



REQUEST FOR COUNCIL ACTION

City of Greenville, South Carolina

Agenda Item No.

11j

TO: Honorable Mayor and Members of City Council
FROM: Nancy P. Whitworth, Interim City Manager

Ordinance/First Reading Ordinance/Second & Final Reading Resolution/First & Final Reading Information Only

AGENDA DATE REQUESTED: January 28, 2019

ORDINANCE/RESOLUTION CAPTION:

TO PROVIDE CITY CONSENT TO A RIGHT OF WAY AGREEMENT BETWEEN THE GREATER GREENVILLE CHAMBER OF COMMERCE AND RENEWABLE WATER RESOURCES ON PROPERTY LOCATED AT 24 CLEVELAND STREET (TAX MAP NUMBER 0069000300105)

SUMMARY BACKGROUND:

This Ordinance provides the City's consent to a temporary right of way agreement between the Chamber of Commerce and ReWa. City consent is requested because ReWa's exercise of its rights will temporarily impact public access and parking for the Cancer Survivor Park located upon the Chamber property.

IMPACT IF DENIED:

If denied, the City will not consent to the temporary right of way agreement.

FINANCIAL IMPACT

N/A

REQUIRED SIGNATURES

Department Director _____

OMB Director _____

City Attorney Michael S. Pitts

City Manager Nancy Whitworth

DocuSigned by:

Michael S. Pitts

5E0F2A267E2D413...
DocuSigned by:

Nancy Whitworth

1DC2D48BBB5D4AB...

AN ORDINANCE

TO PROVIDE CITY CONSENT TO A RIGHT OF WAY AGREEMENT BETWEEN THE GREATER GREENVILLE CHAMBER OF COMMERCE AND RENEWABLE WATER RESOURCES ON PROPERTY LOCATED AT 24 CLEVELAND STREET (TAX MAP NUMBER 0069000300105)

WHEREAS, the Greater Greenville Chamber of Commerce (“Chamber”) is the owner of a certain tract of land located at 24 Cleveland Street, in the County of Greenville, South Carolina, having Tax Map Number 0069000300105 (“Chamber Property”); and

WHEREAS, an easement in favor of the city of Greenville was granted by the Chamber as set forth in a Perpetual Public Use Easement in order to provide public parking and access to Cancer Survivor Park which is adjacent to the Chamber Property; and

WHEREAS, in order to make the Chamber Property more marketable, the Chamber requested that the aforementioned easement be amended in order to make possible future re-development of the Chamber Property more feasible; and

WHEREAS, in order to accommodate the Chamber’s request, City Council passed Ordinance No. 2018-89 approving a First Amendment to Perpetual Use Easement; and

WHEREAS, Renewable Water Resources (“ReWa”) has sanitary sewer lines adjacent to the Chamber Property and ReWa now seeks a temporary Right-of-Way agreement, a copy of which is attached hereto and incorporated herein as Attachment A (the “ROW Agreement”), from the Chamber in order to accommodate maintenance that will need to be performed on said lines in the future; and

WHEREAS, the ROW Agreement will temporarily impact the City’s rights under the Perpetual Public Use Easement (as amended) and, therefore, the City has been requested by ReWa and the Chamber to provide City consent to the ROW Agreement; and

WHEREAS, City Council desires to provide that consent;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA, City Council hereby consents to the Right of Way Agreement, subject to terms and conditions that are substantially similar to those as set out in Attachment A, attached hereto. The City Manager, in consultation with the City Attorney, may make or accept minor modifications to the wording and designations of the attached documents as may be necessary or appropriate, provided there is no compromise of the substantive purposes of this Council action. Should the City Manager or City Attorney, or both, determine that any modification of previously negotiated terms is significant and warrants further action by City Council, then the matter shall be presented to Council for further review before the final execution.

DONE, RATIFIED AND PASSED THIS THE ____ DAY OF _____, 2019.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

REVIEWED:

CITY MANAGER

ATTACHMENT A

STATE OF SOUTH CAROLINA)	RIGHT OF WAY
)	Greenville County
COUNTY OF GREENVILLE)	Block Book: Portion of 0069.00-03-001.05

1. **KNOW ALL MEN BY THESE PRESENTS:** That GREATER GREENVILLE CHAMBER OF COMMERCE, Grantor, in consideration of **\$50,000.00** paid by Renewable Water Resources, a body politic under the laws of South Carolina, hereinafter called the Grantee, its successors and assigns, receipt of which is hereby acknowledged, does hereby grant and convey unto the Grantee a temporary construction easement in and over a portion of its tract of land situate ("the Easement Area") in the above State and County and deed to which is recorded in the office of the ROD, of said State and County in Book 1264 at Page 897 and being designated as "Chamber Easement Area" on attached **Exhibit "A"** and as more fully shown on a print on file in the offices of the Renewable Water Resources.

