

**RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF THE TOWN OF PITTSBORO APPROVING  
BONUS ALLOCATION AGREEMENT (R-5930A); FIRST AMENDMENT  
TO CHATHAM PARK WAY BONUS ALLOCATION AGREEMENT;  
AND ALTERNATIVE ACCELERATION PROCEDURES WITH  
CHATHAM PARK INVESTORS LLC**

**WHEREAS**, pursuant to the North Carolina Department of Transportation (“DOT”) State Transportation Improvement Program (“STIP”), DOT recognizes local contributions that reduce road construction costs, and DOT reimburses a portion of such local contributions; and

**WHEREAS**, the Chatham Park Planned Development District comprises approximately 7,100 acres of real property located in Chatham County, North Carolina (“Chatham Park”); and

**WHEREAS**, the plan for development of Chatham Park includes the construction of the “Chatham Park Way”, a State road project primarily benefitting the transportation needs of residents and businesses located within the Town and Chatham Park; and

**WHEREAS**, DOT has identified in the STIP the funding for and scheduling of construction of a new approximately 2.336 mile two-lane section of Chatham Park Way that commences at the northern terminus of a previously constructed portion of Chatham Park Way (such terminus being located approximately 1,400 feet north of its intersection with SR 1809 (Suttles Road)) and continues in a northerly direction to the intersection of U.S. Highway 15-501 and SR 1520 (Russell Chapel Church Road) (“Project R-5930”); and

**WHEREAS**, DOT has or is expected to revise the STIP to split Project R-5930 into (i) an approximately 4,600-foot section of Chatham Park Way that commences at the northern terminus of a previously constructed portion of Chatham Park Way (such terminus being located approximately 1,400 feet north of its intersection with SR 1809 (Suttles Road)) and continues in a northerly direction to a point which is located approximately 300 feet north of Grant Drive (“Project R-5930A”), and (ii) an approximately 7,800-foot section of Chatham Park Way that commences at said point located approximately 300 feet north of Grant Drive and continues in a northerly direction to the intersection of U.S. Highway 15-501 and SR 1520 (Russell Chapel Church Road) (“Project R-5930B”); and

**WHEREAS**, the final scope and location of Project R-5930A and Project R-5930B will be based on the STIP, as revised by DOT pursuant to the immediately preceding recital paragraph; and

**WHEREAS**, all of the property on which Project R-5930A is to be constructed (the “Property”) is owned by Chatham Park Investors LLC (“Developer”) and 15-501 East LLC, a North Carolina limited liability company, an affiliate of the Developer (“Developer Affiliate”); and

**WHEREAS**, the Property is currently situated within Chatham County Tax Parcels 69490, 7474, 78535, 95381 and 75037, and will be more particularly described using the legal descriptions derived from the Property Subdivision (as defined below); and

**WHEREAS**, the Property owned by Developer shall hereinafter be referred to as the “Developer Property”, and the Property owned by Developer Affiliate shall hereinafter be referred to as the “Developer Affiliate Property”.

**BONUS ALLOCATION AGREEMENT (R-5930A)**

**WHEREAS**, pursuant to Section 136-189.11(f) of the North Carolina General Statutes, the Town (or the Developer on behalf of the Town) may make a local contribution to DOT to accelerate the construction schedule of qualified road projects. Upon approval by DOT, a credit shall be reserved by DOT for the benefit of the Town and/or Developer in the amount of half of the amount of the local contribution (“Bonus Allocation”). The Bonus Allocation so reserved may be credited to the cost of other qualified road projects to benefit the Town and Developer; and

**WHEREAS**, Developer and Town desire to pursue the option of participating in the Bonus Allocation by and through Project R-5930A; and

**WHEREAS**, if Developer decides to participate in the Bonus Allocation by and through Project R-5930A, then it shall notify the Town and both parties agree that they will proceed substantially pursuant to the terms and conditions set out in the Bonus Allocation Agreement (R-5930A) attached hereto (“Bonus Allocation Agreement (R-5930A)”); and

**WHEREAS**, if Developer decides to participate in the Bonus Allocation in connection with Project R-5930A, Developer will (i) cause the Property to be surveyed, subdivided and/or platted (the “Property Subdivision”), (ii) convey or otherwise transfer the Developer Property to the Town, who will then dedicate or convey the Developer Property to DOT as a public right of way for the benefit of Project R-5930A, and (iii) cause the Developer Affiliate to convey or otherwise transfer the Developer Affiliate Property to the Town, who will then dedicate or convey the Developer Affiliate Property to DOT as a public right of way for the benefit of Project R-5930A (collectively, the “Chatham Park Way Dedication”); and

**WHEREAS**, though the local government contribution value of the Chatham Park Way Dedication is currently estimated to be \$2,000,000.00, the actual local government contribution value of the potential Chatham Park Way Dedication (the “Chatham Park Way Dedication Value”) will be mutually agreed upon by DOT, Developer and Developer Affiliate, based on an appraisal of the Property performed on behalf of Developer and/or Developer Affiliate by an appraiser that (i) is approved by DOT, and (ii) complies with all applicable DOT requirements and standards in its appraisal of the Property; and

