

**NORTH CAROLINA
GUILFORD COUNTY**

**CITY OF GREENSBORO
REIMBURSEMENT AGREEMENT
[WR 2014-____]**

THIS AGREEMENT, made and entered into this _____ day of _____, 2017, is by and between SHVF OLYMPIC, LLC referred to as the "DEVELOPER", and the City of Greensboro, a body politic and corporate, hereinafter referred to as the "CITY".

WITNESSETH

WHEREAS, DEVELOPER is the developer of certain property located at 1601 and 2005 Yanceyville Street Greensboro, Guilford County (collectively, the "Property"); and

WHEREAS, in order to provide bicycle and pedestrian facilities through the Property as part of a greenway, it is necessary to construct certain off-street greenway facilities as described herein; and

WHEREAS, the CITY and DEVELOPER agree to participate in the design, development and construction of a greenway for bicycle and pedestrian use to run through and adjacent to the Property, to be connected to a network of existing and planned greenways developed or otherwise controlled by the CITY; and

WHEREAS, this portion of the greenway through and adjacent to the Property (the "Greenway") is part of the proposed North Buffalo Creek Greenway, that begins at the terminus of the existing Latham Park Greenway at North Elm Street, and ends at the Keeley Park entrance, covering approximately 7 miles; and

WHEREAS, the Greenway design and construction through, adjacent, and near to the Property is hereby divided into four phases:

- Phase 1: Yanceyville Street to the line indicated as the western end of Phase I, as shown on the attached Exhibit A
- Phase 2: The western end of Phase I to Church Street
- Phase 3: Church Street at the western end of Phase 2 to Tankersley Drive
- Phase 4: Tankersley Drive from Church Street to Elm Street; and

WHEREAS, the CITY is willing to reimburse the DEVELOPER for the construction of Phase 1 of the Greenway (Exhibit A), in an amount not to exceed \$500,000, subject to the terms and conditions of this Agreement; and

WHEREAS, the CITY has determined that the cost to the CITY will not exceed the estimated cost of providing for the improvements through either eligible force account qualified labor or through a public contract let pursuant to NCGS 143-128 and that the coordination of separately constructed municipal improvements with the associated private development would be impracticable;

WHEREAS, the DEVELOPER has agreed to maintain a connection between the property known as Revolution Mill and the Greenway on the Property by installing a pedestrian bridge; and

WHEREAS, the DEVELOPER has agreed to pursue an easement, lease, or other permission from Norfolk Southern ("NS") to permit the construction of Phase 2 of the Greenway through or under the NS right-of-way adjacent to the Property; and

WHEREAS, the DEVELOPER and CITY anticipate entering into a future agreement to construct Phase 2 of the Greenway as defined herein, and to erect appropriate signage connecting Church Street and Tankersley Drive to Latham Park by way of existing sidewalks and on-street bicycling; and

WHEREAS, the CITY and the DEVELOPER anticipate collaborating on the design of Phase 3 of the Greenway and the design of Phase 4 of the Greenway (along Tankersley Drive). Phase 3 is to be constructed by NCDOT under Church Street widening project U-5851 by NCDOT per the CITY. Phase 4 is to be constructed by the City.

NOW, THEREFORE, in consideration of the mutual covenants and promises, the parties do mutually agree as follows:

The DEVELOPER agrees to install, or begin construction of Phase I of the Greenway within eighteen (18) months from the date of this Agreement. However, it is expressly understood and agreed that if the DEVELOPER does not begin said construction during this period, then this Agreement is null and void and of no effect.

The CITY shall reimburse the DEVELOPER for the construction of Phase 1 of the Greenway (Exhibit A), in an amount not to exceed \$500,000, within 30 days following the completion of all of the following:

1. Approval by the CITY of construction plans, specifications, and contract and bid documents prepared by the DEVELOPER for Phase 1 of the Greenway (which shall not be unreasonably withheld, conditioned or delayed) prior to the advertising the project for construction bids.
2. Adherence by the DEVELOPER to all CITY requirements for the bidding and contract award process.

3. Completion of construction of Phase 1 of the Greenway and acceptance of it by the CITY (which shall not be unreasonably withheld, conditioned or delayed), including conveyance by DEVELOPER to CITY of a Greenway use and maintenance easement on terms reasonably satisfactory to both parties. Phase 1 of the Greenway will provide a minimum of 10 foot concrete greenway with 5 foot shoulder on either side. The DEVELOPER can exceed these specifications at its discretion, provided the design does not exceed the CITY's capacity to maintain the Greenway.
4. Completion of the pedestrian bridge crossing North Buffalo Creek and connecting the Phase 1 portion of the Greenway to property owned by DEVELOPER.
5. Securing all agreements or rights necessary for the Greenway to pass through the railroad right-of-way underneath the existing railroad bridge structure.

City approval authority for agreements under this section shall be governed by general city contracting authorizations and delegations.

- a. The DEVELOPER shall comply with requirements of G.S. 143-129 and G.S. 143-128(f) relating to public advertising and bid opening requirements which would be applicable if the construction contract had been awarded by the CITY.
- b. The DEVELOPER shall comply with the CITY'S Minority/Women's Business Enterprise program with respect to the construction of the municipal infrastructure to be reimbursed by the CITY.
- c. The DEVELOPER does hereby agree to indemnify and save harmless the City of Greensboro, its officers, agents and employees, against all claims, actions, lawsuits and demands, including reasonable attorney fees, made by anyone for any damages, losses or injuries of any kind, including environmental, which may arise from the sole negligence of DEVELOPER, its agents or employees, or as a result of work performed pursuant to this Agreement.
- d. The DEVELOPER certifies that it currently complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, and that at all times during the term of this Agreement, it will continue to comply with these requirements. The DEVELOPER also certifies that it will require that all of its subcontractors that perform any work pursuant to this Agreement will comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Violation of this section shall be deemed a material breach of this Agreement.
- e. The DEVELOPER shall not discriminate against any member of the public in the use of City facilities or in the delivery of City programs, services or activities on the basis of race, religion, color, national origin, age, biological sex, or handicap.

- f. As of the date of this Agreement, the DEVELOPER certifies that it is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 147-86.58 and that the DEVELOPER will not utilize any subcontractor found on the State Treasurer's Final Divestment List. All individuals signing this Agreement on behalf of the DEVELOPER certify that they are authorized by the DEVELOPER to make this certification.

[Executions are on the following page. The balance of this page has been intentionally left blank]

IN WITNESS WHEREOF, the City and Company have executed this Agreement as of the day and year first above written.

COMPANY:
SHVF Olympic, LLC
By: Self-Help Ventures Fund,
its managing member

ATTEST:

Title: _____

Title: _____

Recommended by: _____
Director of Parks and Recreation

ATTEST:

CITY OF GREENSBORO

City Clerk

By: _____
City Manager

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

Finance Officer

Approved as to form:

City Attorney

EXHIBIT A

[Attach diagram of western edge of Phase 1]