

FORSYTH COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: APRIL 25, 2019

AGENDA ITEM NUMBER: 10 A-C

- SUBJECT:**
- A1. RESOLUTION AUTHORIZING A DEFERRED LOAN TO PCCI LAND, INC., TO FUND THE PURCHASE OF THE BUDGET INN LOCATED AT 600 PETERS CREEK PARKWAY IN WINSTON-SALEM AND THE DEMOLITION AND CLEARANCE OF THE EXISTING BUILDINGS AND THE CONSTRUCTION OF LOW- AND MODERATE-INCOME HOUSING**
 - A2. RESOLUTION AUTHORIZING A LOAN TO PCCI LAND, INC., TO FUND THE PURCHASE OF THE BUDGET INN LOCATED AT 600 PETERS CREEK PARKWAY IN WINSTON-SALEM AND THE DEMOLITION AND CLEARANCE OF THE EXISTING BUILDINGS AND THE CONSTRUCTION OF LOW- AND MODERATE-INCOME HOUSING**
 - B. AMENDMENT TO THE 2018 PAY-GO CAPITAL PROJECTS ORDINANCE TO TRANSFER FUNDS TO THE GENERAL FUND**
 - C. AMENDMENT TO THE FY19 BUDGET ORDINANCE TO ACCEPT TRANSFER FROM 2018 PAY-GO CAPITAL PROJECTS ORDINANCE**

(COMMUNITY AND ECONOMIC DEVELOPMENT)

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:

Recommend Approval

SUMMARY OF INFORMATION:

See Attached

ATTACHMENTS:

YES

NO

SIGNATURE:

J. Dudley Watt, Jr. /AMS
COUNTY MANAGER

DATE:

April 23, 2019

A1 RESOLUTION

RESOLUTION AUTHORIZING A DEFFERED LOAN TO PCCI LAND, INC., TO FUND THE PURCHASE OF THE BUDGET INN LOCATED AT 600 PETERS CREEK PARKWAY IN WINSTON-SALEM AND THE DEMOLITION AND CLEARANCE OF THE EXISTING BUILDINGS AND THE CONSTRUCTION OF LOW- AND MODERATE-INCOME HOUSING

WHEREAS Forsyth County supports the revitalization and economic enhancement of the County and efforts to provide affordable housing; and

WHEREAS N.C.G.S. 153A-378 allows for Counties to expend funds in providing affordable housing to low- and moderate-income households;

WHEREAS PCCI Land, Inc. (PCCI), has requested that Forsyth County provide a deferred loan of \$600,000 to help finance the purchase of a lot at 600 Peters Creek Parkway in Winston-Salem, identified by the Forsyth County Tax Assessor as PIN 6825-81-1669.00 and 6825-81-2953.00 and otherwise known as the Budget Inn (the Property), a map of which is attached hereto as Exhibit A, as well as the demolition and clearance of existing structures on the Property;

WHEREAS PCCI will contract with a developer to construct a 72-unit apartment complex on the cleared site of the Property that will be leased to low- and moderate-income households at below market rates, consisting of 18 units to households at or below 30% of the area median income and the remaining 54 units to households at or below 60% of the area median income;

WHEREAS PCCI will demolish and clear the exiting buildings on the Property within twelve months of receipt of County funds and construct the affordable housing units within four years of receipt of County funds, unless the County in its sole discretion provides an extension for such construction;

WHEREAS PCCI will agree to maintain the Property as exclusively low- and moderate-income housing for at least 50 years;

WHEREAS PCCI will agree to the placement of a lien by Forsyth County on the Property in order to secure the County loan, in the event that PCCI fails to clear the property or construct the affordable housing, or discontinues the provision of affordable housing on the Property, and that the amount of \$600,000 shall become payable immediately by PCCI in the event of PCCI's failure to abide by the terms of the agreement with the County;