**WHEREAS**, if the Developer decides to participate in the Bonus Allocation, Developer will be committed to provide funding (in one or more installments) through the Town to DOT (the “Chatham Park Way Contribution”) for the construction of Project R-5930 in an amount equal to the difference between \$9,000,000.00 and the Chatham Park Way Dedication Value; and

**WHEREAS**, DOT has determined, that the Chatham Park Way Dedication and Chatham Park Way Contribution will qualify as local government funding participation for Project R-5930A pursuant to Section 136-189.11(f) of the North Carolina General Statutes; and

**WHEREAS**, pursuant to Section 136-189.11(f) of the North Carolina General Statutes, the total Bonus Allocation amount for the potential Chatham Park Way Dedication and Chatham Park Way Contribution that the Town would be eligible for is \$4,500,000.00; and

**WHEREAS**, if the Developer decides to participate in the Bonus Allocation, the Developer and Town desire (i) to cooperate with each other to satisfy the requirements for the Town’s local government funding participation for the Chatham Park Way Dedication and Chatham Park Way Contribution, and (ii) for the Town to obtain or otherwise be entitled to the Bonus Allocation, and utilize the same to reimburse Developer, in accordance with applicable law, for its right of way acquisition and construction costs

(“Additional Road Expenses”) incurred with respect to the Additional Road(s) (as defined in the Bonus Allocation Agreement (R-5930A)); and

**WHEREAS**, subject to the provisions of applicable law and regulations, the Town and Developer agree to apply the full amount of the potential Bonus Allocation towards payment of the Additional Road Expenses.

**ALTERNATIVE ACCELERATION PROCEDURE**

**WHEREAS**, Developer has identified other DOT procedures that may be available to accelerate the construction of Project R-5930A other than the Bonus Allocation program (“Alternative Acceleration Procedure”), which Alternative Acceleration Procedure may require Town participation as a conduit to (i) cause the Chatham Park Way Dedication and/or (ii) contribute funds paid by Developer to the Town and then paid by the Town to DOT; and

**WHEREAS**, If Developer decides to participate in any Alternative Acceleration Procedure, Developer and Town shall cooperate with each other and DOT to satisfy DOT requirements regarding Town participation in any Alternative Acceleration Procedure, including without limitation, (i) the Town serving as a conduit for Chatham Park Way Dedication of right of way and/or (ii) contribution of funds paid by the Developer to the Town and then paid by the Town to DOT; provided any reasonable costs incurred by the Town to cooperate with the Alternative Acceleration Procedure proposed by Developer shall be reimbursed by Developer in substantially the same manner as reimbursements are to be paid in Bonus Allocation Agreement (R-5930A).

**FIRST AMENDMENT TO CHATHAM PARK WAY BONUS ALLOCATION AGREEMENT**

**WHEREAS**, the Developer and Town entered into that certain Bonus Allocation Agreement dated August 10, 2020 (the “Existing BA Agreement”) concerning Developer’s conveyance of the Property (as defined in the Existing BA Agreement) to DOT as public right of way (the “Prior Chatham Park Way Dedication”) and the Existing Chatham Park Way Bonus Allocation (as defined below); and

**WHEREAS**, as set forth in the Existing BA Agreement, the local government contribution value of the Prior Chatham Park Way Dedication, as determined by DOT, equaled \$3,922,632,000 and, pursuant to Section 136-189.11(f) of the North Carolina General Statutes, the amount of the related bonus allocation is \$1,961,316 (“Existing Chatham Park Way Bonus Allocation”); and

**WHEREAS**, the Developer and Town desire to amend the terms of the Existing BA Agreement relating to Additional Road (as defined therein) selection/construction, Additional Road Expenses (as defined therein), and disbursement of the Existing Chatham Park Way Bonus Allocation, all in accordance with the terms and conditions set forth in more detail in the First Amendment to Chatham Park Way Bonus Allocation Agreement attached hereto.

**(The remainder of this page is intentionally left blank.)**

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF PITTSBORO THAT:**

1. **The Bonus Allocation Agreement (R-5930A)** attached hereto be, and it hereby is approved and for the reasons stated hereinabove and the Mayor and Town Clerk are hereby authorized, upon the Town's receipt of notice from Developer that Developer has elected to participate in the Bonus Allocation by and through Project R-5930A, to execute the Bonus Allocation Agreement (R-5930A) in duplicate originals on behalf of the Town;
2. **The Alternative Acceleration Procedure** described in resolutions above be, and it hereby is approved and for the reasons stated hereinabove and the Mayor and Town Clerk are hereby authorized, upon the Town's receipt of notice from Developer that Developer has elected to participate in such Alternative Acceleration Procedure, to enter into and execute in the appropriate form such agreements and resolutions as may be reasonably required by either Developer or DOT to pledge the Town's participation in such Alternative Acceleration Procedure; and
3. **The First Amendment to Chatham Park Way Bonus Allocation Agreement** attached hereto be, and it hereby is approved and for the reasons stated hereinabove and the Mayor and Town Clerk are hereby authorized to execute said First Amendment to Chatham Park Way Bonus Allocation Agreement in duplicate originals on behalf of the Town.

Adopted this \_\_\_ day of \_\_\_\_\_, 2022.

TOWN OF PITTSBORO

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk