

**LENOIR CITY COUNCIL
TUESDAY, FEBRUARY 20, 2024
6:00 P.M.**

PRESENT: Mayor Joe Gibbons presiding. Councilmembers present were Jonathan Beal, Ike Perkins, Todd Perdue, Ralph Prestwood, Kimmie Rogers, Mayor Pro-Tem David Stevens, City Manager Scott Hildebran, City Clerk Shirley Cannon and City Attorney Timothy Rohr.

ABSENT: Councilmember Crissy Thomas.

CITY STAFF: In attendance was Finance Director Donna Bean, Fire Chief Norman Staines, Deputy Fire Chief Kenny Nelson, Police Chief Brent Phelps, Planning Director Hannah Williams, Public Services Director Radford Thomas, Public Utilities Operations Manager Jeff Church, Public Works Operations Manager Jon Hogan, Main Street and Economic Development Director Kaylynn Horn, Downtown Event Coordinator Matthew Anthony and Communications Director Joshua Harris.

I. CALL TO ORDER

- A. The meeting was opened by a moment of silence and the pledge of allegiance as led by Mayor Gibbons.

**CONDOLENCES; PAIGE
COUNTS FAMILY:**

- B. On behalf of City Council, Mayor Gibbons extended condolences to the family of Paige Counts and asked everyone to keep this family in their thoughts and prayers as Mrs. Counts husband, Charles, passed away unexpectedly over the weekend. Mrs. Counts is the Public Information Officer for Caldwell County.

In addition, Mayor Gibbons also asked everyone to keep Lester Whittington, Manager, Martin Luther King, Jr. Center in their thoughts and prayers as he is recovering from surgery.

**SPECIAL RECOGNITION;
RADFORD THOMAS, PUBLIC
SERVICES DIRECTOR:**

- C. On behalf of City Council, Mayor Gibbons presented Public Services Director Radford Thomas with a framed key to the City including City coins and read a resolution in honor of his dedicated and outstanding service to the City of Lenoir. Director Thomas will retire from the City of Lenoir effective March 1, 2024. A reception was held prior to the Council meeting where a number of his colleagues and Staff congratulated him.

A copy of the resolution is hereby incorporated into these minutes by reference. (Refer to page 36.)

Mayor Gibbons commended Director Thomas for his service to local government and the City of Lenoir and stated Radford has served the City very well. Radford has over 30+

years of service in local government. Mayor Gibbons thanked Radford for all he means to the City and to City Council and noted he is considered a friend to everyone.

Director Thomas introduced his family members present and stated the City of Lenoir is fortunate to have the City Council that it has. He pointed out Council supports Staff and provides the resources needed to do their jobs. Director Thomas briefly shared several of the projects and equipment purchases he has been a part of during his tenure. He commended Staff and remarked the Public Utilities Department is in good hands. Director Thomas stated he was honored to serve.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

III. CONSENT AGENDA ITEMS

- A. Minutes: Approval of the minutes of the Committee of the Whole meeting of Tuesday, January 23, 2024 as submitted.
- B. Public Hearing Request; Ordinance Amendments: Staff recommends City Council call for a public hearing to be held on Tuesday, March 5, 2024 to consider ordinance amendments relating to Chapter 9 (Flood Damage Prevention) of the Lenoir Code of Ordinances. The Planning Board is not required by current law to review these changes, as this chapter does not change any of the zoning requirements for the City.
- C. Resolution of Intent; Lease of City Property: Approval of a Resolution of Intent for the Lease of City Property for a Term of Ten Years to Bernhardt Transportation, LLC and Authorizing Staff to Initiate Public Notices Requirements. The City Council is considering a lease of the Property described on the Council Action Form (CAF) included in the agenda packet to Bernhardt Transportation, LLC upon the terms and conditions set forth herein and described in the attached lease and authorizes the City Manager or his Designee, to execute all instruments necessary for City Council consideration of the lease. A copy of the lease agreement and resolution of intent is hereby incorporated into these minutes by reference. Refer to pages 37-46).
- D. Resolution; Radford Thomas: Approval of the resolution in honor and recognition of Public Services Director Radford Thomas upon his retirement from the City of Lenoir effective March 1, 2024.

Upon a motion by Mayor Pro-Tem Stevens, City Council voted 6 to 0 to adopt items (A through D) on the Consent Agenda as described above and as recommended by City Manager Hildebran.

