVAC) system. Tenant shall carry, at its sole cost and expense, a commercially reasonable maintenance and quarterly service contract covering the HVAC facilities serving only the Premises. Tenant shall replace, at its expense, any and all plate glass damaged or broken from any cause in and about the Premises.

Section 4.03. Requirements of Law. Any modifications, alterations or improvements to the Premises mandated by any applicable federal, state or local law shall be made by Tenant, at its own cost and expense.

Section 4.04. Tenant's Alterations.

(a) Tenant shall have the right, at its sole expense, from time to time, to redecorate the Premises and to make such other interior, non-structural alterations and improvements as Tenant shall deem expedient or necessary for its purposes so long as same do not affect any systems serving other premises. If appropriate under applicable laws, Tenant shall post signs of non-responsibility in the Premises stating Landlord's interest in the Premises and the Property is not subject to having a lien placed against it in connection with any such alterations or improvements. Tenant will indemnify and save harmless Landlord from and against all mechanics' liens or claims by reason of such alterations or additions which may be made by Tenant on the Premises. In the event any such lien is filed against the Premises or the Property, Tenant shall remove same within thirty (30) days (or such shorter period as Landlord may require if such demand is made by Landlord in connection with a refinancing or sale of the Property or any portion thereof) of request of Landlord. If Tenant fails to remove or bond such lien, in addition to all other remedies available to Landlord, Landlord may remove or bond same at Landlord's expense and bill Tenant therefor as Additional Rent, payable within thirty (30) days of receipt by Tenant of Landlord's demand for reimbursement.

(b) All alterations, additions, and improvements in, on, or to the Premises made or installed by Tenant, including carpeting, but excluding furniture, furnishings, movable partitions of less than full height from floor to ceiling and other trade fixtures, shall be and remain the property of Tenant during the Lease but shall become a part of the realty and belong to Landlord without compensation to Tenant upon the expiration or sooner termination of the Lease. Tenant's ability to make alterations and improvements to the Premises shall be governed by Section 5.04(a).

Section 4.05. Signs. Subject to applicable laws, Tenant has the right to pursue signage opportunities as it sees fit for the Property. Landlord hereby agrees that it will exercise diligent, good faith efforts to assist

Tenant in the filing and pursuit of required applications (including variance application as needed) permitting Tenant's desired signage. No signage promoting/advertising alcohol or including words related to the use, serving, drinking, dispensing, brewing, or manufacturing alcohol shall be allowed on N. Erwin Street or facing N. Erwin Street.

ARTICLE V

SERVING PROVISIONS

Section 5.01. Operations/Serving Rules.

(a) Tenant shall obtain and pay for all licenses and permits which may be necessary in connection with the operation of its business in the Premises. Tenant shall comply with all governmental regulations, including zoning ordinances, of any governmental authority and all restrictive covenants and documents of record that apply to the Premises.

(b) Serving Rules:

(i) Trash shall be disposed of in a neat and orderly way by placing in an enclosure which will minimize odors from emanating therefrom. A mutually approved agreement to use trash facilities shared with neighboring business, and approved by the county health department is an acceptable substitute for an onsite trash enclosure.

(ii) If required, Tenant shall install grease traps in accordance with rules and regulations of governmental agencies and health departments and shall have the grease traps professionally cleaned in accordance with local regulations. Tenant shall apply for, and keep in effect a water discharge permit as required by the City of Cartersville, Bartow County, or any other governmental agency, as required. Grease trap(s) shall be cleaned by an authorized hauler, on the schedule required by the City of Cartersville, per City of Cartersville regulations, waste manifests copies shall be maintained at the Premises and accessible for inspection without notice for 36 months following each cleaning.

(iii) If required, the hood and duct system shall be professionally cleaned as frequently as required by the Bartow County Environmental Health Department. Cleaning logs or reports and cleaning schedule and copies of hood cleaning receipts shall be kept at the Premises and accessible for inspection for 12 months following each cleaning.

ARTICLE VI

INDEMNITY

Section 6.01. Landlord Indemnity. Intentionally Deleted.

Section 6.02..

Section 6.03. Tenant Indemnity. Except as provided in subsection 11.03, Tenant shall defend, indemnify and save harmless Landlord and its agents and employees against all costs, damages or claims, whether for personal injury or property damage, (i) occurring on, in or about the Property and the Premises during the term (except if caused by any negligent act or omissions of Landlord, its agents, contractors, invitees or employees), (ii) arising out of any default by Tenant hereunder; (iii) arising out of any negligent act or omission of Tenant, its agents, contractors, invitees or employees in the Property, but outside the Premises; or (iv) occurring on the Premises prior to the beginning of the term, but only if caused by any act or omission of

Tenant, its agents, contractors, invitees or employees. Tenant shall, at its own expense, defend all actions brought against Landlord, its agents or employees for which Tenant is responsible for indemnification hereunder, and if Tenant fails to do so, Landlord (at its option, but without being obligated to do so) may, at the cost and expense of Tenant and upon notice to Tenant, defend such actions, and Tenant shall pay and discharge any and all judgments that arise therefrom.

Notwithstanding the generality of the foregoing to the contrary, Tenant hereby indemnifies and holds Landlord harmless from and against any and all liabilities, claims, fees and costs, including, without limitation, attorney's fees, related directly or indirectly to the purchase, sale, distribution or consumption of beer, wine, liquor or other alcoholic beverages in any manner relating directly or indirectly relating to either Tenant or the Premises. The terms and condition of this Section 7.02 shall survive the expiration or sooner termination of this Lease. Tenant shall conduct the sale of alcoholic beverages at the Premises in compliance with all current and future applicable laws, rules, regulations and ordinances pertaining to the sale of alcoholic beverages. Tenant shall have the sole responsibility to prevent any unlawful activity from occurring on the Premises in violation of such laws, rules, regulations, and ordinances. Tenant agrees that Landlord shall have no obligation to monitor Tenant's sale of alcoholic beverages at the Premises or to inspect for or prevent the occurrence of any illegal activity on the Premises.

ARTICLE VII

USE

Section 7.01. Permitted Use. The Premises shall be used and occupied for the purpose set forth in Paragraph 7 of the Summary, and for no other purpose.

Section 7.02. Intentionally Deleted.

Section 7.03. Operating Covenant. Promptly following the Delivery Date, Tenant agrees to install Tenant's fixtures and shelving in the Premises, stock the Premises and otherwise fit-up the Premises for its required use, and Tenant shall open for business to the public at the Premises no later than three hundred sixty (360) days after the Commencement Date (the "**Required Opening Date**"). Tenant acknowledges that Landlord is relying on the continuous operation of Tenant's business in the Premises in accordance with the terms and conditions of this Lease; provided, however, so long as Tenant is not in default under this Lease, either at the time of notification to Landlord or on the Go Dark Date (as that term is hereinafter defined), Tenant shall have the right to cease operations of its business in the Premises after the first (1st) anniversary of the Commencement Date subject to the following terms and conditions: (i) Tenant shall give Landlord written notice of its election to cease operations at the Premises at least thirty (30) days prior to the date Tenant seeks to cease operations (the "**Go Dark Date**"). Such written notice shall specify the Go Dark Date; (ii) **Tenant's election to cease operations at the Premises shall not relieve Tenant of any of the other obligations and liabilities under this Lease;** and (iii) at any time after Tenant provides written notice to Landlord of its election to cease operations in the Premises, Landlord may elect to recapture the Premises by terminating this Lease upon thirty (30) days written notice to Tenant, such notice to include the date of the recapture (the "**Recapture Date**"). Following such Recapture Date, Tenant shall have no further rights, obligations or liabilities with respect to the Premises following the Recapture Date

Section 7.04. General Provisions Regarding Use. Tenant shall occupy the Premises, conduct its business and control its agents, employees, invitees and visitors in such a manner as is lawful, reputable and will not create a nuisance. Tenant shall not permit any operation which emits any odor or matter which intrudes into neighboring properties, use any apparatus or machine which makes undue noise or causes vibration in any portion of the Property in violation of applicable law. Tenant shall neither permit any waste on the Property nor allow the Property to be used in any way which would, in the reasonable opinion of Landlord, cause additional fire hazards, or which would in any way increase or render void the fire insurance on the Property. Tenant agrees to obtain any licenses and permits required for any use made of the Property by Tenant. Tenant agrees to keep

the Premises and the sidewalks and the walkways adjacent to the Premises and any loading platform and service area used by Tenant clear and free from any rubbish and dirt and to store all trash and garbage within the Premises or at locations mutually agreed to between Landlord and Tenant and arrange for the regular pickup of such trash or garbage at Tenant's expense.

Section 7.05. Hazardous Materials. Tenant covenants that, without first obtaining Landlord's written consent, neither Tenant, nor any of its agents, employees, licensees, contractors or invitees shall cause or permit any Hazardous Materials (as defined herein) to be stored, handled, treated, released or brought upon or disposed of on the Premises; provided, however, Tenant shall be entitled to use such Hazardous Materials as typically used by responsible businesses operating retail businesses in first class properties provided Tenant shall comply with any and all applicable laws, ordinances, rules, regulations and requirements respecting the storage, handling, treatment, release, disposal, presence or use of such permitted Hazardous Materials. As used herein, the term "**Hazardous Materials**" means asbestos, polychlorinated biphenyls, oil, gasoline or other petroleum based liquids, any and all materials or substances deemed hazardous or toxic or regulated by applicable federal, state or local laws, statutes, ordinances and regulations, including but not limited to substances defined as hazardous under the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. § 9601 et seq., the Resource Conservation and Response Act, as amended, 42 U.S.C. § 6901 et seq. (or any state counterpart to the foregoing statutes) or determined to present the unreasonable risk of injury to health or the environment under the Toxic Substances Control Act, as amended, 15 U.S.C. § 2601 et seq. Tenant shall indemnify, defend and hold Landlord harmless from and against any and all claims, judgments, damages, penalties, fines, costs (including without limitation, consultants' fees, experts' fees, attorney's fees and court costs), liabilities or losses resulting from the storage, handling, treatment, release, disposal, presence or use of Hazardous Materials in, on or about the Premises or the Property from and after the Effective Date, but only to the extent caused or permitted by Tenant, its agents, employees, licensees, contractors or invitees. Without limiting the generality of the foregoing indemnity, in the event Landlord has a reasonable basis to believe that the covenant set forth in this paragraph has been violated by Tenant, Landlord shall be entitled, at Tenant's sole expense, to take such actions as Landlord deems necessary in order to assess, contain, delineate and/or remediate any contamination by such Hazardous Materials. Any sums expended by Landlord shall be reimbursed by Tenant, as Additional Rent, within thirty (30) days of demand therefor by Landlord. The obligations of this subsection shall survive the expiration or earlier termination of this Lease.

Section 7.06. Compliance with Laws. Tenant shall comply with all applicable laws, rules, ordinances, regulations, restrictions and covenants applicable to the Premises.

ARTICLE VIII

ASSIGNMENT AND SUBLETTING

Section 8.01. Assignment and Subletting by Tenant.

(a) **Transfers.** Tenant shall not assign or in any manner transfer this Lease or any interest therein, or sublet the Premises or any part thereof, or grant any license, concession or other right to occupy any portion of the Premises, excluding the renting of the Premises to a third party for a period of 24 hours or less ("**Private Events**"), without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed. In determining whether to grant or withhold its consent, Landlord shall be entitled to take into account all relevant facts and circumstances, including without limitation, the creditworthiness, character, reputation and operating experience of the proposed assignee, subtenant, licensee, concessionaire, the compatibility of the operation of the Premises by such proposed assignee, subtenant, licensee or concessionaire with the remainder of the Property (including whether the proposed use violates any of the then current use restrictions), and Landlord's determination of the probability that the operation of the Premises by such assignee, subtenant, licensee or concessionaire will result in the payment of rent not less than the levels then paid by Tenant. Consent by Landlord to one or more assignments or subleases, shall not operate as a waiver of

Landlord's rights as to any subsequent assignments and subletting. Notwithstanding any assignment or subletting, including under Section 9.01(b) below, Tenant and Guarantor shall at all times remain fully liable for the payment of the Rent herein specified and for compliance with all of its other obligations under this Lease, including without limitation, all obligations occurring during any extensions or renewals of the term pursuant to the terms of Section 2.03. Tenant and Guarantor shall remain primarily liable notwithstanding any modifications that may be made to the Lease in the future.

(b) Permitted Transfers. Notwithstanding anything to the contrary contained in this Lease, Tenant shall have the right, without Landlord's consent or approval, but subject to all other terms of this Lease to enter into an assignment or transfer of this Lease, or a sublease of the Premises (A) to any corporation controlled by, in control of or under common control with Tenant or is an affiliate of Tenant; or (B) to any corporation or entity which shall acquire all or substantially all of the stock or all or substantially all of the assets of Tenant as a result of a consolidation, merger or sale. Tenant shall provide Landlord with reasonable advance notice of any transaction which is permitted pursuant to the terms of this subsection and within thirty (30) days of the consummation of such transaction, Tenant shall provide Landlord with a true and correct copy of the relevant assignment, sublease or license agreement.

(c) Profit. Intentionally Deleted.

(d) Costs. Intentionally Deleted.

Section 8.02. Assignment by Landlord. Landlord shall have the right to assign this lease. If the transferee assumes all of Landlord's obligations accruing from and after the date of such transfer, Landlord shall be released as to all such obligations accruing from and after the date of such transfer.

ARTICLE IX

FIXTURES AND PERSONAL PROPERTY

Section 9.01. Tenant's Property. All counters, shelving and other equipment and all other trade and light fixtures installed by or at the expense of Tenant and all erections, additions and/or improvements not affixed to the Premises which were made to, in or on the Premises by and at the expense of Tenant and are susceptible of being removed from the Premises without damaging in any manner the structure of the Premises ("**Tenant's Personal Property**"), shall remain the property of Tenant and Tenant may, but shall not be obligated to unless Landlord so demands, remove the same or any part thereof at the end of the term hereof. In all events Tenant, at its sole cost and expense, shall make any repairs occasioned by such removal so as to return the Premises to good working order and condition. Any such counters, shelving and other equipment and fixtures remaining in the Premises upon the expiration of the term shall, at the option of Landlord, become the sole property of Landlord without any further action by Landlord.

Section 9.02. Landlord's Lien. Intentionally Omitted.

Section 9.03. Landlord's Liability. Landlord shall not be liable for any damage to property of Tenant or of others located in the Premises or in the Property, nor for the loss of or damage to any property of Tenant or of others by theft or otherwise. Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or snow or leaks from any part of the Premises or Property or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or by dampness or by any other cause of whatsoever nature. Landlord shall not be liable for any such damage caused by other persons on the Property, in the Premises, occupants of adjacent property, or the public, or caused by operations in construction of any private, public or quasi-public work. Landlord shall not be liable for any latent or patent defect in the Premises. All property of Tenant kept or stored on the Premises shall be so kept or stored at the risk of Tenant only and Tenant shall hold Landlord harmless from and hereby

waives any claims arising out of damage to the same or damage to Tenant's business, including subrogation claims by Tenant's insurance carrier, unless such damage shall be caused by the willful act or gross negligence of Landlord.

ARTICLE X

INSURANCE

Section 11.01. Landlord's Insurance.

(a) Liability Insurance. Landlord shall maintain insurance covering Landlord's liability for ownership, maintenance and use of the Premises and the Property. Such insurance shall provide limits on a "per location" basis of not less than (a) \$1,000,000 with respect to injury to any one person, \$1,000,000 with respect to any one occurrence, and \$1,000,000 with respect to property damage arising out of any one occurrence, or (b) \$1,000,000 combined single limit coverage.

(b) Property Insurance. Landlord shall maintain "all-risk" property insurance covering the Premises and the remainder of the improvements in the Property against loss or damage resulting from fire and other insurable loss. Such insurance shall be in an amount no less than the full replacement cost basis (subject to customary deductibles and exclusions from coverage).

Section 10.02. Tenant's Insurance.

(a) Liability Insurance. Tenant and all of Tenant's concessionaires, contractors and subtenants, shall, at their sole cost and expense, obtain and keep in force during the Term of this Lease, a policy of commercial general liability insurance with broad form endorsement, including personal injury liability, contractual liability, products and completed operations liability and liquor liability, insuring Landlord and Tenant against any liability arising out of the ownership, use, occupancy or maintenance of the Premises. That and other insurance shall not be less than the following:

Bodily Injury & Property Damage:	\$1,000,000 any one occurrence
Personal and Advertising	\$1,000,000 any one person or organization
Medical Payments	\$5,000 any one person
Aggregate Limits	\$1,000,000 Premises Operations \$1,000,000 Products/Completed Operations \$2,000,000 General Aggregate
Excess (Umbrella) Liability	\$1,000,000 Additional Limit
Business Automobile Insurance	\$1,000,000 Combined Single Limit per accident including ANY AUTO, owned, non-owned and hired automobiles
Workers' Compensation Statutory:	In accordance with the law of the State in which the Property is located \$100,000 Each Accident \$500,000 Disease - Policy Limit \$100,000 Disease - Each Employee

Liquor liability coverage/liability arising out of the consumption of food and/or alcoholic beverages

One Million Dollars (\$1,000,000.00) per occurrence for physical injury and death and property damage

(b) Property Insurance. Tenant shall maintain in full force and effect on all trade fixtures, machinery and equipment, stock and inventory, improvements (other than Tenant improvements installed and paid for by Landlord) and betterments, and other personal property on the Premises, a policy of all risk/special form property insurance and, if applicable, boiler and machinery insurance, covering the full replacement value of such property in an amount adequate to avoid co-insurance. During the Term of this Lease, the proceeds from any such policy of insurance shall be used for the repair and/or replacement of the fixtures, equipment and other personal property so insured. Landlord shall have no interest in the insurance upon Tenant's equipment and fixtures and will sign all documents reasonably necessary or proper in connection with the settlement of any claim or loss by Tenant. Landlord will not carry insurance on Tenant's possessions or Tenant installed improvements and betterments.

(c) Tenant's Business Interruption Insurance. Intentionally Deleted.

(d) General Requirements. Within sixty (60) days prior to the Delivery Date, Tenant shall furnish Landlord with certificates of insurance with endorsements evidencing that the requirements set forth herein are in full force and effect and at least thirty (30) days prior to the Commencement Date, Tenant shall deliver to Landlord certified copies of policies, or at Landlord's discretion, certificates of insurance evidencing the coverages required to be carried by Tenant, with loss payable clauses satisfactory to Landlord. Any deductible under any insurance must be approved in writing prior to occupancy of the Premises. Upon demand, Tenant shall provide Landlord, at Tenant's expense, with such increased amount of insurance coverage, and such other insurance as Landlord or Landlord's lender may reasonably require to afford Landlord and Landlord's lender adequate protection. Tenant shall provide Landlord with notice of loss or damage to property within forty-eight (48) hours after such loss or damage occurs. The limit of any insurance Tenant is required to provide pursuant to this Article XI shall not limit the liability of Tenant hereunder.

All policies are to be written by a company having a general policyholder's rating of not less than "A" and a rating in financial size of Category XI, as rated in the most current "Best's" insurance reports, and authorized and licensed to issue such policies in the state where the Premises are located. The policies shall be written on an occurrence basis and shall include coverage for continual or repeated exposure to conditions which result in bodily injury or property damage neither expected nor intended from the standpoint of the insured. Any such insurance required of Tenant hereunder may be furnished by Tenant under a blanket policy carried by it, providing the policy properly allocates the required limits to this property, or under a separate policy thereof.

In addition, each policy evidencing insurance as required to be carried by Tenant pursuant to Section 11.02 of this Article shall contain the following provisions and/or clauses: (i) a cross-liability clause; (ii) a provision that such policy and the coverage evidence thereby shall be primary and non-contributing with respect to any policies carried by Landlord and/or Landlord's managing agent, and that the coverage carried by Landlord and/or Landlord's managing agent shall be excess insurance; (iii) a provision including Landlord, Landlord's managing agent, lender, and other parties as specifically designated by Landlord as named insureds (except with respect to workers' compensation insurance); (iv) a waiver by the insurer of any right of subrogation against Landlord, its agents, employees and representative which arises or might arise by reason of any payment under such policy or by reason of any act or omission of Landlord, its agents, employees, or representatives; (v) a severability clause; (vi) a provision that the insurer will not cancel, reduce coverage or fail to renew the coverage provided by such policy without first giving Landlord and all additional insured thirty (30) days' prior written notice; and (vii) and in like amounts, covering Tenant's contractual liability under the aforesaid indemnification.

If Tenant or Tenant's concessionaires, contractors or subtenants fail to procure and maintain any of the insurance required to be carried by them pursuant to this Article XI, Landlord may, but shall not be required, to procure and maintain the same at Tenant's expense, which expense shall be considered Additional Rent, and such amount, together with an administrative fee of fifteen percent (15%) shall be paid by Tenant within ten (10) days of written demand. Additionally, if Tenant fails to provide to Landlord any certificate of insurance required hereunder on a timely basis, Landlord may, in addition to any other remedy available hereunder, charge Tenant an administrative fee of Two Hundred and 00/100 Dollars (\$200.00) and such fee shall be deemed Additional Rent.

Section 10.03. Waiver of Subrogation. Whether the loss or damage is due to the negligence of either party or its agents or employees, or any other cause, each of Landlord/Landlord's managing agent and Tenant hereby releases the other party and its agents and employees from responsibility for and waives its entire claim of recovery for (a) any loss or damage to the real or personal property belonging to either party located in the Premises arising out of any of the perils which are covered by Landlord's and/or Tenant's property insurance policy, and perils which are covered by the insurance Landlord and/or Tenant is required to carry under this Lease, or (b) loss resulting from business interruption or loss of revenue income at the Premises, arising out of any of the perils which may be covered by the business interruption or by the loss of rental income insurance policy required to be carried under this Lease held by the party sustaining the loss. Each party shall cause its insurance carrier(s) to consent to such waiver of all rights of subrogation against the other. Upon Landlord's request, Tenant shall provide Landlord a copy of any such insurance policies evidencing Tenant's waiver of subrogation rights against Landlord/Landlord's managing agent.

ARTICLE XI

CASUALTY

Section 11.01. Restoration. In the event that the Premises shall be damaged or destroyed by fire or other casualty insurable under Landlord's insurance coverage and neither Landlord nor Tenant elects to terminate this Lease as hereinafter provided, Landlord shall proceed with reasonable diligence and at its sole cost and expense to rebuild and repair the Premises. Landlord's obligation to rebuild and repair under this Section shall be limited to the restoration of the Premises to substantially to the condition in which the same existed immediately prior to the casualty and shall be further limited to the extent of insurance proceeds available to Landlord for such restoration. Tenant agrees that promptly after completing of such work by Landlord, it will proceed with reasonable diligence and at its sole cost and expense to rebuild, repair, and restore its signs, trade fixtures, equipment and other personal property and to reopen for business to the public. If the damage is of a nature so as to prevent Tenant's operation of its business during the period of Landlord's restoration of the Premises and/or Property (the "Restoration Period"), Rent shall be fully abated during the Restoration Period. If the damage is of a nature so as to significantly impair, but not prevent, Tenant's operation of its business, Tenant and Landlord agree to reduce Rent by an amount to be agreed upon in writing within 30 days of Landlord's notification of its good faith estimate of the time needed to undertake restoration/reconstruction of the Premises and/or Property.

Section 11.02. Duty to Operate. Tenant agrees that during any period of reconstruction or repair of the Premises it will continue the operation of its business within the Premises to the extent reasonably practicable.

Section 11.03. Right to Terminate. Upon the occurrence of a fire or other casualty, Landlord shall notify Tenant of Landlord's good faith estimate of the time needed to undertake reconstruction of the Premises and/or the Property, as the case may be, and whether sufficient insurance proceeds are available for restoration. If such estimated time to repair exceeds two hundred seventy (270) days from the date of Casualty, or if sufficient proceeds will not be available to Landlord for restoration, either Party shall have the right to terminate this Lease, provided notice of termination is given in writing to the other Party within thirty (30) days after Landlord provides notice of such good faith estimate. In the event either Party does not exercise such right of termination

as provided in the immediately preceding sentence, Landlord shall, at its sole cost and expense, commence to repair the damage caused by such casualty, subject to the provisions of Section 12.01.

Section 11.04. Landlord's Right to Terminate. Without limiting the provisions of Section 12.03 above, in the event of damage to the Building to the extent that Landlord determines not to rebuild such Building, Landlord shall have the right to terminate this Lease by written notice to Tenant within sixty (60) days of the occurrence of such casualty.

ARTICLE XII

CONDEMNATION

Section 12.01. Substantial Taking. In the event of a taking for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or sale in lieu thereof, Tenant and Landlord shall have the right to terminate this Lease by delivering written notice to the other within sixty (60) days of the occurrence of such event in the following circumstances: (i) if more than thirty percent (30%) of the floor area of the Premises is taken; (ii) if less than thirty percent (30%) of the floor area of the Premises is taken but the remainder of the Premises is not useable by Tenant in the operation of its business (as mutually determined by Landlord and Tenant); or (iii) if a Substantial Portion of the Property is taken or sold in lieu thereof. As used herein, the term "**Substantial Portion of the Property**" is defined to be any taking which results in the loss of direct access to and from the Premises and an adjacent public street or highway.

Section 12.02. Insubstantial Taking. In the event of a taking or sale in lieu thereof which does not result in a termination of this Lease, Annual Rent and Additional Rent payable hereunder during the unexpired portion of this Lease shall be reduced in proportion to the area taken, effective on the date possession is taken by the condemning authority. Landlord shall make all necessary repairs or alterations necessary to render the Premises an architectural whole.

Section 12.03. Award. All compensation awarded for any taking (or the proceeds of private sale in lieu thereof) of the Premises or Property shall be the property of Landlord. Tenant hereby assigns its interest in any such award to Landlord except for any portion of the award attributable to Tenant's fixtures, equipment or leasehold improvements made by Tenant at Tenant's expense. Tenant shall have the right to claim any compensation as may be separately awarded or receivable by Tenant in Tenant's own right on account of any cost or loss Tenant may suffer for the removal of Tenant's merchandise, furniture, fixtures or equipment, the loss of the unamortized value of the improvements made pursuant to this Lease or any other element of special damage separately recoverable by Tenant, provided the filing of such claim does not materially and adversely affect Landlord's claim.

ARTICLE XIII

DEFAULT AND REMEDIES

Section 13.01. Events of Default by Tenant.