The expression or designation "Grantor" wherever used herein shall be understood to include the Mortgagee, if any there be.

The Grantor herein by these presents warrants that it is legally qualified and entitled to grant a right of way with respect to the lands described herein, and that there are no liens, mortgages, or other encumbrances to a clear title to these lands, except as follows:

2. Subject at all times to the rights of the City of Greenville (the "City") set forth below in Section 3, the right of way is to and does convey to the Grantee the following: The right and privilege to use the Easement Area for the following activities related to and necessary for maintenance of sanitary sewer lines and related equipment ("the Project"):

- Storage and parking of construction materials, vehicles, equipment and related apparatus necessary for the Project.
- Vehicular access in the Easement Area.
- Construction and installation of silt fencing and other erosion control devices required as a result of activities conducted by the Grantee in the Easement Area.
- Erection, maintenance, operation and use of a construction trailer/office, together with installation of a temporary electricity line necessary to provide power to such office.

- Such other temporary activities not listed above as may be reasonably necessary for Grantee's completion of the Project.

Nothing in this Agreement shall be construed as affording the Grantee any right to permanently install any sanitary sewer lines or related equipment either below or above ground within the Easement Area.

3. The City of Greenville (the "City"), for itself and the general public, enjoys use of the Chamber Easement Area in connection with parking for, and access to, Cancer Survivor Park (the "CSP") by virtue of that Perpetual Public Use Easement dated March 18, 2015 between the City and the Grantor recorded in Deed Book 2526 at Page 4479 in the real estate records of the Greenville County, Register of Deeds, as amended by that certain First Amendment to Perpetual Public Use Easement between the City and the Chamber recorded in Deed Book _____ at Page _____, aforesaid records (as so amended, the "City Easement Agreement"). The City consents to the Grantee's temporary use of the Chamber Easement Area under this Right of Way agreement, provided that Grantee shall: (a) displace no more parking spaces within the Chamber Easement Area than is reasonably necessary for the Project; (b) the Project shall be completed no later than thirty (30) days following commencement, unless an extension of time is granted by the City which such extension shall not unreasonably be withheld; (c) Grantee shall provide at least sixty (60) days advance written notice to the City of its intent to commence the Project; (d) Grantee shall, at its sole expense, return the Chamber Easement Area to the same condition as existing immediately prior to commencement of the Project; and (e) in the event public access to the CSP over and through the Chamber Easement Area is not safe and feasible during the Project, the Grantor, Grantee and the City shall agree on a reasonably alternative means of temporary access. Other than as set out in this Section 3, the City is not subordinating its rights under the City Access Agreement.

4. During the term of this right of way, Grantor may not build or construct anything within the Easement Area which, in the sole opinion of the Grantee, would interfere or conflict with the use of the Easement Area by the Grantee for the purposes herein mentioned or which, in the sole opinion of the Grantee, would injure, endanger or render inaccessible the usage of the Easement Area.

5. This right of way shall begin upon the execution of this document and shall terminate on November 1, 2023.

6. The payment and privileges above specified are hereby accepted in full settlement of all claims and damages of whatever nature for said right of way.

[SIGNATURES TO FOLLOW ON SEPARATE PAGES]

IN WITNESS WHEREOF, the Parties have duly executed this First Amendment to Perpetual Public Use Easement under as seal effective as of the date first written above.

**Signed, sealed and delivered
in the presence of:**

Greater Greenville Chamber of Commerce,
a South Carolina non-profit corporation

Witness #1

By: _____

Name: _____

Its: _____

Witness #2

STATE OF SOUTH CAROLINA)

)

ACKNOWLEDGEMENT

COUNTY OF _____)

The foregoing instrument was acknowledged before me this date by **Greater Greenville Chamber of Commerce**, through its duly authorized officer/agent.

Witness my hand and seal this ____ day of _____, 2018.

Print Name of Notary Public: _____

Notary Public for _____

My commission expires: _____

**Signed, sealed and delivered
in the presence of:**

City of Greenville, South Carolina,
a municipal corporation in the State of South
Carolina

Witness #1

By: _____

Name: _____

Its: _____

Witness #2

STATE OF SOUTH CAROLINA)
)
COUNTY OF _____)

ACKNOWLEDGEMENT

The foregoing instrument was acknowledged before me this date by Nancy P. Whitworth, the Interim City Manager for the City of Greenville.

Witness my hand and seal this ____ day of _____, 2018.

Print Name of Notary Public: _____

Notary Public for _____

My commission expires: _____

EXHIBIT A