IV. REQUESTS AND PETITIONS OF CITIZENS

V. REPORTS OF BOARDS AND COMMISSIONS

VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

A. Items of Information

BUDGET RETREAT:

- 1. City Council will conduct a Budget Retreat on Friday, February 23 at 8:00 a.m. at the J. E. Broyhill Civic Center, Room 215.

**PLANNING
BOARD:**

2. The Planning Board will meet on Monday, February 26 at 5:30 p.m. at the City/County Chambers.

**COMMITTEE OF
THE WHOLE:**

3. The Committee of the Whole will meet on Tuesday, February 27 at 8:30 a.m. at City Hall, Third Floor.

**FOOTHILLS REGIONAL
AIRPORT AUTHORITY:**

4. The Foothills Regional Airport Authority will meet on Wednesday, February 28 at the airport facility at noon.

**BLACK HISTORY
MONTH:**

5. The month of February is celebrated as Black History Month and Councilmember Crissy Thomas stated events are ongoing at the Martin Luther King, Jr. Center.

B. Items for Council Action

**AUTHORIZATION FOR
PROPERTY PURCHASE:**

1. Staff Recommendation: 1) Approval of purchase of a 0.235748-acre lot (NCPIN 2749655863, Parcel ID 06-13-3-21) located on College Avenue for \$5,100 (the current tax value). The church owns 9/10th of the parcel, with all heirs but one signing over their interest in the lot. It is anticipated that the balance of the parcel can be acquired for \$1,000. 3) Approval of purchase of a 0.234321-acre lot (NCPIN 2749656730, Parcel ID 06-13-3-22) located on Spainhour Street for \$5,100 (the current tax value). 3) Authorize the City Attorney and City Manager to proceed with the executing of the necessary documents to satisfactorily acquire the parcels at a purchase not to exceed \$11,200. The City anticipates the properties will be used for public parking.

A copy of the Council Action Form with the background is hereby incorporated into these minutes by reference, not a Resolution. (Refer to page 47.)

City Manager Hildebran stated College Avenue Baptist Church contacted the City about buying the parcels and reported the full congregation was in agreement to sell the property. He shared the parcels are adjacent to a track the City currently owns. Mr. Hildebran reminded Council that the need for additional parking is included in the Downtown Master Plan. He reported City Attorney Rohr is doing a title search and there should be around 50+ more parking spaces with the purchase of the two lots.

Upon a motion by Councilmember Perdue, Council voted 6 to 0 to authorize City Manager Scott Hildebran and City Attorney Timothy Rohr to proceed with executing the necessary documents to satisfactorily acquire lots #1 and #2 as described above and as recommended by City Manager Hildebran.

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY

VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR

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ESSENTIALS OF MUNICIPAL

GOVERNMENT: A. Mayor Gibbons thanked all of the City Councilmembers that attended the Essentials of Municipal Government course in Asheville.

CONGRATULATIONS;

TODD PERDUE: B. On behalf of City Council, Mayor Gibbons congratulated Councilmember Todd Perdue upon being appointed to serve on the NCLM's Risk Management Services (RMS) Board of Trustees.

CONGRATULATIONS;

JONATHAN BEAL:

C. On behalf of City Council, Mayor Gibbons congratulated Councilmember Jonathan Beal upon successfully completing the Advanced Leadership Training course at the UNC School of Government in Chapel Hill, NC.

IX. REPORT AND RECOMMENDATIONS OF COUNCILMEMBERS

X. ADJOURNMENT

A. There being no further business, the meeting was adjourned at 6:24 p.m.

Shirley M. Cannon, City Clerk

Joseph L. Gibbons, Mayor

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CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
J. T. BEAL
T. H. PERDUE
J. I. PERKINS
R. S. PRESTWOOD
K. R. ROGERS
D. F. STEVENS
C. D. THOMAS

Resolution Honoring Radford L. Thomas

WHEREAS, Radford Thomas began serving as the Public Utilities Director for the City of Lenoir on August 8, 2011, where he oversaw operations of the City's water and wastewater systems, and he was promoted to Public Services Director in July 2022, where he was responsible for managing the City's Public Utilities and Public Works Departments; and

WHEREAS, Radford, a graduate and proud supporter of Appalachian State University, previously served as Manager for several North Carolina towns including Denton, Scotland Neck, Newton, Eden, and Marshville, as well as managing two nonprofits; and