WHEREAS the County would defer repayment of the loan for a period as long as PCCI abides by the terms of its agreement with the County to provide affordable housing, and forgive such loan after a period of 50 years; and

WHEREAS the City of Winston-Salem has committed to grant \$600,000 to PCCI to help finance acquisition of the Property, and PCCI has committed to raise \$200,000 from a third party for such acquisition;

NOW, THEREFORE, BE IT RESOLVED, that the Forsyth County Board of Commissioners hereby authorizes the Chairman or the County Manager and Clerk to the Board to execute, on behalf of Forsyth County, necessary documents to provide a deferred loan to PCCI Land, Inc., of \$600,000 to help finance the purchase of the Budget Inn property and the demolition and clearance of the existing structures on the property, substantially according to the terms set forth herein, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where applicable, and approval as to form and legality by the County Attorney.

Adopted this the 25th day of April, 2019

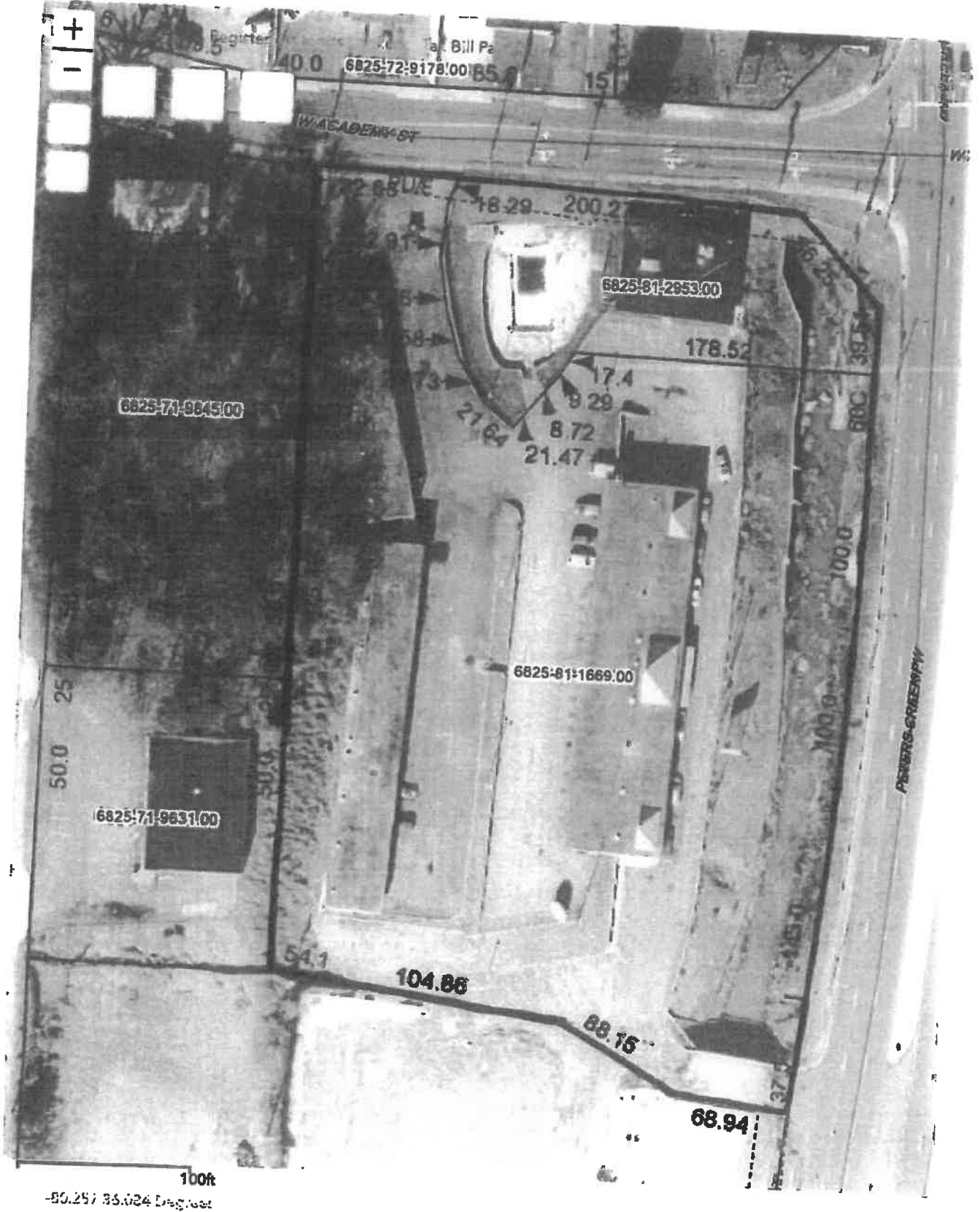
3/26/2019

Exhibit A

Tax Parcel Viewer

Tax Parcel Viewer

Forsyth County, NC



100ft
-80.257 85.024 Degree

All rights reserved

A2 RESOLUTION

RESOLUTION AUTHORIZING A LOAN TO PCCI LAND, INC., TO FUND THE PURCHASE OF THE BUDGET INN LOCATED AT 600 PETERS CREEK PARKWAY IN WINSTON-SALEM AND THE DEMOLITION AND CLEARANCE OF THE EXISTING BUILDINGS AND THE CONSTRUCTION OF LOW- AND MODERATE-INCOME HOUSING

WHEREAS Forsyth County supports the revitalization and economic enhancement of the County and efforts to provide low- and moderate-income housing;

WHEREAS N.C.G.S. 153A-378 allows counties to expend funds in providing housing to low- and moderate-income households;

WHEREAS PCCI Land, Inc. (PCCI), has requested that Forsyth County provide a loan of \$600,000 to help finance the purchase of a lot at 600 Peters Creek Parkway in Winston-Salem, identified by the Forsyth County Tax Assessor as PIN 6825-81-1669.00 and 6825-81-2953.00 and otherwise known as the Budget Inn (the Property), a map of which is attached hereto as Exhibit A, as well as the demolition and clearance of existing structures on the Property;

WHEREAS PCCI will contract with a developer to construct a 72-unit apartment complex on the cleared site of the Property that will be leased to low- and moderate-income households at below market rates, consisting of 18 units to households at or below 30% of the area median income and the remaining 54 units to households at or below 60% of the area median income;

WHEREAS PCCI will comply with the following Construction Deadlines: (1) demolish and clear the existing buildings on the Property within twelve months of execution of the loan agreement and (2) construct the low- and moderate-income housing units within four years of the execution of the loan agreement;

WHEREAS PCCI will agree to maintain the Property as exclusively low- and moderate-income housing for at least 50 years;

WHEREAS PCCI will agree to the placement of a first lien, which may not be subordinated, by Forsyth County on the Property in order to secure the County loan;

WHEREAS the amount of \$600,000 shall become immediately due and payable to the County by PCCI at the earlier of three occurrences: (1) PCCI secures financing to construct the housing, (2) PCCI fails to abide by the terms of the agreement with the County, including failure to comply with the Construction Deadlines, as set forth herein, or (3) four years after the date of execution of the loan agreement between the County and PCCI; and

WHEREAS the City of Winston-Salem has committed to grant \$600,000 to PCCI to help finance acquisition of the Property, and PCCI has committed to raise \$200,000 from a third party for such acquisition;

NOW, THEREFORE, BE IT RESOLVED, that the Forsyth County Board of Commissioners hereby authorizes the Chairman or the County Manager and Clerk to the Board to execute, on behalf of Forsyth County, the Agreement for the Loan of Funds, which is attached hereto and incorporated herein by reference, to provide a loan to PCCI Land, Inc., of \$600,000 to help finance the purchase of the Budget Inn Property and the demolition and clearance of the existing structures on the property, which shall become due and payable to the County upon the financing of the housing, or no later than four years from the execution of the loan agreement, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where applicable, and approval as to form and legality by the County Attorney.