(a) The occurrence of any one or more of the following events shall constitute an "**Event of Default**":

(i) if Tenant shall default in the payment of Annual Rent or any item of Additional Rent and shall fail to cure such default within ten (10) days following receipt of written notice; provided that Landlord shall not be required to provide written notice more than one time in any 12 consecutive month period; or

(ii) if Tenant shall default in the observance or performance of any of its covenants or obligations under this Lease (other than the payment of Annual Rent and Additional Rent), and shall not have cured such default within thirty (30) days after written notice from Landlord of such default, or, if such default is of such a nature that it cannot be completely remedied within said thirty (30) days, Tenant shall not (i) have promptly, upon the giving by Landlord of such notice, advised Landlord of Tenant's intention to institute all steps necessary to remedy such situation, (ii) promptly institute and thereafter diligently prosecute to completion all steps necessary to remedy the same, and (iii) complete such remedy within a reasonable time after the date of the giving of said notice by Landlord and in any event prior to such time as would either subject Landlord or Landlord's agents to prosecution for a crime or cause a default under any lease or mortgage affecting the Property; or

(iii) if Tenant shall fail to take occupancy of the Premises prior to the Commencement Date; or

(iv) if Tenant shall fail to continuously use, occupy and operate pursuant to Section 8.03 above, and such failure shall continue for a period of (a) thirty (30) consecutive days or (b) forty-five (45) days in any single calendar year (except as otherwise expressly provided herein); or

(v) if Tenant or any guarantor of this Lease shall file a voluntary petition in bankruptcy or insolvency, or commence a case under the Federal Bankruptcy Code, or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law (foreign or domestic), or shall make an assignment for the benefit of creditors or shall seek or consent or acquiesce in the appointment of any trustee, receiver or liquidator of Tenant or any guarantor or of all or any part of Tenant's or guarantor's personal property; or

(vi) if, within sixty (60) days after the commencement of any proceeding against Tenant or any guarantor, whether by the filing of a petition or otherwise, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal bankruptcy act or any other present or future applicable federal, state or other statute or law (foreign or domestic), such proceeding shall not have been dismissed, or if, within sixty (60) days after the appointment of any trustee, receiver or liquidator of Tenant or any guarantor or of all or any part of Tenant's or guarantor's personal property, without the consent or acquiescence of Tenant or any guarantor, such appointment shall not have been vacated or otherwise discharged, or if any execution or attachment shall be issued against Tenant or any guarantor or any of Tenant's or guarantor's personal property pursuant to which the Premises, or any part thereof, shall be taken or occupied or attempted to be taken or occupied.

Section 13.02. Remedies for Tenant's Default. Upon the occurrence of any Event of Default, Landlord may at its option pursue any one or more of the following remedies, and any and all other rights or remedies accruing to Landlord by law or otherwise, without any notice or demand:

(a) Commence dispossession, eviction or forcible detainer proceedings with or without the termination of this Lease.

(b) Commence proceedings against Tenant for all amounts owed by Tenant to Landlord, whether as Annual Rent, Additional Rent, damages or otherwise.

(c) Terminate the term of this Lease, in which event Tenant shall immediately surrender the Premises to Landlord. Tenant agrees to pay on demand the amount of all loss and damage which Landlord may suffer by reason of the termination of the term under this subsection or otherwise.

(d) With or without terminating the Lease, Landlord may, but need not, relet the Premises or any part thereof for such rent and upon such terms as Landlord, in its sole discretion, shall determine (including the right to relet the Premises for a greater or lesser term than that remaining under this Lease, the right to relet the Premises as part of a larger area, and the right to change the character or use made of the Premises). In connection with or in preparation for any reletting, Landlord may, but shall not be required to, make repairs, alterations and additions in or to the Premises and redecorate the same to the extent Landlord deems necessary or desirable.

(e) Do or cause to be done whatever Tenant is obligated to do under the terms of this Lease, in which case Tenant agrees to reimburse Landlord on demand for any and all costs or expenses which Landlord may thereby incur.

(f) Enforce the performance of Tenant's obligations hereunder by injunction or other equitable relief (which remedy may be exercised upon any breach or default or any threatened breach or default of Tenant's obligations hereunder).

Section 13.03. Miscellaneous. No agreement to accept a surrender of the Premises and no act or omission by Landlord or Landlord's agents during the Term shall constitute an acceptance or surrender of the Premises or a termination of this Lease unless made in writing and signed by Landlord. No re-entry or taking possession of the Premises by Landlord shall constitute an election by Landlord to terminate this Lease unless a written notice of such intention is given to Tenant. No custom or practice which may develop between the parties in connection with the terms of this Lease shall be construed to waive or lessen either party's right to insist upon strict performance of the terms of this Lease, without written notice thereof to the other party. The receipt by Landlord of Annual Rent and/or any items of Additional Rent, if any, with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach. No payment by Tenant or receipt by Landlord of a lesser amount than the Annual Rent or Additional Rent, if any, herein stipulated shall be deemed to be other than on account of the earliest Annual Rent or Additional Rent, if any, reserved hereby which is due and owing at the time such payment is received by Landlord. No endorsement or statement on any check or any letter accompanying any check or payment of any such rent shall be deemed in accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to remedy provided in this Lease.

ARTICLE XIV

TITLE MATTERS

Section 14.01. Subordination. This Lease and all rights of Tenant hereunder are subject and subordinate to all underlying leases now or hereafter in existence, and to any supplements, amendments, modifications, and extensions of such leases heretofore or hereafter made and to any deeds to secure debt, mortgages, or other security instruments which now or hereafter cover all or any portion of the Property or any interest of Landlord therein, and to any advances made on the security thereof, and to any increases, renewals, modifications, amendments, consolidations, replacements, and extensions of any of such mortgages. This provision is declared by Landlord and Tenant to be self-operative and no further instrument shall be required to effect such subordination of this Lease. Upon demand, however, Tenant shall execute, acknowledge, and deliver to Landlord any further instruments and certificates evidencing such subordination as Landlord, and any mortgagee or lessor of Landlord shall reasonably require, including without limitation, the Subordination, Non-Disturbance and Attornment Agreement in a form reasonably approved by the parties. The holder of any mortgage or deed of trust may also elect that this Lease shall have priority over such mortgage or deed of trust

and upon notification by such holder to Tenant, this Lease shall be deemed to have priority over such mortgage or deed of trust whether this Lease is dated prior to or subsequent to the date of such mortgage.

Section 14.02. Quiet Enjoyment. Landlord covenants and agrees with Tenant that upon Tenant paying the rent and observing and performing all of the terms, covenants and conditions on Tenant's part to be observed and performed hereunder, Tenant may peaceably and quietly have, hold, occupy and enjoy the Premises without hindrances or molestation from Landlord or any persons lawfully claiming through Landlord.

Section 15.03. Non-Disturbance. In conjunction with executing this Lease, Landlord shall execute the Non-Disturbance Agreement attached hereto as **Exhibit "D,"** and incorporated herein by reference.

ARTICLE XV

MISCELLANEOUS

Section 15.01. Surrender; Holding Over. Upon the expiration date or sooner termination of this Lease, or upon any re-entry by Landlord pursuant to Subsection 14.02(e) above, Tenant, at Tenant's sole cost and expense, shall peacefully vacate and surrender the Premises to Landlord in good order, broom clean and in the same condition as at the Commencement Date, reasonable use and wear thereof excepted. If the Premises are not so timely surrendered, such holding over shall not be deemed to extend the term or renew this Lease or to have created or be construed as a tenancy (other than a tenancy-at-sufferance) and Landlord shall be entitled to evict or dispossess Tenant without the necessity of further notice. However, Tenant shall pay, until such time as Tenant complies with this Section, in monthly installments in advance, on the first day of each and every month of such holding over, (i) one hundred twenty five percent (125%) of the monthly installment of Annual Rent payable during the last month of the term of this Lease for the first six (6) months and thereafter one hundred fifty percent (150%) of the monthly installment of Annual Rent payable during the last month of the term of this Lease one hundred fifty percent (150%) of the monthly installment of Annual Rent payable during the last month of the term of this Lease; (ii) Taxes; (iii) Operating Costs upon demand but only if Taxes and Operating Costs were paid during the prior term of the Lease; and (iv) all other Additional Rent due under this Lease. In addition to such monthly installments to be paid by Tenant during such holdover, Tenant shall also be liable to Landlord for all damages (including consequential damages) which Landlord suffers because of any holding over by Tenant, and Tenant hereby indemnifies Landlord against liability resulting from such holdover, including any claims made by any succeeding tenant or prospective tenant founded upon such holdover. The foregoing shall in no event be construed to permit such holding over without Landlord's consent. Tenant's obligations under this Section shall survive the expiration date or sooner termination of this Lease.

Section 15.02. Waivers. Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by either party at any time, express or implied, of any breach of any provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision.

Section 15.03. Notices. All notices and other communications authorized or required hereunder shall be in writing and shall be given by mailing the same by certified mail or registered mail, return receipt requested, postage prepaid or by overnight courier providing for delivery against receipt, and any such notice or other communication shall be deemed to have been given when received by the party to whom such notice or other communication shall be addressed, or on the date noted that the addressee has refused delivery or on the date that the notice is returned to sender due to the inability of the postal authorities to deliver. If intended for Landlord, the same shall be mailed to the address set forth in Paragraph 1 of the Summary, or such other address as Landlord may hereafter designate by notice to Tenant, and if intended for Tenant, the same shall be mailed to Tenant at the address set forth in Paragraph 2 of the Summary, to such other address or addresses as Tenant may hereafter designate by written notice to Landlord.

Section 15.04. Attorney's Fees. If either party hereto be made or becomes a party to any litigation commenced by or against the other party involving the enforcement of any of the rights and remedies of such party, or arising on account of the default of the other party in the performance of such party's obligations hereunder, then the prevailing party in any such litigation, or the party becoming involved in such litigation because of a claim against such other party, as the case may be, shall receive from the other party all costs and reasonable attorneys' fees incurred by such party at trial and on appeal in connection with such litigation.

Section 15.05. Force Majeure. Notwithstanding any provision to the contrary contained herein, in the event that Landlord or Tenant shall be delayed or hindered in or prevented from the performance of any act (other than Tenant's obligation to make payments of Annual Rent, Additional Rent, and other charges required hereunder), by reason of strikes, lockouts, unavailability of materials, weather, failure of power, restrictive governmental laws or regulations, riots, insurrections, the act, failure to act, or default of the other party, war or other reason beyond its control, then performance of such act shall be excused for the period of the delay and the period for the performance of such act shall be extended for a period equivalent to the period of such delay. Lack of funds shall not be deemed to be a cause beyond control of either party. If the force majeure event is of a nature so as to prevent Tenant's operation of its business during the period of force majeure, Rent shall be abated by half during such period. If the force majeure event is of a nature so as to significantly impair, but not prevent, Tenant's operation of its business, Tenant and Landlord agree to reduce Rent by an amount to be agreed upon in writing within 30 days of the commencement of the force majeure event.

Section 15.06. Estoppel Certificates. Landlord and Tenant, from time to time at the request of the other, shall execute a certificate certifying as to the then-current status of this Lease and such other matters as may reasonably be requested by the requesting party. Tenant and Landlord shall execute such certificate and return it to the requesting party within fifteen (15) days of written request.

Section 15.07. Recordation. Neither party shall be entitled to record this Lease.

Section 15.08. Invalidity of Particular Provision. If any term or provision of this Lease or the application hereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 15.09. Interpretation. No provision of this Lease shall be construed against or interpreted to the disadvantage of either Landlord or Tenant by any court or other governmental or judicial authority by reason of either Landlord or Tenant having or being deemed to have drafted, structured or dictated such provision.

Section 15.10. Captions and Definitions. The captions of the Sections of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease. The word "Landlord" and the pronouns referring thereto, shall mean, where the context so admits or requires, the persons, firm or corporation named herein as Landlord or the mortgagee in possession for the time being of the land, Premises and building. The word "**Rent**" as used herein shall be deemed to include Annual Rent, Percentage Rent, Additional Rent and any other charges payable by Tenant under this Lease. Any pronoun shall be read in the singular or plural number and in such gender as the context may require. Except as in this Lease otherwise provided, the terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Nothing contained herein shall be deemed or construed by the parties hereto nor by any third party as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being understood and agreed that neither any provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of Landlord and Tenant.

Section 15.11. Brokerage. Landlord and Tenant represent and warrant each to the other that each has not dealt with any real estate agent or broker in connection with this transaction other than the Broker(s) set forth in Paragraph 10 of the Summary and agree to indemnify and save each other harmless from and against all loss, cost and expense incurred by reason of any claim of any real estate agent or broker claiming by, through or under the indemnifying party, regardless of whether such claim is meritorious. Landlord agrees to pay the Broker(s) any commissions owing in connection with this transaction pursuant to a separate written agreement between Landlord and Broker(s). Landlord and Tenant agree and Acknowledge that (i) Alex Brennan with SWE Realty is serving as Tenant Representative for the Tenant in this transaction; (ii) Landlord does not have a representative; (iii) that Tenant Representative has provided important services leading to the execution of the lease; and (iv) will be compensated by Landlord for providing such services, on a market rate basis, in an amount equal to 4% of the aggregate base rental rate, PLUS the first month's rent as a procurement fee, to be paid 50% at Lease Execution and 50% at Rent Commencement.

Section 15.12. Entire Agreement. This instrument contains the entire and only agreement between the parties, and no oral statement or representations or prior written matter not contained in this instrument shall have any force and effect. This Lease shall not be modified in any way except by a writing executed by both parties.

Section 15.13. Authority. Each party executing this Lease on behalf of Landlord and Tenant represents that he or she is duly authorized to execute this Lease on behalf of Landlord or Tenant, as the case may be, and that the execution and delivery of this Lease has been authorized by all necessary corporate or partnership action. Landlord and Tenant agree to provide the other upon request reasonable evidence confirming the existence of such authority.

Section 15.14. Independent Covenants. Tenant agrees that Tenant's covenants and obligations under this Lease shall be independent of Landlord's covenants and obligations under this Lease and that each such covenant and obligation is independent of any other covenant or obligation. Landlord's breach or non-performance of any of Landlord's covenants or obligations under this Lease shall not excuse Tenant of Tenant's covenants and obligations under this Lease, and shall not be the basis for any defense, of any kind or nature whatsoever, to any suit by Landlord for Tenant's breach or non-performance of any of Tenant's covenants or obligations under this Lease (including, without limitation, Tenant's failure to pay Annual Rent, Additional Rent and other payments due under this Lease). All payments of Annual Rent, Additional Rent or other payments due under this lease are absolutely and unconditionally due at the time set forth herein, without any right of set-off or deduction of any kind or nature whatsoever except as expressly provided to the contrary herein.