WHEREAS, in addition to his duties with Lenoir, Radford also served as a member of the International City/County Management Association (ICMA) and North Carolina City/County Management Association, as a City representative to the Catawba Wateree Water Management Group, and member on the City of Lenoir's Customer Service Team, and obtained certifications in water distribution and wastewater collections, graduated from the UNC School of Government Public Executive Leadership Academy (PELA) in 2012, and completed ICMA's Gettysburg Leadership Institute in 2014; and

WHEREAS, in 2015, Radford spent two weeks in Timor Leste (East Timor) representing the City of Lenoir and ICMA as part of an exchange and fellowship program sponsored by the US State Department and ICMA; and

WHEREAS, during his tenure as Department Director, Radford oversaw many projects and improvements to the City's water and wastewater systems including renovations to the Gunpowder Creek and Lower Creek wastewater treatment plants; replacement of more than 20,000 feet of sewer line; improvements to the George L. Bernhardt, Sr., Lake Rhodhiss Water Treatment Plant including two new filters, a new chemical storage building, and a mechanical pre-treatment unit; implemented the Advanced Metering Infrastructure (AMI) project; began planning for the Lenoir/Valdese Water Interconnection project and Finley Area Water System Improvements; and oversaw the EPA Brownfields program for the City; and

WHEREAS, Radford Thomas has announced his retirement effective March 1, 2024, with more than 36 years of public service, including 26 years in local government, to the citizens of Lenoir and North Carolina.

NOW THEREFORE BE IT RESOLVED, that I, Joseph L. Gibbons, Mayor, on behalf of the City of Lenoir Council and all the citizens, do hereby congratulate Radford on his retirement and commend him for the example he has set as a dedicated public servant; and

BE IT FURTHER RESOLVED, that Council and I extend our sincere appreciation and deep gratitude for his faithful and outstanding service and many contributions to the betterment of our City.

THIS, the 20th day of February 2024.

SEAL


Joseph L. Gibbons
Mayor



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Prepared by: Wilson, Lackey, Rohr & Hall, P.C.

STATE OF NORTH CAROLINA

COUNTY OF CALDWELL

LEASE AGREEMENT

This Lease Agreement, made and entered into this _____ day of _____, 2024, by and between CITY OF LENOIR, a North Carolina municipal corporation of Caldwell County, North Carolina, (hereinafter called "Lessor"), and BERNHARDT TRANSPORTATION, LLC, a North Carolina limited liability company, with its principal office located in Lenoir, Caldwell County, North Carolina, (hereinafter called "Lessee");

1. Demise of Premises. Lessor leases unto Lessee the real property and the building and all improvements located thereon (hereinafter called "Premises") which is located in the City of Lenoir, Caldwell County, North Carolina, subject to the Reservations set forth herein, and described more particularly as follows:

A portion of the improvements and lands described in Book 1094, at Page 1690, and located northwest of the Public Works/Public Utilities Office Building and including the paved parking areas, the truck garage and wash bay and the rear parking area, but excluding the oil containment building. The leased area is shown as the white dotted area on the attached "Proposed New Facility Map Bernhardt Lease City of Lenoir," incorporated herein by reference and referred to hereafter as "Exhibit A."

Lessor will use the Premises for maintenance of trucks, trailers, and equipment necessary for its fleet operations and for no other purpose.

2. Term of Lease. The term of this Lease is from January 1, 2025 until December 31, 2034. If either party requests, the parties will execute a short-form Memorandum of Lease in recordable form containing such matters as the parties may agree upon but including at a minimum the commencement and expiration dates.

A. As an inducement for Lessor to enter into this Lease, Lessee agrees to build at its sole expense (a) a 20'x30' salt shed on the Premises and (b) a 50'x80' trash truck shed on the Lessor's adjacent property, each of which is shown on Exhibit A. Lessor and Lessee agree that the total cost of such construction will be at least \$125,000 and need not exceed \$140,000. The minimum specifications for each shed are shown on the attached Exhibit B. Prior to construction Lessee will provide the plans for the construction of the two structures to Lessor for its approval. Subject to any delay caused by force majeure, Lessee is to begin construction on the two structures within 6 months of Lessee's execution of this lease. The two structures will be the Lessor's property.

B. This lease is subject to certain Reservations by Lessor as set forth below:

i. Lessor retains the exclusive right and option to use the wash bay and equipment in the truck garage and wash bay on Wednesday of each week or at

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other times as the parties may agree. Lessee agrees to not interfere with Lessor's use of the truck garage and wash bay premises on Wednesdays. Lessor staff will exercise due care and diligence in the use of the wash bay and equipment in the truck garage. Lessee will have no liability with respect to Lessor's or its agents', representatives', or employees' usage pursuant to this paragraph except in the event of the gross negligence or willful misconduct of Lessor, its agents, representatives or employees.

ii. Lessor retains the right to have secure storage of new rollout garbage carts on the demised premises. Such secure storage must be inside a standard storage trailer at least 48 feet long (rather than the "40' x 20'" dimensions shown on Exhibit A) which Lessee will provide to Lessor at no cost to Lessor and which will be Lessor's property. Lessee will put the storage trailer in place within 60 days of Lessee's execution of this lease. Lessor staff will exercise due care and diligence in the use of the storage trailer. Lessee will have no liability with respect to Lessor's or its agents', representatives', or employees' usage pursuant to this paragraph except in the event of the gross negligence or willful misconduct of Lessor, its agents, representatives or employees.

3. Rentals. Lessee will pay rent to Lessor of \$1,500.00 per month. Rent is due and payable in advance on the first day of each month.

In addition, Lessee will carry at its own expense policies of property insurance with extended coverage insuring Lessee's personal property located on the premises against loss or damage to its furnishings, fixtures, inventory, equipment and other property situated or placed upon, in or about the Premises with companies and in amounts acceptable to itself.

4. Acceptance of Premises. Lessee acknowledges that the act of taking possession of the premises constitutes acceptance thereof and conclusive evidence that Lessee has inspected and examined the entire premises and utility installations and that the same were, and are, in good and satisfactory condition, and Lessee accepts the same "as is".

5. Assignment or Subletting. Lessee does not have the right to assign the Lease or to sublet the Premises in whole or in part without the prior written consent of Lessor. As Lessee is an entity, the passage of control of Lessee to parties other than those who presently control Lessee as of the date of this Agreement constitutes an assignment of this Lease.

6. Compliance with Legal Requirements. Both parties will comply with all the legal requirements of any governmental or quasi-governmental body including City, County, State or Federal boards having jurisdiction thereof, respecting any operation conducted or any equipment, installations or other property placed upon, in or about the Premises. Both parties will neither create nor permit the creation of any nuisance upon, in or about the Premises, and neither will not make any offensive use thereof.

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7. Utilities. Lessee will pay for all water and sewer services consumed or used on the Premises. Lessor will pay for electricity and gas service to the premises. The lack of availability or failure of utility service will not be deemed constructive eviction.
8. Additions, Alterations, Changes and Improvements. Lessee will not make nor have the right to make any alterations, changes, or improvements, structural or otherwise, in or to the Premises without Lessor's prior written consent. If such consent is given, Lessee will make all such alterations, changes and improvements in a workman-like manner, will promptly pay for them, and will not allow any liens to attach either to the Premises or to Lessor's interest therein, and they become the property of Lessor. Lessor may require Lessee to provide such assurances as Lessor reasonably requires (such as bonds, escrows, etc.) to protect Lessor against unpaid-for work.
9. Repairs. Lessor is not responsible for making any repairs including structural repairs and repairs of a capital nature to the exterior walls and to the roof. Lessee at its own expense will keep and maintain all the premises and all parts and systems thereof including all repairs to windows and/or plate glass, and all utility installations and equipment (including repairs of a capital nature), in good maintenance, replacement and repair, properly painted and decorated. Lessee will ensure that all repairs will be performed in a prompt, workman-like manner, will promptly pay for them, and will not allow any liens to attach either to the Premises or to Lessor's interest therein. Other than as specifically stated herein, Lessor has no obligation to make any repairs. For the avoidance of doubt, Lessee will have no repair or maintenance obligations with respect to the 50'x80' trash truck shed or storage trailer described on Exhibit A following acceptance thereof by Lessor.
10. Safe and Sanitary Conditions. Lessee will not permit, allow, or cause any act or deed to be performed upon, in or about the premises which will cause or be likely to cause injury to any person or to the Premises, the building or improvements located thereon, or to any adjoining property. Lessee will at all times keep the premises in a neat and orderly condition and the premises and the entryways, parking areas, sidewalks, and delivery areas adjoining the premises clean and free from rubbish, dirt, snow, standing water, and ice.
11. Trade Fixtures. Lessee is permitted to install trade fixtures on the premises. In addition, Lessee is permitted to remove said trade fixtures installed during the term of this lease from the premises upon the termination of this Lease Agreement; provided that if Lessee does remove its trade fixtures, it will return the Premises to the same condition as existed at the time of the original entry, ordinary wear and tear excepted. This provision is not intended to allow Lessee to remove approved structural improvements by Lessee to the Premises. All such improvements belong to Lessor at the termination of the lease and are not to be removed or damaged by Lessee's removal of its trade fixtures. If Lessee does not remove the trade fixtures at termination, Lessor has the option either to declare such fixtures abandoned, at which point they become the Lessor's property, or to demand that Lessee remove the same at its expense, returning the Premises to the condition required herein.
12. Lessor Not Liable for Damages or Injuries. Lessor is not responsible to Lessee or any other person, firm, partnership, association, or corporation for damages or injuries by virtue