Adopted this the 25th day of April, 2019

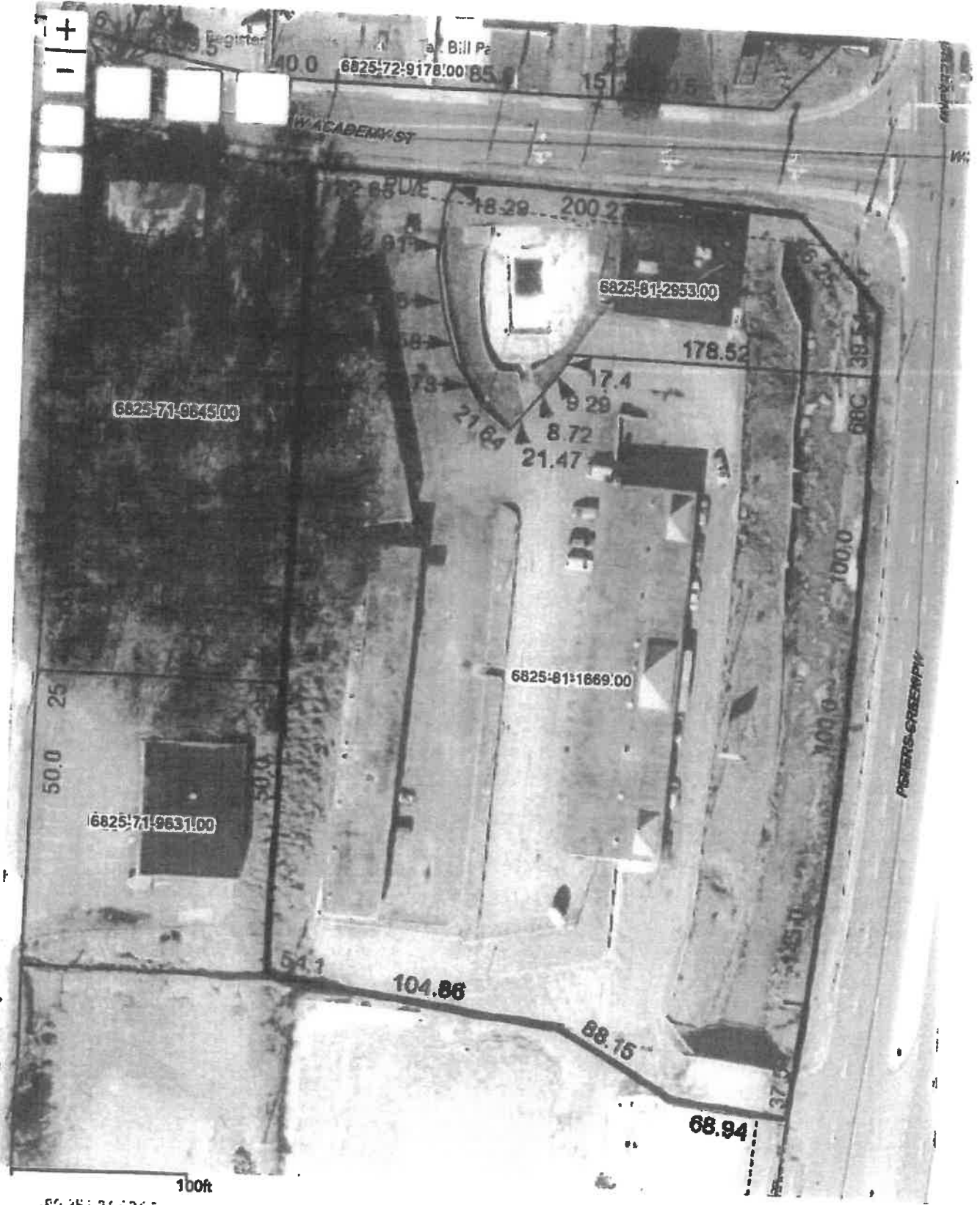
3/26/2019

Exhibit A

Tax Parcel Viewer

Tax Parcel Viewer

Forsyth County, NC



100ft
-50.257 35.024 Deg. West

All rights reserved

<https://mapf.maps.arcgis.com/apps/webappviewer/index.html?id=1a98853598c3460191ca485834b3456d>