Section 15.15. Default Interest. If Tenant shall fail to pay any rents, charges or other sums within ten (10) days following receipt of written notice, or if Landlord shall fail to pay any sums within five (5) days following receipt of written notice, such unpaid amounts shall bear interest at the per annum rate of one percent (1%) in excess of the rate from time to time published in The Wall Street Journal as the prime rate, calculated on the basis of actual days elapsed, based on a three hundred sixty (360) day year, from the due date of such rents, charges or other sums to the date of payment; provided, however, that such interest shall never exceed the maximum legal rate from time to time permitted by applicable law. The provisions herein for the payment of default interest shall be in addition to and cumulative of all other rights and remedies available to Landlord or Tenant, as the case may be.

Section 15.16. Rules and Regulations. Tenant and its employees, agents, invitees, and licensees shall faithfully observe and strictly comply with, and shall not permit violation of any reasonable rules and regulations as Landlord may from time to time make and communicate in writing to Tenant.

Section 15.17. Access. Upon reasonable prior written notice to Tenant, Landlord or its representatives, or designees, may enter the Premises at reasonable times under the circumstances, whether or not during business hours, to inspect the Premises, to enforce any provisions of this Lease, to make or cause to be made such repairs

as Landlord may deem necessary to perform Landlord's obligations hereunder or to cure defaults of Tenant, to repair any utility lines or system or systems servicing other parts of the Property, or to rectify any condition in the Premises adversely affecting other occupants of the Property; provided, however that any such notice shall not apply in any emergency situation or circumstance as detailed in Landlord's reasonable discretion. In addition, during the last twelve (12) months of the Lease term, upon prior reasonable notice to Tenant, Landlord or its representative or designees may enter the Premises to exhibit the Premises to others. If Tenant, its agents or employees shall not be present or shall not permit an entry into the Premises at any time when such entry shall be permissible, Landlord may use a master key (or master code, card or switch if Tenant's security system is other than conventional locks and keys), or, in the case of an emergency, forcibly enter the Premises. Landlord shall use reasonable efforts to minimize interference with Tenant's business during any entry pursuant to this Section; provided, however, Landlord shall not be liable to Tenant for the exercise of Landlord's rights under this Section and Tenant hereby waives any claims for damages for any injury, inconvenience or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby.

Section 15.18. Singular and Plural; Exhibits. Whenever herein the singular number is used, the same shall include the plural, and words of any gender shall include each other gender. The Exhibits hereto are hereby incorporated into this lease and made a part hereof as if fully set forth herein. The terms, provisions and covenants contained in this Lease shall be covenants running with the land.

Section 15.19. No Representation. Tenant expressly acknowledges that neither Landlord nor Landlord's agents have made or are making, and Tenant, in executing and delivering this Lease, is not relying upon, any warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Lease, and no rights, easements or licenses are or shall be acquired by Tenant by implication or otherwise unless expressly set forth in this Lease. The Site Plan is for the sole purpose of designating the size of the Premises and its approximate location. Landlord makes no representation as to the identity of other tenants leasing space in the Property. Landlord reserves the right to relocate other store units and to change the size and number thereof at its discretion.

Section 15.20. Time of Essence and Applicable Law. Time is of the essence of every obligation of Landlord and Tenant hereunder. This Lease shall in all respects be governed by the laws of the state in which the Property is located.

Section 15.21. Confidentiality. Tenant agrees, on behalf of Tenant and Tenant's employees, agents, contractors, consultants, affiliates, assignees and subtenants that it will not: (A) disclose the terms of this Lease or the to any third party except (i) to legal counsel of Tenant, (ii) to any assignee of Tenant's interest in this Lease or any subtenant of Tenant relative to the Premises (or any portion thereof), (iii) as required by applicable law or by subpoena or other similar legal process, or (iv) for financial reporting purposes, or (B) prior to the Commencement Date, disclose to any employees of Landlord any information regarding the leasing of the Premises, including without limitation, the nature of any Tenant visits to the Premises, information regarding Tenant's business, or information regarding the turnover of the Premises. Tenant's failure to comply with this paragraph shall be a material breach of this Lease and Landlord shall have the right to pursue all available remedies at law or in equity as a result of Tenant's violation hereof.

Section 15.22. Indemnities. All indemnity obligations created by virtue of this Lease shall survive the expiration or earlier termination of this Lease.

Section 15.23. No Estate In Land. This Lease shall create the relationship of Landlord and Tenant between the parties hereto. No estate shall pass out of Landlord. Tenant has only a leasehold interest, not subject to levy and sales.

Section 15.24. Submission Not Option. Submission of this Lease shall not be deemed to be a reservation of the Premises. Landlord shall not be bound by this Lease until it has received a copy of this Lease duly executed by Tenant and has delivered to Tenant a copy of this Lease duly executed by Landlord, and until such delivery Landlord reserves the right to exhibit and lease the Premises to other prospective tenants. Notwithstanding anything contained in this Lease to the contrary, Landlord may withhold delivery of possession of the Premises from Tenant until such time as Tenant has paid to Landlord the first month's rent and any other sum owed pursuant to this Lease.

Section 15.25. Waiver of Trial By Jury. To the extent permitted by law, it is mutually agreed by and between Landlord and Tenant that the respective parties hereto shall, and they do hereby, waive trial by jury in any action, proceeding or counterclaim brought between the parties hereto or their successors or assigns on any matters arising out of, or in any way connected with, this Lease, the relationship of Landlord and Tenant, and/or Tenant's use of, or occupancy of, the Premises. Tenant further agrees that it shall not interpose any non-mandatory counterclaim or counterclaims in a summary proceeding or in any action based upon non-payment of Annual Rent or any other payment required of Tenant hereunder.

Section 15.26. Successors and Assigns. Subject to the provisions of Article 9, the terms, covenants and conditions contained in this Lease shall be binding upon and inure to the benefit of the heirs, successors, executors, administrators and assigns of the parties to this Lease.

Section 15.27. Joint Liability. To the extent that there is more than one Tenant, each such Tenant shall be jointly and severally liable for all obligations of Tenant contained within this Lease.

Section 15.28. Guaranty. Intentionally Deleted.

Section 15.29. Security Deposit. On the date hereof, Tenant has deposited with Landlord the Security Deposit described in Paragraph 14 of the Summary (the "**Security Deposit**"). The Security Deposit shall be held by Landlord, without liability for interest except to the extent required by law, as security for the performance of Tenant's obligations under this Lease. Unless required by applicable law, Landlord shall not be required to keep the Security Deposit segregated from other funds of Landlord. Tenant shall not assign or in any way encumber the Security Deposit. Upon the occurrence of any Event of Default by Tenant, Landlord shall have the right, without prejudice to any other remedy, to use the Security Deposit, or portions thereof, to the extent necessary to pay any arrearages in Annual Rent, Additional Rent, late charges and/or any other sums due from Tenant hereunder, and any other damage, injury or expense. Following any such application of all or any portion of the Security Deposit, Tenant shall pay to Landlord, on demand, the amount so applied in order to restore the Security Deposit to its original amount. If Tenant is not in default at the termination of this Lease, any remaining balance of the Security Deposit shall be returned to Tenant, provided that Tenant surrenders the Premises without damage pursuant to Section 16.01 hereof (normal wear and tear excepted). If Landlord transfers its interest in the Premises during the Term, Landlord shall assign the Security Deposit to the transferee, and thereafter Landlord shall have no further liability to Tenant for the Security Deposit. In the event of a permitted assignment under this Lease by Tenant, the Security Deposit shall be held by Landlord as a deposit made by the permitted assignee and Landlord shall have no further liability with respect to the return of the Security Deposit to the original Tenant. In the event Tenant exercises a Purchase Option (as defined in 16.32 below), Security Deposit shall be credited against the Option Price at the time of closing.

Section 15.30. Landlord's Liability. Intentionally Deleted.

Section 15.31. Acquisition Contingency. Tenant hereby acknowledges and agrees that Landlord is not the fee simple owner of the Land as of the Effective Date, and Tenant hereby further acknowledges and agrees that Landlord has not made any representation or warranty regarding Landlord's ownership of the Property. Notwithstanding anything to the contrary set forth herein, the effectiveness of this Lease is expressly subject to, conditioned and contingent upon Landlord acquiring fee simple title to the Property.

Nothing set forth herein will be deemed to require Landlord to acquire the Property, and in no event will Landlord be liable for any damages claimed by Tenant resulting from Landlord's failure to purchase the Property.

Section 15.32. Government Approval Contingency.

Landlord acknowledges that in connection with its Permitted Use and intended business, the Tenant will have to obtain certain permits and licenses, including but not limited to alcohol licenses; and potentially certain variances (collectively, the "**Operating Permits**"), and that Tenant's business in the Premises is contingent upon obtaining the Operating Permits. Consequently, Tenant shall have the right to terminate this Lease if it is unable to successfully obtain the Operating Permits upon thirty (30) days written notice to Landlord (the "**Termination Right**"). Notwithstanding the foregoing, Tenant's Termination Right shall be subject to the following:

- (a) Tenant shall, at Tenant's expense promptly following the Delivery Date diligently pursue, using commercially reasonable efforts, all such Operating Permits and related efforts in order to obtain the same as expeditiously as possible.
- (b) Tenant's Termination Right shall expire 270 days from the Delivery Date.
- (c) Tenant shall furnish to Landlord, upon Landlord's written request, written updates as to the status of the issuance of its efforts.

In the event of Tenant's proper exercise of its Termination Right:

- (a) Landlord shall not have any liability or obligation to Tenant under the Lease upon the exercise of the Termination Right;
- (b) Tenant's obligations and rights under the Lease shall terminate upon the exercise of the Termination Right and shall have no further liability or obligation to Landlord;
- (c) Tenant shall vacate the Leased Premises upon exercising its Termination Right;
- (d) To the extent that Tenant improvements have been made to the Premises, the same shall inure to the benefit of the Landlord and remain in the Premises; and the Landlord shall be entitled to retain the Security Deposit in full satisfaction of any and all damages that Landlord contends it has suffered as a result of the exercise of the Termination Right or otherwise.

Landlord shall cooperate with Tenant in obtaining the Operating Permits and assist Tenant as necessary in the completion and execution of any documents required for the same provided that Landlord shall have no obligation to incur any costs or expenses in connection with such cooperation, unless Tenant agrees in writing to directly pay or to reimburse Landlord for the cost or expense.

Section 15.33. Purchase Option. Intentionally Deleted.

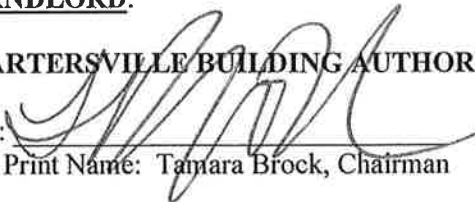
Section 16.34. Zoning and Ordinance Contingency. The lease is explicitly contingent on the City of Cartersville amending and updating their Code of Ordinances to allow for certain alcohol-oriented activities at this property, and Landlord and Tenant shall agree on what changes need to be amended prior to lease execution. Tenant shall have the right to terminate this lease if the City of Cartersville does not introduce the agreed upon amendments within 60 days of lease execution and finalize ordinance amendments within 120 days of lease execution.

(Signatures begin on the immediately following page.)

IN WITNESS WHEREOF, the parties hereto have executed this Lease under seal the day and year first above written by their respective officers thereunto duly authorized.

LANDLORD:

CARTERSVILLE BUILDING AUTHORITY

By:  (SEAL)

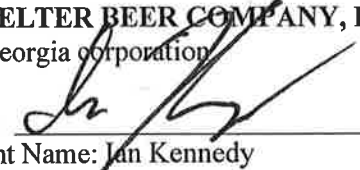
Print Name: Tamara Brock, Chairman

Attest:

By: 
Print Name: Ralph H. Miller, Secretary

TENANT:

SHELTER BEER COMPANY, INC.,
a Georgia corporation

By:  (SEAL)

Print Name: Jan Kennedy

Title: HEAD OF BREWING OPERATIONS

EXHIBIT A

SITE PLAN

It is understood and agreed that the site plan attached hereto is merely for the purpose of showing the general layout of the Property and the approximate location of the Premises and is not to be deemed to be a warranty, representation or agreement on the part of Landlord that the Property will be exactly as depicted therein or that tenants depicted therein (if any) are now in occupancy or will be in occupancy at any time during the Lease Term.

Upon completion of the work by Tenant, Landlord shall survey said property and said survey shall be attached hereto and made a part of this Lease.

The attached aerial photo of a portion of 19 North Erin Street from the tax map includes the property to be leased, which is the building footprint and the bay driveway and all areas needed for access and HVAC and electrical equipment.

CITY OF CARTERSVILLE AND CARTERSVILLE BUILDING AUTHORITY

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 455, 4th DISTRICT, 3rd SECTION, CITY OF CARTERSVILLE, BARTOW COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:



12/26/2017 - 01/25/2018



Item # 2

12/26/2017 - 01/25/2018

EXHIBIT B**LANDLORD'S WORK/TENANT'S WORK****LANDLORD'S WORK**

Tenant hereby accepts the Premises "AS IS" and acknowledges and agrees that Landlord shall have no obligation to construct any tenant improvements to the Premises or make any alterations or additions thereto except as set forth therein, and Landlord shall have no obligation to provide any tenant improvement allowance, rent abatement, credit, set-off, or other concession to Tenant, except as provided for elsewhere in the Lease.

TENANT'S WORK

This Exhibit shall set forth the terms and conditions relating to the construction of the tenant improvements in the Premises. All references in this Exhibit to Sections of "this Lease" or "the Lease" shall mean the relevant portion of the Lease to which this Exhibit is attached as Exhibit B and of which this Exhibit forms a part. Capitalized terms not otherwise defined herein shall have the same meaning ascribed to such terms in the Lease. In the event of a conflict between the terms of the Lease and the terms of this Exhibit B, the terms of this Exhibit B shall control.

EXHIBIT C
PARKING, GARBAGE AND ACCESS

1. Landlord shall provide a space on its property at 101 N. Erwin Street for a mutually agreed garbage receptacle.
2. No parking is provided.
3. The door facing Erwin Street is to be used as an emergency exit only.
4. The main entrance and front door shall be located in the current bay area.
5. The side door facing City Hall shall be used for event, taproom, a secondary general public entrance, employee, and general business access only.
6. The side doors on Church Street shall be used as emergency exists only.

EXHIBIT D

NON-DISTURBANCE AGREEMENT

SUMMARY OF BASIC LEASE PROVISIONS

Certain fundamental provisions of this Lease are presented in this Summary of Basic Lease Provisions ("Summary") to facilitate convenient reference by the parties hereto. All references in this Lease to the following terms shall be accorded the meanings or definitions given in this Summary, as though such meaning or definition was fully set forth throughout the text hereof, unless such meanings are expressly modified, limited or expanded elsewhere in this Lease. This Summary, together with the terms herein referenced, shall constitute an integral part of this Lease. Additional defined terms may appear in other provisions of this Lease and, if so, will have the respective meanings assigned to them. The definition of a term or phrase in the singular will include and allow for a reference to such term or phrase in the plural or vice versa.

1. Name and Address of Landlord:

Cartersville Building Authority
1 North Erwin Street
P.O. Box 1390
Cartersville, GA 30120
Attn: Tamara Brock

2. Name and Address of Tenant:

Shelter Beer Company, Inc.
19 North Erwin Street,
Cartersville, GA 30120
Attn: Ian Kennedy

With a copy by email to:

Alex Brennan
alex@eastmountaindevelopment.com

and copy by email to:

Nathan T. Johns, Esq.
njohns@mendenfreiman.com

3. Tenant's Trade Name: Erwin & Church Brewing Company

4. Premises: The Premises includes the property and all improvements thereon located at 19 North Erwin Street, Cartersville, GA 30120, which includes approximately 10,550 square feet of interior space. Premises to include concrete apron area adjacent to garage area, as well as other areas to be agreed upon prior to lease execution, as further detailed on that Site Plan attached hereto as **Exhibit A** and incorporated herein by reference (the "**Site Plan**").

5. Property: That Property in which the Premises is located, having an address of 19 North Erwin Street, Cartersville, GA 30120.

6. Initial Term (See Section 2.01): Ten (10) years

Renewal Options (See Section 2.03): Tenant will have three (3) options to extend the term of the Lease, each option shall be for a period of 5 years.

Proposed Delivery Date (See Section 4.01): Effective Date of Lease Agreement.

Commencement Date (rent): The earlier to occur of (i) satisfaction of Zoning and Ordinance contingencies (as described below) or (ii) 120 days following lease execution; AND Landlord delivery of the building free of any tenants.

7. **Permitted Use** (See Section 8.01): The Premises shall be used for the manufacture of alcoholic beverages; distribution of such products; retail sales of such products (both for on-premises consumption and off-premises consumption) and non-alcoholic beverages and food; retail sale of related merchandise; special events, whether catered or not, which may include the furnishing and/or sale of beer, wine, and distilled spirits as well as food, in accordance with applicable laws and no other purpose (the "Permitted Use").
8. **Annual Rent** (See Section 3.01):

<u>Lease Years</u>	<u>\$/s.f./annum</u>	<u>Annual Rent</u>	<u>Monthly Rent</u>
1-10	\$ 9.00	\$ 94,950.00	\$7,912.50
<u>Renewal Option:</u>			
1	\$ 9.67	\$102,071.00	\$8,505.92
2	\$10.40	\$109,720.00	\$9,143.33
3	\$11.18	\$117,949.00	\$9,829.08

Rent Abatement: Landlord agrees to abate the rent during the Primary Term as described herein.

In lieu of Tenant Improvement Allowance, Landlord agrees to abate the rent during the Primary Term in the amount of \$ 732,550 ("**Abatement Credit**") and for the first three (3) years the abatement shall be \$284,850, the equivalent of three (3) year's rent. Afterwards, the abatement shall be a straight-line abatement over the remaining term in the amount of \$5,329.76 per month.

In addition to the Abatement Credit, Landlord will provide an additional abatement of \$97,750.00 toward the installation of an elevator and construction of improvements of the Premises related thereto. Prior to commencing installation and construction contemplated by this provision, Tenant will make a determination in its sole discretion as to whether an elevator is required by applicable law or for the safety of this customers. In the event that Tenant decides that installation of an elevator and construction of related improvements is necessary, it shall notify Landlord and commence such installation and construction of improvements.

If Tenant commences installation of the elevator, the total Abatement Credit shall be \$830,300 which shall be applied to the entirety of annual rent for the first three years, and thereafter as a straight-line abatement over the last seven years of the primary term in the amount of \$6,493.45 per month. Tenant has until the issuance of the Certificate of Occupancy to notify the Landlord if an elevator is to be installed, if not said abatement credit for the elevator expires.

9. **Delivery Rent.** Intentionally Deleted.
 10. **Assignment/Subletting Fee** (See Section 9.1): Intentionally Deleted.
 11. **Brokers:** Landlord's Broker: NONE
Tenant's Broker: Alex Brennan, SWE Realty
 12. **Estimated Taxes.** Intentionally Deleted.
- Estimated Insurance.** Intentionally Deleted.

13. **Landlord's Work.** Landlord shall construct the improvements set forth in **Exhibit "B,"** attached hereto and incorporated herein by reference ("**Landlord's Work**").
14. **Security Deposit** (See Section 16.31): One month's rent totaling \$7,912.50, due upon Tenant's execution of the Lease;
15. **Zoning and Ordinance Contingency.** The lease is explicitly contingent on the City of Cartersville amending and updating their Code of Ordinances to allow for certain alcohol-oriented activities at this Property. Tenant shall have the unilateral right to terminate this lease if the City of Cartersville does not introduce the agreed upon Ordinance amendments within 60 days of lease execution and approve Ordinance amendments allowing for alcohol-oriented activities at the Property within 120 days of lease execution by delivering written notice to Landlord before 5 PM EDT on the 120th day following lease execution.



City of Cartersville

City Council Meeting
5/21/2020 7:00:00 PM
ZMA20-1 Annual Zoning Map Amendment

SubCategory:	Public Hearing - 1st Reading of Zoning/Annexation Requests
Department Name:	Planning and Development
Department Summary Recommendation:	This is the annual re-adoption of the official zoning map of the City of Cartersville. It includes the annexation/ de-annexations and zoning actions approved by City Council in the last 12 months. Several boundary line corrections are also included. The last zoning map adoption was April 4th, 2019. Planning Commission recommends approval (6-0).
City Manager's Remarks:	This is the annual re-adoption of the official zoning map of the City. It is required of us every year. This is the first reading. Planning Commission recommended your approval.
Financial/Budget Certification:	
Legal:	
Associated Information:	

MEMO

To: Planning Commission, Mayor & Council
 From: Randy Mannino and David Hardegree
 Date: April 28, 2020
 Re: Zoning Map Amendment ZMA20-01

This is the annual re-adoption of the official zoning map of the City of Cartersville. It includes the annexation/ de-annexations and zoning actions approved by City Council in the last 12 months. Map corrections are also included and explained below. The last zoning map adoption was April 4th, 2019.

Update Summary

AZ19-01	Paga Mine Rd.	Deannexation	Acreage: 264.8
AZ19-02	232 Euharlee Rd.	Zoning: R-20 and (3) lot split.	Acreage: 9.46
Z18-05	Mimosa Dr & N. TN St.	M-U/ R-15 to M-U*/ R-15/ RSL	Acreage: 13.44
Z19-01	Carter Grove Subdiv.	R-20 to R-10*	Acreage: 212.55
Z19-02	Etowah Preserve-	- withdrawn-	
Z19-03	640 JFH Pkwy	Reconfig. of H-I & G-C* boundaries	Acreage: 26.5
Z19-04	Adjacent to 640 JFH Pkwy.	H-I/ MN to H-I	Acreage: 7.27
Z19-05	350 N. Erwin St.	GC to L-I	Acreage: 0.47
Z19-06	1136/1138 N. TN St.	O-C to M-U*/ G-C	Acreage: 7.42

* Denotes Zoning conditions

Zoning District Boundary Line Corrections:

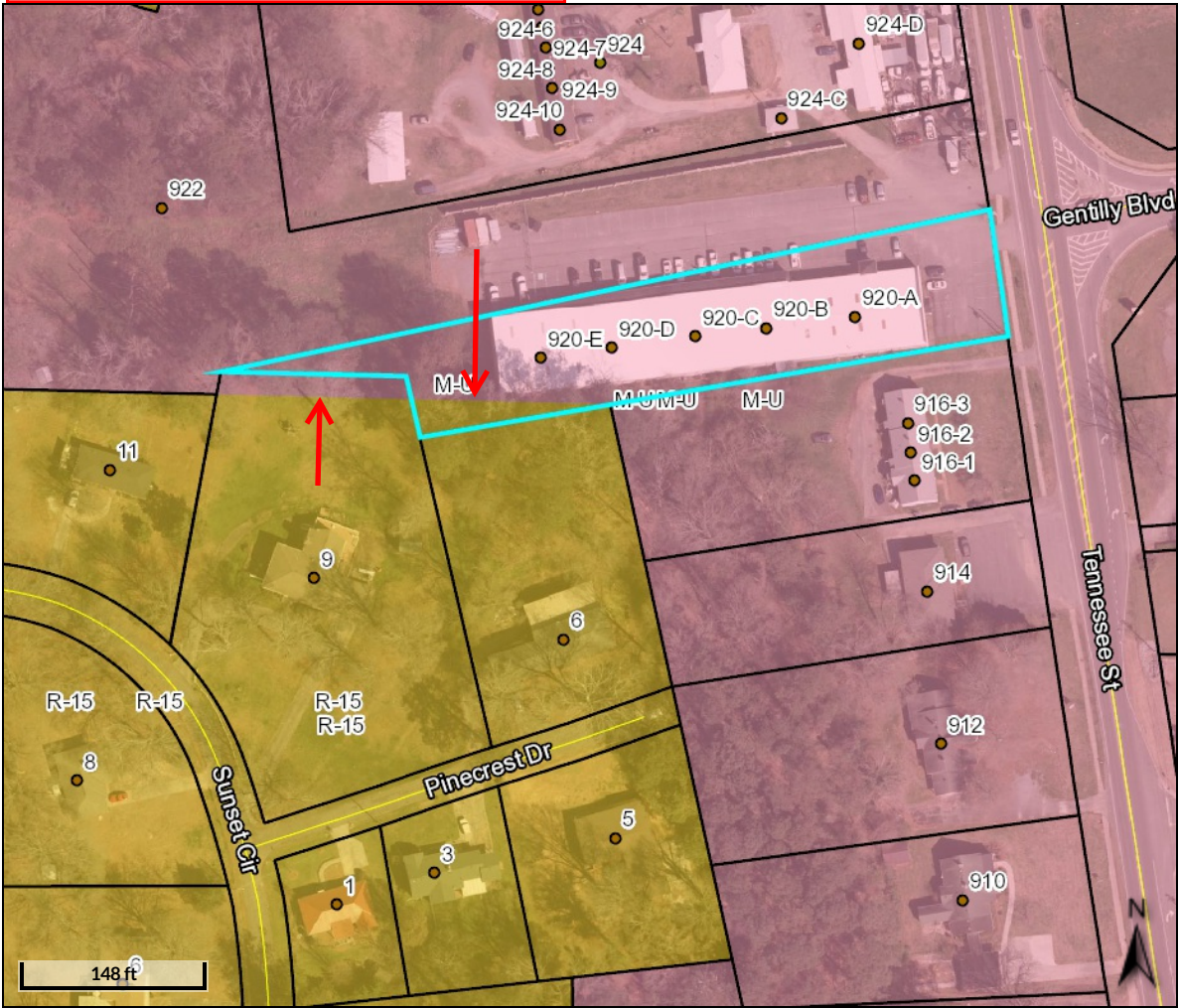
Street number	Street name	current zoning	Proposed zoning	Notes
9	Sunset Cir	R15/MU	R15	Adjust northern boundary line
920	N Tennessee St	R15/MU	MU	Adjust southern boundary line
100	Davis Dr	R15/MU	R15	Adjust MU boundary to 926 N TN St.
102	Davis Dr	R15/MU	R15	Adjust MU boundary to 926 N TN St.
---	Friction Dr.	---	---	Change Friction Dr to Fiber Dr. (Correctly shown on Tax Assessor map)



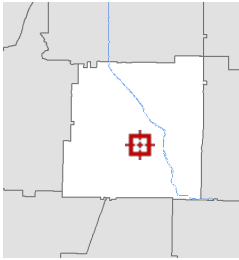
qPublic.net™

Bartow County, GA

Adjust boundary lines.