STATE OF NORTH CAROLINA

FORSYTH COUNTY

**AGREEMENT FOR THE LOAN OF FUNDS
AND PROMISSORY NOTE**

THIS AGREEMENT, made and effective this 30th day of April, 2019, by and between Forsyth County, North Carolina (the "County"), and PCCI Land, Inc. (the "Borrower");

For the purpose and subject to the terms and conditions hereinafter set forth, the County and the Borrower hereby agree as follows:

1. Borrower's Use of Funds. The Borrower shall use County loan funds exclusively to purchase the property identified by the Forsyth County Tax Assessor and Collector as PIN 6825-81-1669.00 and 6825-81-2953.00 and known as the Budget Inn (the "Property") and to demolish all buildings on the Property and clear the Property such that it meets acceptable community and legal standards. The Borrower agrees that the Property shall be used exclusively as low- and moderate-income housing for a period of at least 50 years. Upon the failure to maintain the low- and moderate-income housing for 50 years, in addition to any Loan principal and interest owing, the Borrower shall owe the County liquidated damages of \$50,000.

2. Term. The Loan term shall begin on April 30, 2019. The Loan shall be fully repayable to the County immediately upon the earliest date of the following occurrences: (a) the Borrower secures financing to construct low- and moderate-income housing on the Property; (b) the Borrower fails to demolish all buildings on the Property by April 30, 2020; (c) Borrower breaches this Agreement; or (d) April 30, 2023.

3. Loan. As full compensation for the Borrower's services, the County agrees to loan the Borrower the sum of \$600,000, to be delivered to an escrow agent and made payable at the closing of Borrower's purchase of the Property. Prior to, and as a condition precedent to, disbursement of any Funds, (1) a Deed of Trust of a form acceptable to the County shall be recorded by the closing agent; and (2) all prior existing liens shall be extinguished on the Property. The Borrower agrees at closing to file the Deed of Trust on behalf of the County, which shall be a first lien upon the Property. The Borrower shall not subordinate the County's lien, or allow anyone to do so. Any filing that purports to subordinate the County's lien shall be a breach of this Agreement, and the Loan shall become immediately due and payable in full.

4. Interest. The Borrower shall owe no interest on the Loan if it is repaid no later than the date set forth in Section 2. Notwithstanding anything to the contrary herein, if the Borrower fails to repay the County the Loan in full by the date set forth in Section 2 herein, the Borrower shall owe the County interest on the Loan at an annual rate of eight percent (8%) beginning on the due date of the Loan, and compounding annually, until such interest and the full amount of the Loan are repaid.

5. Independent Contractor. The Borrower shall operate as an independent contractor, and the County shall not be responsible for any of the Borrower's acts or omissions. The Borrower, its employees, and subcontractors shall not be treated as an employee with respect to the services performed hereunder for federal or state tax, unemployment or workers' compensation purposes. Neither federal, state, nor payroll tax of any kind shall be withheld or paid by the County on behalf of the Borrower or the employees of the Borrower. The Borrower is fully responsible for the payment of any and all taxes arising from the payment of monies under this Agreement. The Borrower shall comply with the North Carolina Workers' Compensation Act and shall ensure that its subcontractors also comply. The Borrower shall not be treated as an employee with respect to the services performed hereunder for purposes of eligibility for, or participation in, any employee pension, health, or other fringe benefit plan of the County. The Borrower has no authority to enter into contracts or agreements on behalf of the County. The County shall not be liable to the Borrower for any expenses paid or incurred by the Borrower unless otherwise agreed in writing. The Borrower shall supply, at its sole expense, all equipment, tools, materials, and/or supplies required to provide contracted services unless otherwise agreed in writing.

6. Reports. No later than April 30, 2020, the Borrower shall report to the County its progress in demolishing the buildings, clearing the Property, and restoring the Property to acceptable community and legal standards. No later than April 30 of each subsequent year, the Borrower shall report to the County its progress in securing financing, construction, maintenance, and operation of the low- and moderate-income housing on the Property. Each report shall be in writing addressed to the County as set forth in Section 10. Failure to provide any required Report shall constitute a breach of this Agreement.

7. Records, Audit. The Borrower agrees that it will supply such records, information or verification relating to expenditures of the funds or the operations of the Borrower as may reasonably be requested by the County. The Borrower agrees that the County shall have access to the records and premises of the Borrower at all reasonable times, and the Borrower agrees to submit such reports as the County shall request pertaining to the funds granted herein or the operation of the Borrower. The Borrower shall maintain a written accounting and documentation of all of its receipts and disbursements relating to the grant funds which are the subject of this Agreement. The County reserves the right to require a certified audit pertaining to the use of the grant funds, or may perform the audit through the use of its staff. The Borrower shall furnish to the County a copy of its audit report performed by a certified public accountant as soon as such becomes available to the Borrower.

8. Termination. The County may terminate this Agreement for any violation thereof by Borrower. In the event of termination, the Borrower shall promptly remit any payments received which the County deems to have been paid in violation of this Agreement. The County may terminate the Agreement based upon, but not limited to, the following reasons, which shall be determined in the sole discretion of the County:

- a. Improper use of Loan funds;

- b. Failure to comply with the terms of this Agreement;
- c. Submission to the County of reports which are incorrect or incomplete in any material respect;
- d. Any circumstance rendering the completion of the Services improper, illegal, or infeasible; or
- e. Failure to make satisfactory progress in seeking financing or completion of the low- and moderate-income housing.

9. Indemnification. The Borrower agrees to indemnify, defend, and hold the County harmless from and against any and all claims, expenses (including attorney fees), costs or liability for acts or omissions of the Borrower relating to this Agreement or services provided pursuant to it.

10. Notice. All notices permitted or required to be given by one party to the other party shall be addressed and delivered in writing as follows:

For the County:

J. Dudley Watts, Jr.
County Manager
201 North Chestnut Street
Winston-Salem, NC 27101

For the Borrower:

Ms. Eileen Ayuso
Executive Director
The Shalom Project, Inc.
639 S. Green St.
Winston-Salem, NC 27101

Email: theshalomproject@gmail.com

11. Assignment. The Borrower may not assign its obligations under this Agreement unless it has received prior written approval from the County, which may be withheld at the sole discretion of the County.

12. Waiver. No action or failure to act by the County shall constitute a waiver of any of its rights or remedies or as approval or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

13. Governing Law. This Agreement shall be governed by North Carolina law, except that provisions regarding conflicts of laws shall not apply. The venue for any legal proceeding shall be in Forsyth County, North Carolina.

14. Survival of Provisions. All obligations arising prior to termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between the parties shall survive the completion of services and termination of this Agreement.

15. Modification. This Agreement may only be modified in writing and signed by both the Borrower and by the County Manager or other authorized County official.

16. Conflict with Attachments. In the event of any conflict between the provisions in this Agreement and any provisions in an attachment thereto, the provisions in this Agreement shall take precedence over any provision in an Attachment.