Overview

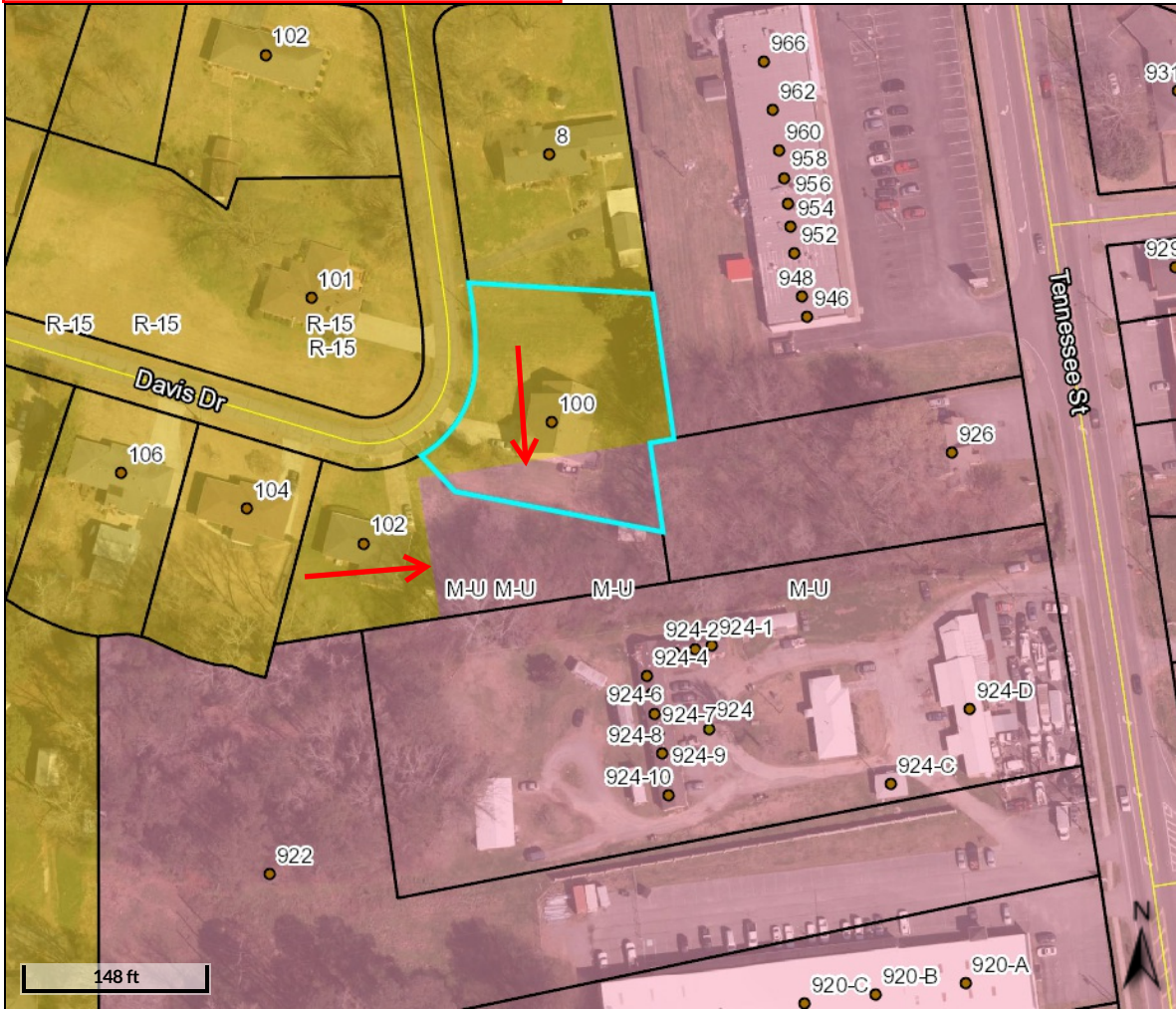




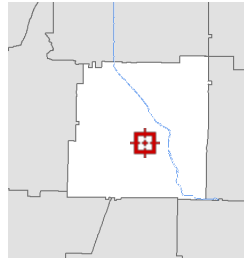
qPublic.net™

Bartow County, GA

Adjust boundary lines.



Overview



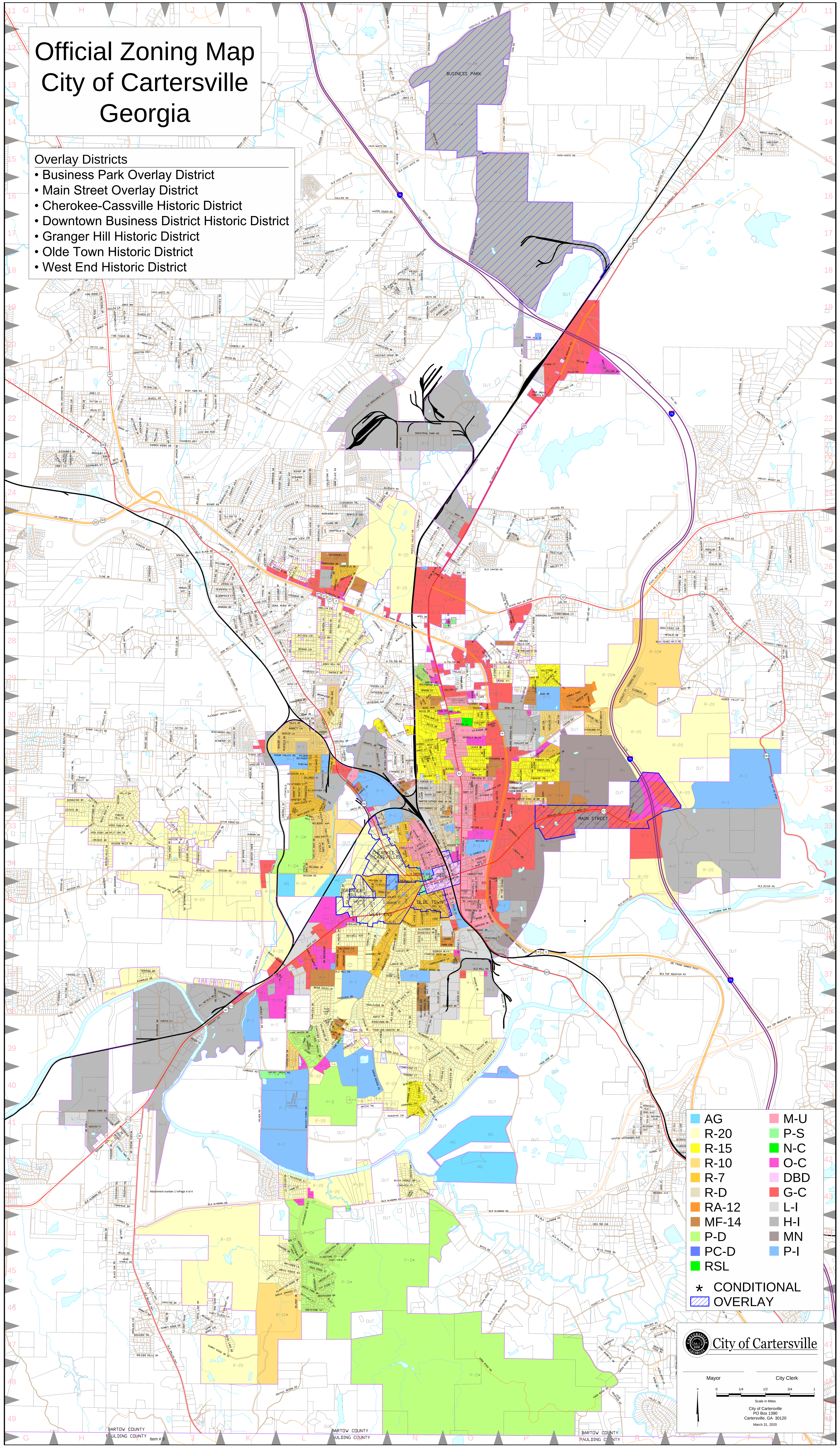
Official Zoning Map

City of Cartersville

Georgia

Overlay Districts

- Business Park Overlay District
- Main Street Overlay District
- Cherokee-Cassville Historic District
- Downtown Business District Historic District
- Granger Hill Historic District
- Olde Town Historic District
- West End Historic District



AG	M-U
R-20	P-S
R-15	N-C
R-10	O-C
R-7	DBD
R-D	G-C
RA-12	L-I
MF-14	H-I
P-D	MN
PC-D	P-I
RSL	
★ CONDITIONAL	
OVERLAY	

**City of Cartersville**

Mayor

City Clerk

Scale in Miles
0 1/4 1/2 3/4 1
City of Cartersville
PO Box 1590
Cartersville, GA 30120
March 31, 2020



City of Cartersville

City Council Meeting
5/21/2020 7:00:00 PM
Canoe/Kayak Launch

SubCategory:	Contracts/Agreements
Department Name:	Administration
Department Summary Recommendation:	The County has applied for grant funding for a canoe and kayak/boat launch at Douthit Ferry. Once they receive the grant, they will construct the launch and would like to give it to the City to maintain. This is a worthwhile project and partnership for us in many ways and will be a great addition to our other launches. After discussion with Mayor and Council at the last meeting, the consensus was to leave the parking lot with the maximum number of spaces as originally proposed. After Councilman Roth and Mayor Santini had conversations with concerned residents who live across from the original proposed site, the City has gone back to the County to see if the location can be moved further down. At this time, we do not have approval that the site may be shifted on the property from the Georgia Department of Natural Resources, who the grant is through.
City Manager's Remarks:	Pending the Georgia DNR's approval of the new location, I recommend approval of the IGA with the County regarding the launch.
Financial/Budget Certification:	
Legal:	
Associated Information:	

**INTERGOVERNMENTAL AGREEMENT BETWEEN
BARTOW COUNTY AND CITY OF CARTERSVILLE
FOR DOUTHIT FERRY BOAT LAUNCH**

THIS AGREEMENT is made and entered into by and between **Bartow County**, a political subdivision of the State of Georgia (sometimes hereinafter referred to as “**County**”) and **City of Cartersville**, a municipal corporation chartered under the laws of the State of Georgia (sometimes hereinafter referred to as “**City**”), and is effective as of the date specified herein.

WHEREAS, the County and the City desire to provide to a public boat launch on the Etowah River at Douthit Ferry; and

WHEREAS, Bartow County submitted a Recreation Trail Grant to build a boat launch on the Etowah River at Douthit Ferry hereinafter referred to as the “**Project**”; and

WHEREAS, the County and the City desire to enter into an Intergovernmental Agreement relating to the Project and

WHEREAS, the County shall construct said Project and City shall maintain said Project; and

WHEREAS, Article IX, Section III, Paragraph I, of the Constitution of the State of Georgia provides that counties and municipalities of the State of Georgia may contract with one another for any period not exceeding fifty (50) years; and

WHEREAS, the County and City deem it to be in the best interest of the citizens of their respective jurisdictions that this Agreement be entered into to, inter alia, pay for said Project; and

WHEREAS, the County has reviewed this Agreement and did, at the regular meeting of the Commissioner, authorize its Commissioner to execute this Agreement; and

WHEREAS, the Mayor and City Council of Cartersville has reviewed this Agreement and did, at the regular meeting of the City Council, authorize its Mayor and City Clerk to sign this Agreement.

NOW, THEREFORE, for and in consideration of the mutual benefits flowing from one party to the other, the adequacy and sufficiency of which is acknowledged, it is hereby agreed as follows:

1.

The County, upon receipt of said grant shall construct the Project at Douthit Ferry on the Etowah River. The County shall be responsible for the remainder of the cost of the Project, and for payment of any cost overruns or additional work authorized by the County.

2.

The County shall be the entity responsible for day to day contact with the Consultant and management of the Project under the Contract. Prior to the commencement of the Project the City Manager and County Manager, shall mutually agree on the design of the Project including but not limited to the type and the number of parking spaces. Unless otherwise authorized by the Scope of Work or by the County, the City shall provide any direction or input on the Project to the County, rather than directly to the Consultant. The City shall not request any additional work outside the Scope of Work unless an agreement is reached with the County regarding payment for such additional work prior to any additional work being requested from the Consultant.

3.

After completion of the Project, the County shall convey to the City, said Project. The City shall be responsible for the operation and maintenance of the Project upon completion and it shall be operated by its Parks and Recreation Department, as all other recreational facilities.

4.

Official notices, payments and correspondence to the County shall be delivered in person or transmitted via U. S. Mail, postage prepaid addressed to the County Administrator of Bartow County at Suite 251, 135 West Cherokee Avenue, Cartersville, Georgia 30120 and Official notices and correspondence to Cartersville shall be delivered in person or transmitted via U.S. Mail postage prepaid, addressed to the City Manager of Cartersville, at Post Office Box 1390, Cartersville, Georgia 30120.

5.

This Agreement shall be effective May 31, 2020 or upon the date of the last signature by either party, whichever is later.

6.

This Agreement contains all the terms and conditions and represents the entire Agreement between the parties and supersedes any pre-existing Agreement related to the Facility. Any alteration of this Agreement shall be invalid unless made by an amendment in writing, duly executed by the parties. There are no understandings, representations, or agreements, written or oral other than those contained in this Agreement.

IN WITNESS WHEREOF, the County and City have caused this Agreement to be duly executed by their proper officers and attested with their corporate seals affixed hereto as set forth in duplicate originals.