17. Miscellaneous. The Borrower shall comply with all applicable laws and regulations including but not limited to federal, state and local laws regarding business permits, certificates, and licenses that may be required to carry out the services to be performed under this Agreement and all federal immigration laws in its hiring and contracting practices. Borrower and its subcontractors shall comply with Article 2 of Chapter 64 of the North Carolina General Statutes relating to the required use of the federal E-Verify program to verify the work authorization of newly hired employees. Failure of the Borrower to comply with this provision or failure of its subcontractors to comply could render this contract void under North Carolina law. Borrower hereby certifies that it is not on the North Carolina State Treasurer's lists of persons engaging in business activities in Sudan (Darfur), Iran, or boycotting Israel, prepared pursuant to NCGS §§ 147-86.43, 147-86.58, and 147-86.81, nor will Borrower utilize for this Agreement any subcontractor on such lists. This agreement is intended for the benefit of the County and the Borrower and not for any other party. If any provision of this Agreement shall be unenforceable, the remainder of the Agreement shall be enforceable to the extent allowed by law.

18. Waiver. All parties to the Agreement and Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Agreement and Note and Deed of Trust notwithstanding any change by way of release, surrender, exchange, modification or substitution of any security for this Agreement and Note or by way of any extension of time for the payment of principal and interest; and all such parties waive all and every kind of notice of such change and agree that same may be made without notice or consent of any of them.

19. Remedies. Upon default the holder of this Agreement and Note may employ an attorney to enforce the holder's rights and remedies and the maker, principal, surety, guarantor and endorsers of this Agreement and Note hereby agree to pay to the holder reasonable attorneys fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Agreement and Note, but not less than \$500, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in

this Agreement and Note and any instrument securing this Agreement and Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

20. Superseder. This Agreement supersedes all prior agreements between the parties regarding the Services.

IN WITNESS WHEREOF, the authorized officials of the County and the Borrower have set their hands and seals as of the day and year first above written.

FORSYTH COUNTY, NORTH CAROLINA

(SEAL)

By: _____
J. Dudley Watts, Jr, County Manager

Date: _____

ATTEST:

Ashleigh M. Sloop, Clerk to the Board

Date: _____

BORROWER

(SEAL)

By: _____

Printed Name: _____

Title: _____

Date: _____

**FORSYTH COUNTY, NORTH CAROLINA
AMENDMENT TO
2018 PAY-GO CAPITAL PROJECTS ORDINANCE**

FROM: BUDGET & MANAGEMENT

MEETING DATE: April 25, 2019

EXPLANATION:

During the FY19 Budget process, an Alternative Service Level request was submitted by the Peters Creek Community Initiative, a non-profit subsidiary of "The Shalom Project", to fund the purchase of the Budget Inn property located at 600 Peters Creek Parkway. This request was not included in the FY19 Adopted Budget.

The Peters Creek Community Initiative is again seeking funding from Forsyth County in the amount of \$600,000 to acquire the Budget Inn property at 600 Peters Creek Parkway for the purpose of developing 72 multi-family units of workforce housing. The \$600,000 will go towards purchasing the property, as well as demolishing the current structures and site prep work. The request is being made mid-year as PCCI has secured an option to acquire the property with a decision by April 15, necessary pursuant to the purchase agreement.

PCCI has \$800,000 in committed funds for this project including \$600,000 from the City of Winton-Salem and \$200,000 from a private, out-of-state foundation. Approval of this project will require an amendment to the 2018 Pay-Go Capital Projects Ordinance to transfer \$600,000 from Budget Reserve for the PCCI Project.

BE IT ORDAINED BY THE FORSYTH COUNTY BOARD OF COMMISSIONERS THAT THE
2018 PAY-GO CAPITAL PROJECTS ORDINANCE IS HEREBY AMENDED AS FOLLOWS:

DECREASE:	EXPENDITURES	
	Budget Reserve	<u>\$ 600,000</u>
INCREASE:	EXPENDITURES	
	Transfer to General Fund	<u>\$ 600,000</u>

NATURE OF TRANSACTION:

- Additional Revenue Available
- Transfer within Accounts of
Same fund
- Other: Transfer to General Fund

APPROVED BY BOARD OF COUNTY
COMMISSIONERS AND ENTERED ON
MINUTES DATED _____
AGENDA ITEM NUMBER _____