Attest:

BARTOW COUNTY, GEORGIA

Kathy Gill, County Clerk

Steve Taylor, Commissioner

Date:_____

Attest:

CITY OF CARTERSVILLE

Meredith Ulmer, City Clerk

Matthew J. Santini, Mayor

Date:_____



City of Cartersville

**City Council Meeting
5/21/2020 7:00:00 PM
Telemetry for Transco Brown Farm Road Station**

SubCategory:	Bid Award/Purchases
Department Name:	Gas System
Department Summary Recommendation:	The regulating station for the Transco Delivery Point to Brown Farm Road was proposed to have a telemetry system to remotely allow control of natural gas flow to the downstream distribution system. This is an essential asset to the management of the Gas System's natural gas supply. Equipment Controls Company of Norcross, Georgia, is the sole source provider of the telemetry system and they submitted a quote totaling \$13,801.00. This quote includes installation, setup, and training for the telemetry system. They have successfully installed telemetry systems throughout the City's natural gas distribution system at countless metering sites. While this is a different system, Equipment Controls Company is totally capable of installing and helping maintain this telemetry system. I recommend the approval of this item.
City Manager's Remarks:	This is a budgeted item and necessary for the completion of the Transco Brown Farm Road Station. Your approval is recommended.
Financial/Budget Certification:	This is a budgeted item.
Legal:	N/A
Associated Information:	

Memorandum

To: Michael Hill, Gas System Director *via email attachment*

cc: Michael Dickson, Assistant Gas System Director *via email attachment*

From: Brian Friery, Gas System Engineer

Date: May 5, 2020

RE: Natural Gas Main Extension
6" Expansion: Williams/Transco Delivery Point
to Brown Farm Road Regulating Station
Cartersville Project No. CP-16-002

As you know, as part of the regulating station associated with the above referenced project, a telemetry system was proposed to remotely allow the control of natural gas flow to the downstream distribution system. This ability is an essential asset to the management of the Gas System's natural gas supply. As you further know, a proposal was requested to provide, install, setup and provide training for this telemetry system. Since the metering and telemetry systems for the City's natural gas distribution system is a sole source provider, we requested a quote from Equipment Controls Company, Inc. of Norcross, Georgia. Attached is the quotation from Equipment Controls Company, Inc. in the total amount of \$13,801.00.

As you know, this telemetry system is part of the overall budget for this project. As you further know, Equipment Controls Company, Inc. has satisfactorily installed and currently maintains the existing telemetry systems for the City's natural gas distribution system at countless metering sites and, although, this system is different in equipment and operation, is fully capable of satisfactorily providing and installing this telemetry system. In an effort to standardize the telemetry systems at this location and maintain a single point of contact for maintenance and repair of these systems, I recommend the City award this proposal to Equipment Controls Company, Inc. of Norcross, Georgia in the amount of \$13,801.00.

In accordance with O.C.G.A. §50-36-1 and O.C.G.A. §13-10-91 and DOL Rule 300-10-1-.02, copies of the EVerify and Esave documentation for Equipment Controls Company, Inc. of Norcross, Georgia is currently on file at the Gas System offices.

Item # 5

EQUIPMENT CONTROLS COMPANY, INC.
4555 S. BERKELEY LAKE ROAD
NORCROSS GA 30071
770-441-6400 Fax 770-448-7312

Quotation

QUOTE DATE	QUOTE NUMBER
12/13/17	S1803076
ORDER TO: EQUIPMENT CONTROLS COMPANY, IN 4555 S. BERKELEY LAKE ROAD NORCROSS GA 30071 770-441-6400 Fax 770-448-7312	PAGE NO. 2

QUOTE TO:
 CARTERSVILLE, CITY OF
 GAS DEPARTMENT
 P O BOX 1390
 CARTERSVILLE, GA 30120

SHIP TO:
 CARTERSVILLE, CITY OF
 GAS DEPARTMENT
 19 N ERWIN STREET
 CARTERSVILLE, GA 30120

CUSTOMER NUMBER	CUSTOMER ORDER NUMBER	RELEASE NUMBER	SALESPERSON		
21678	REG STATION V-4				
WRITER	SHIP VIA	TERMS	SHIP DATE	FREIGHT ALLOWED	
CORDELL STALLINGS	FREIGHT ALLOWED	Net 15 Days	12/13/17	Yes	
ORDER QTY	PART NO	DESCRIPTION	Unit Price	Ext Price	
1ea	27609	- CVI, COMPOSITE VERTICAL INDEX MOUNT WITH INDEX KIT EAGLE XA SERIES UNINTERRUPTIBLE POWER SUPPLY SET UP AS FOLLOWS: - ARCA PC ENCLOSURE: 10" X 8" X 6", QUICK RELEASE - ---120VAC OR 240VAC INPUT- 12VDC OUTPUT POWER 2A - ---OVER CURRENT & LOW BATTERY PROTECTION - SIERRAWIRELESS, AIRLINK RAVEN RV50 -INTERNAL COMMS KIT FOR NON-WINI APPLICATIONS W/ LOW PROFILE ANTENNA, POWER CONTROL OPTO MODULE - SPM (SYSTEM PROTECTION MODULE) 4 CHANNELS @ 8V & 2 CHANNELS @ 35V - 7AH BACK-UP BATTERY	2024.000	2024.00	
1ea	3060	- POLE MOUNT KIT ^SCI/B-016- Solenoid Control Interface- 50PSI Out,Hand/Auto,50PSI- Loading Pressure,Pole Mount- NO REGULATOR. No Second Pressure	3579.000	3579.00	
1ea	3060	^External Pressure Assembly - 0-500 PSIG Transducer	500.000	500.00	

*** Continued on Next Page ***

Item # 5

EQUIPMENT CONTROLS COMPANY, INC.
4555 S. BERKELEY LAKE ROAD
NORCROSS GA 30071
770-441-6400 Fax 770-448-7312

Quotation

QUOTE DATE	QUOTE NUMBER
12/13/17	S1803076
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QUOTE TO:
 CARTERSVILLE, CITY OF
 GAS DEPARTMENT
 P O BOX 1390
 CARTERSVILLE, GA 30120

SHIP TO:
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 GAS DEPARTMENT
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 CARTERSVILLE, GA 30120

CUSTOMER NUMBER	CUSTOMER ORDER NUMBER	RELEASE NUMBER	SALESPERSON		
21678	REG STATION V-4				
WRITER	SHIP VIA	TERMS	SHIP DATE	FREIGHT ALLOWED	
CORDELL STALLINGS	FREIGHT ALLOWED	Net 15 Days	12/13/17	Yes	
ORDER QTY	PART NO	DESCRIPTION	Unit Price	Ext Price	
1ea	25705	- 3 Channel SPM SLK-IMAC CORRECTOR SENSING LINE KIT WITH IMAC FLOW INHIBITOR ***** Kit Components ***** * 1 - FI-705-001 * * 1/4" NPT X 1/8" TUBING SST FLOW * * INHIBITOR FITTING * * 1 - SS-200-2-4 * * SWAGelok 1/8" OD TUBE X 1/4" NPT * * 90 DEG ELBOW * * MALE COMPRESSION * * IMAC PART #NVK-203 * * 1 - SS-T2-S-028 * * SWAGelok TUBING S.S. 1/8" OD TUBE X * .028 WALL - 24" LENGTH * * IMAC PART #NVK-202 * *****	100.000	100.00	
1ea	2112	6-SERVICE INSTALLATION AND SET-UP INCLUDES AUTOCAD, DATABASE & SOFTWARE DEVELOPMENT TAXES NOT INCLUDED	5000.000	5000.00	
			Subtotal	13801.00	
			S&H CHGS	0.00	

This is a Quotation.

Price are firm for 30 days, subject to change without notice after 30 days.
 Applicable taxes extra.

Amount Due \$13801.00



City of Cartersville

City Council Meeting
5/21/2020 7:00:00 PM
Electric Meter Testing

SubCategory:	Bid Award/Purchases
Department Name:	Electric
Department Summary Recommendation:	The Electric Department utilizes a 3rd party vendor, M&R Services to test a sample group of our meters and the related appurtenances. This is a yearly step we take to ensure accuracy of billing and proactively identify any field errors. The Electric Department is requesting that Council authorize the payment to M&R Systems for \$7,128.00. This is a budgeted annual expense.
City Manager's Remarks:	Your approval of the meter testing invoice from M&R Systems for \$7,128 is recommended.
Financial/Budget Certification:	This is a budgeted item.
Legal:	
Associated Information:	

M & R Services, Inc.

1806 Asteria Ct.
Duluth, GA 30097**Invoice**

Date	Invoice #
5/3/2020	2020-24

Bill ToCartersville Electric System
320 South Erwin Street
Cartersville, GA 30120**Ship To**Cartersville Electric System
320 South Erwin Street
Cartersville, GA 30120

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project												
Contract	Net 30		5/3/2020															
Quantity	Item Code	Description			Price Each	Amount												
66	ST	Site Meter & CT Test (CVL001-066)			108.00	7,128.00												
APPROVED ELECTRIC DEPT. DATE APPROVED 5/12/2020 DEPT HEAD <i>[Signature]</i> CITY MGR <table><tr><td>CHARGE ACCOUNT (S)</td><td>AMOUNT</td></tr><tr><td>510 - 3500 - 52 - 2390</td><td>\$7,128</td></tr><tr><td>510 - 3500 -</td><td></td></tr><tr><td>-</td><td></td></tr><tr><td>-</td><td></td></tr><tr><td>TOTAL</td><td>\$7,128</td></tr></table>							CHARGE ACCOUNT (S)	AMOUNT	510 - 3500 - 52 - 2390	\$7,128	510 - 3500 -		-		-		TOTAL	\$7,128
CHARGE ACCOUNT (S)	AMOUNT																	
510 - 3500 - 52 - 2390	\$7,128																	
510 - 3500 -																		
-																		
-																		
TOTAL	\$7,128																	
					Total	\$7,128.00												

Item # 6



City of Cartersville

City Council Meeting

5/21/2020 7:00:00 PM

WPCP – Replacement Waste Activated Sludge Pumps

SubCategory:	Bid Award/Purchases
Department Name:	Water Department
Department Summary Recommendation:	The Water Pollution Control Plant (WPCP) uses three 6-inch submersible pumps to remove excess biomass from the treatment process. These pumps keep the biological treatment process in balance by matching the appropriate amount of microorganisms to plant loading. Two of the three pumps have severely worn impellers that cause the pumps to run at about half capacity. The third pump is not functional. A quote for two (2) replacement pumps was requested from Xylem. Xylem provided a quote of \$23,676.20 for two pumps, installation and commissioning. This is a sole source item and I recommend approval.
City Manager's Remarks:	The WPCP sludge pumps need to be replaced as they are either running at half capacity or are not functional. This is a budgeted item and your approval is recommended.
Financial/Budget Certification:	All expenses will run through account 505.3330.52.2361 WPCP Maintenance. This is a budgeted item.
Legal:	
Associated Information:	



35 5/04/2020

APPROVED		DATE APPROVED 1 / 1
WATER DEPARTMENT WFCE		DEPT HEAD:
		CITY MGR
CHARGE ACCOUNT(S)	AMOUNT	
505 - 3330 - 52 - 2361	23,676.20	
505 - 3330 -		
	90 Horizon Drive	
	Suwanee, GA 30024	
	Tel (770) 932-4320	
	Fax (770) 932-4321	
TOTAL	\$ 23,676.20	

May 4, 2020

CITY OF CARTERSVILLE
PO BOX 1390
CARTERSVILLE GA 30120-1390

Quote # 2020-ATL-0460 Alternate 1, Version 2
Project Name: City of Cartersville
Job Name: Repl 3127.090-0680178

Xylem Water Solutions USA, Inc.
Flygt Products

90 Horizon Drive
Suwanee, GA 30024
Tel (770) 932-4320
Fax (770) 932-4321

Replacement Pump for Waste Pump 2 + 3

Xylem Water Solutions USA, Inc. is pleased to provide a quote for the following Flygt equipment.

Qty	Part Number	Description	Unit Price
2	3127.070-YYYY	Flygt Model NP-3127.070 6" volute Submersible pump equipped with a 460 Volt / 3 phase / 60 Hz 10 HP 1750 RPM motor, 425 impeller, 1 x 50 Ft. length of SUBCAB 4G6+2x1,5 submersible cable, FLS leakage detector, volute is prepared for Flush Valve	\$ 11,202.10
		3127.070-0002 except 65' cable	
8	14-69 00 07A	LABOR,MOBILE FLYGT,NOTAX Z4-TP MODELS: 3000,7000,8000 Delivery and start up	\$ 159.00
Price			\$ 23,676.20
Total Price			\$ 23,676.20

Terms & Conditions

This order is subject to the Standard Terms and Conditions of Sale – Xylem Americas effective on the date the order is accepted which terms are available at <http://www.xyleminc.com/en-us/Pages/terms-conditions-of-sale.aspx> and incorporated herein by reference and made a part of the agreement between the parties.

Purchase Orders: Please make purchase orders out to: Xylem Water Solutions USA, Inc.

Freight Terms: 3 DAP - Delivered At Place 08 - Jobsite (per IncoTerms 2020)
See Freight Payment (Delivery Terms) below.

Taxes: State, local and other applicable taxes are not included in this quotation.

Back Charges: Buyer shall not make purchases nor shall Buyer incur any labor that would result in a back charge to Seller without prior written consent of an authorized employee of Seller.

Shortages: Xylem will not be responsible for apparent shipment shortages or damages incurred in shipment that are not reported within two weeks from delivery to the





City of Cartersville

City Council Meeting
5/21/2020 7:00:00 PM
GPON Blade

SubCategory:	Bid Award/Purchases
Department Name:	Fiber
Department Summary Recommendation:	The Gigabit Passive Optical Network (GPON) blade is for our Calix system, which allows the city to take one fiber splice and split it into 32. These blades are what allow us to generate GPON fiber circuits to our customers. Since we have expanded our use of this new system and migrated more customers from our old system, we will need a new GPON card to accommodate further growth and the ability to have a spare unit for disaster recovery. I recommend approval of this purchase in the amount of \$9,096.75.
City Manager's Remarks:	Your approval of the GPON Blade purchase is recommended.
Financial/Budget Certification:	This is a budgeted item.
Legal:	
Associated Information:	

Calix Network Configuration & Quotation

Customer Name:	City of Cartersville	Quote Reference Number:	635641A - 1
Project Name:	Cart: 2020-121184	Quote Type:	Equipment
Quote Description:	Quote1588772722208	Date Created:	May 6, 2020
Author Name:	Steven Grier	Date Modified:	May 6, 2020
Contact Name:		Quote Expiration:	June 5, 2020

Equipment Summary					
Calix Part #	Part Description	CLEI	Price	Qty	Extended Price
	E7				
100-03006	E7-2 GPON-8 card (8xGPON OIM, 4xGE SFP, 2x10GE SFP+)	BVL3AXYFTA	\$9,096.75	1	\$9,096.75
Equipment Total					\$9,096.75
Grand Total					\$9,096.75

Notes & Optional Equipment and Services

All prices are being quoted in US \$ (Dollars).

Due to rounding, some totals may not correspond with the sum of the separate figures.

Calix Warranty - See Purchase Agreement.

Important Ordering Instructions:

Please include the Calix quote number (found in the upper right hand corner) on your PO. You may also provide an internal PO number to be used with your order. Orders received without an internal PO number will use the Calix quote number by default.

Include contact information (Name, Email & Tel) for the person who will receive the order acknowledgements and shipping notifications as well as the required billing and shipping addresses for your order.

Send Purchase Orders to Calix Order Management:

Email: om@calix.com

Fax: 707-283-3771

You may check the status of your order at any time on our website. (www.calix.com, click Login)



City of Cartersville

City Council Meeting
5/21/2020 7:00:00 PM
Veeam Annual Software Renewal

SubCategory:	Bid Award/Purchases
Department Name:	Fiber
Department Summary Recommendation:	This quote, in the amount of \$6,287.58, is for our Veeam backup software which backs up all of our data. It is recommended for your approval.
City Manager's Remarks:	This is a budgeted item for backup software on our data. Your approval is recommended.
Financial/Budget Certification:	This is a budgeted item.
Legal:	
Associated Information:	

CNP Technologies, LLC
 806 Tyvola Road - - Charlotte, NC 28217
 Phone: (704) 927-6600 - Fax: (704) 927-6610 - Email: purchase@cnp.net



QUOTE

Date	Quote #
05/04/20	CNPQ78807-01

Sold To: City of Cartersville
 Steven Grier
 10 N Public Sq.
 Cartersville, GA 30120
 USA

Phone: (770) 387-5616
Fax:

Ship To: City of Cartersville
 Steven Grier
 10 N Public Sq.
 Cartersville, GA 30120
 USA

Phone: (770) 387-5616
Fax:

A 50% Deposit may be required before order is placed. CNP will send an invoice via e-mail for this quote which will include shipping and any applicable sales tax.

Terms	Rep	P.O. Number	Ship Via
	Andrew		

Qty	Description	Unit Price	Ext. Price
	1 Year Option - For Renewal until November 23, 2021		\$6,287.58
6	Veeam Annual Production (24/7) Maintenance Renewal (includes 24/7 uplift)- Veeam Availability Suite Enterprise Plus for VMware - 24 x 7 - Maintenance - Electronic Service	\$838.35	\$5,030.10
18	Veeam Monthly Production (24/7) Maintenance Renewal (includes 24/7 uplift) - Veeam Availability Suite Enterprise Plus for VMware - 24 x 7 - Maintenance - Electronic Service	\$69.86	\$1,257.48

Q#: QUO-4956412-N5L6F3
Contract # 01944590
Current Exp Date: 6/29/2020

Thank you for your business!

SubTotal	\$6,287.58
Sales Tax	\$0.00
Total	\$6,287.58

Deposit	\$3,143.79
----------------	-------------------

Special Notes About Auto-Renew Vendors

There are vendors who require renewals to be placed in an auto-renew status. Examples are Cisco and Inspeed, although this may not be a complete list as vendor requirements do change. For auto-renew vendors, the customer must let CNP know a minimum of 60 days in advance of the expiration date if this is not desired. After that time period the customer will be invoiced and the invoice is non-refundable.

Zix renewals are also Auto-Renewals as they are part of the contract term agreed upon on the first order. Subsequent years to fulfill that contract are non-refundable.

Customer Initials _____

05/04/20 14:14:46

Item # 9
Page 1

Terms and Conditions

The following Terms and Conditions of Sale and Installation ("Terms and Conditions") shall apply to all transactions between customer and CNP Technologies LLC ("CNP"). Any inconsistent or additional terms or proposed modifications to these Terms and Conditions are hereby expressly rejected, unless specifically agreed to in writing by CNP.

1. **Pricing.** Prices are valid until the expiration date specified on the Quote and are subject to product availability. Prices for hardware and/or software do not include installation services. Installation services shall be specified in an accompanying Statement of Work which shall be signed by both customer and CNP.
2. **Payment Terms.** A 50% deposit is required at time of order, 40% is due at receipt of equipment, and the 10% balance is due upon installation. If a leasing company is involved, written lease approval and 50% deposit from the leasing company is due at the time of order, with the balance due upon installation.
3. **Sales & Use Tax.** Sales Tax quoted above is an estimate. Actual Sales Tax will be billed on final invoice if shipping to NC, GA, FL, SC, TX, VA, PA, CT, NJ, TN or WV. If shipping or installing in any other out of state location, customer is responsible for paying any Sales & Use tax in that state.
4. **Additional Charges.** Shipping charges are not included on the Quote and actual charges will be billed to customer on final invoice. Travel and living expenses are also not included on the Quote, and actual charges will be billed to customer on final invoice.
5. **Site Visits.** Quotes are subject to verification of site conditions, including technical review, network assessment and review of existing cabling.
6. **Limited Warranty.** All warranties with respect to products provided by CNP shall be limited to their respective warranties of the manufacturers thereof, which CNP may be permitted to pass on to customer. With respect to installation services provided by CNP pursuant to a Statement of Work, such services shall be performed in a good and workmanlike manner. Customer's sole remedy for breach of this Limited Warranty shall be repair, replacement or refund of the purchase price paid, at CNP's option. CNP shall not be liable under this Limited Warranty for any of the following:
 - Failure to follow installation, operation or maintenance instructions;
 - Unauthorized product modification or alteration;
 - Unauthorized use of common carrier communication services accessed through the products;
 - Abuse, misuse, negligent acts or omissions of customer or persons under customer's control; or
 - Acts of third parties, acts of God, accident, fire, lightning, power surges or outages, or other causes beyond CNP's control.

THE FOREGOING WARRANTIES AND REMEDIES ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, TERMS OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR PURPOSE AND NON-INFRINGEMENT, ALL OF WHICH ARE EXPRESSLY DISCLAIMED.

Customer acknowledges and agrees that it is the Customer's responsibility (i) to implement appropriate procedures to protect and safeguard its programs and data from being destroyed through operator error, equipment malfunction, or otherwise, (ii) to insure its ability to recreate programs and data as necessary, and (iii) to remove all programs and data from the equipment being serviced prior to the performance of such service. CNP does not warrant that the operation of any data network or telecommunications systems will not be interrupted. Customer agrees to release CNP and hold CNP harmless from any claims of loss or damage to Customer's electronic media, data process, or current systems of network connection.

7. **Limitation of Liability.** TO THE FULLEST EXTENT ALLOWED BY LAW, CNP HEREBY EXCLUDES FOR ITSELF AND ITS SUPPLIERS ANY LIABILITY, WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES OF ANY KIND, OR FOR LOSS OF REVENUE OR PROFITS, LOSS OF BUSINESS, LOSS OF INFORMATION OR DATA, OR OTHER FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH THE SALE, INSTALLATION, MAINTENANCE, USE, PERFORMANCE, FAILURE OR INTERRUPTION OF PRODUCTS AND/OR SERVICES PROVIDED BY CNP, EVEN IF CNP HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL CNP'S LIABILITY ON ANY CLAIM OF ANY KIND, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EXCEED THE AMOUNTS PAID TO CNP BY CUSTOMER HEREUNDER.

8. **Product Returns.** All product returns must be pre-approved by CNP and returned within 15 days of purchase. Products to be returned must be un-opened and in the original packing. Restocking fees may apply. Software license sales are final and non-returnable.

9. **Confidentiality.** All prices, recommendations and configurations provided by CNP are provided as a courtesy to customer and shall be deemed confidential. Customer shall not disclose such information to third parties without the prior written consent of CNP.

10. **Mutual Non-Solicitation of Employees.** For the term hereof and a period of two years following any termination hereof, CUSTOMER shall not directly or indirectly recruit, solicit nor hire any of CNP's employees without CNP's prior written approval. CUSTOMER acknowledges that CNP employees are under non-competition and non-solicitation agreements with CNP that prohibit them from providing services to CUSTOMER other than on behalf of CNP.

11. **Miscellaneous.**

A. All sales subject to these Terms and Conditions shall be governed by the laws of the State of North Carolina. Customer agrees that all disputes that cannot be resolved amicably shall be brought in any state or federal court located in Charlotte, North Carolina. Customer further agrees not to contest the jurisdiction or venue of any such court.

B. If any provision hereof is deemed by a court or competent authority as being unenforceable or illegal, such provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions hereof shall not be affected. If any illegal or unenforceable provisions would be legal or enforceable if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal and enforceable.

C. Customer shall pay CNP's costs and expenses (including attorneys' fees and expenses) should it become necessary to take action to collect amounts past due.

D. CNP shall not be liable for delays in performance when caused by circumstances beyond its reasonable control, including acts of third parties, acts of God, accident, fire, lightning, power surges or outages.

E. These Terms and Conditions, along with any Quote and Statement of Work executed by the parties, constitute the entire agreement with respect to the subject matter hereof and supersede all prior understandings, writings, commitments or representations.

Customer Initials _____

05/04/20 14:14:46

Item # 9
Page 2

Acceptance of Quote, Terms and Conditions

Quoted By: Andrew Dickman

Accepted By: _____ Date: _____

Please sign and fax this quote back to CNP at (704) 927-6610.

*Please do NOT pay from this quote. CNP will send an invoice via e-mail for this quote which will include shipping and any applicable sales

Prices in this quote are only guaranteed for 10 days from the date of this quote and will expire on: 5/31/2020

Customer Initials _____

05/04/20 14:14:46

Item # 9
Page 3



City of Cartersville

City Council Meeting
5/21/2020 7:00:00 PM
Crowdstrike Annual Renewal

SubCategory:	Bid Award/Purchases
Department Name:	Fiber
Department Summary Recommendation:	The annual renewal for Crowdstrike, which is a cloud delivered software that protects our computers from viruses, is due in the amount of \$59,766 and is recommended for your approval.
City Manager's Remarks:	Your approval of the Crowdstrike purchase is recommended.
Financial/Budget Certification:	This is a budgeted item.
Legal:	
Associated Information:	

QUOTE CONFIRMATION



DEAR STEVEN GRIER,

Thank you for considering CDW•G for your computing needs. The details of your quote are below. [Click here](#) to convert your quote to an order.

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
LKMB931	5/5/2020	CROWDSTRIKE RENEWAL 2020	11372497	\$59,766.00

QUOTE DETAILS				
ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
CROWDSTRIKE FALCON COMP+THREAT GRAPH Mfg. Part#: CS.FCSD.SOLN.T1.12M Electronic distribution - NO MEDIA Contract: MARKET	350	6040952	\$170.76	\$59,766.00
CROWDSTRIKE INSIGHT Mfg. Part#: CS.INSIGHTB.SOLN.T3.12M Electronic distribution - NO MEDIA Contract: MARKET	350	5427068	\$0.00	\$0.00
CROWDSTRIKE PREVENT Mfg. Part#: CS.PREVENTB.SOLN.T3.12M Electronic distribution - NO MEDIA Contract: MARKET	350	5427072	\$0.00	\$0.00
CROWDSTRIKE THREAT GRAPH STD Mfg. Part#: CS.TGB.STD.12M Electronic distribution - NO MEDIA Contract: MARKET	350	5400122	\$0.00	\$0.00
CROWDSTRIKE FALCON COMPLETE Mfg. Part#: CS.FALCOMPS.SVC.12M Electronic distribution - NO MEDIA Contract: MARKET	350	5400119	\$0.00	\$0.00
CROWDSTRIKE OVERWATCH Mfg. Part#: CS.OWB.SVC.T3.12M Electronic distribution - NO MEDIA Contract: MARKET	350	5427082	\$0.00	\$0.00
CROWDSTRIKE DISCOVER Mfg. Part#: CS.DISC.B.SOLN.T3.12M Electronic distribution - NO MEDIA Contract: MARKET	350	5427074	\$0.00	\$0.00
CROWDSTRIKE UNIV LMS SUB Mfg. Part#: RR.PSO.ENT.PASS.12M Electronic distribution - NO MEDIA Contract: MARKET	2	5744579	\$0.00	\$0.00

PURCHASER BILLING INFO	SUBTOTAL	Item #10 \$59,766.00
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Billing Address: CITY OF CARTERSVILLE ACCTS PAYABLE 1 N ERWIN ST CARTERSVILLE, GA 30120-3121 Phone: (770) 387-5621 Payment Terms: VISA	SHIPPING	\$0.00
	SALES TAX	\$0.00
	GRAND TOTAL	\$59,766.00
DELIVER TO	Please remit payments to: CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515	
Shipping Address: CITY OF CARTERSVILLE STEVEN GRIER 1 N ERWIN ST CARTERSVILLE, GA 30120-3121 Phone: (770) 387-5621 Shipping Method: ELECTRONIC DISTRIBUTION		

Need Assistance? CDW•G SALES CONTACT INFORMATION



Adam Bruno

(877) 325-6613

adabrun@cdwg.com

This quote is subject to CDW's Terms and Conditions of Sales and Service Projects at <http://www.cdwg.com/content/terms-conditions/product-sales.aspx>
For more information, contact a CDW account manager

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