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of or arising out of burst water pipes, leaks from sprinkler or air conditioning systems, leaks from the roof, or by virtue of earthquakes, riots, windstorms, overflow of water from surface drainage, rains, water, fire or by the elements or acts of God, or by the neglect of any person, firm, partnership, association or corporation. Lessee will indemnify and hold Lessor harmless from any and all claims for damages to person or property to the full extent permitted by law except to the extent caused by the gross negligence or willful misconduct of Lessor, its agents, representatives or employees.

13. Indemnification and Insurance. To the extent permitted by North Carolina law, each party will indemnify and hold the other party harmless from the claims of any and all persons, firms, partnerships, associations, or corporations for personal injury and damage to property arising out of or in connection with the party's use and occupancy of the Premises. In addition, Lessee must and will carry public liability insurance in the minimum amount of \$1,000,000.00 bodily injury per occurrence, and \$500,000.00 property damage per occurrence. Lessee will deliver annually to Lessor a memoranda of the policy of such coverage with a company satisfactory to Lessor and which names Lessor as additional insured therein.

14. Fire or Casualty. If, during the term of this lease, the Premises are partially destroyed by fire or other casualty, Lessee has the right to terminate this Lease Agreement. If Lessee does not exercise this option, Lessor may in its sole discretion effect the required repairs and reconstruction of the Premises. If Lessor elects to make the repairs or reconstruction, during such time as said repairs or reconstruction are being made, the rentals hereinabove provided will not abate. Any other provisions contained herein notwithstanding, Lessor is required and obligated to effect repairs or reconstruction only to the extent of any sums of money, if any, which Lessor receives under insurance coverage as a direct result of said fire or other casualty.

15. Waiver of Subrogation. Neither Lessee nor anyone claiming by, through, under, or on Lessee's behalf may have any claim, right of action, or right of subrogation against Lessor based upon any loss caused by fire, explosion or any other casualty (not limited to the foregoing) relating to the premises or any property upon, in or about the Premises, whether such fire, explosion or casualty arises from the negligence of Lessor, its agents, representatives or employees, or otherwise.

16. Subordination to Mortgages. This Lease Agreement and the rights of Lessee are subordinate to and will be subordinate to the lien of any mortgage or deed of trust (hereafter called "Mortgage") whether such Mortgage is a lien on the Premises or hereafter becomes a lien on the Premises and no further agreements or documents are to be required to render this Lease and Lessee's rights subordinate to such Mortgage. Lessee will at all times upon request of Lessor promptly furnish documents stating that this lease is in full force and effect, that no defaults of Lessor exist, and such other matters as are customarily contained in what is known as an "estoppel letter" or a "good-standing letter". Should Lessee fail to deliver such documents within 10 days of Lessor's request therefor, Lessor may be deemed Lessee's attorney-in-fact for the purpose of executing such documents in the name of Lessee.

17. Inspection. Lessor has the right at all reasonable times to enter and inspect the Premises .

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18. Condition of Premises Upon Termination. Upon the termination of this Lease Agreement, Lessee will return the Premises to Lessor substantially in the same condition as when received, ordinary wear and tear and approved improvements excepted.

19. Holding Over. In the event Lessee remains in possession after the expiration of the Term without the execution of a new lease, Lessee will not acquire any right, title, or interest in or to the Premises. In such event, Lessee will occupy the Premises as a tenant from month-to-month and will otherwise be subject to all of the conditions, provisions and obligations of this Lease agreement insofar as the same is applicable.

20. Default. Each of the following events constitutes a default or breach of this lease by Lessee:

A. The filing of a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act or the making of general assignment for the benefit of creditors.

B. Involuntary proceedings under any bankruptcy or insolvency act instituted against Lessee, or if a receiver or trustee is appointed for all or substantially all of the property of Lessee and such proceedings are not dismissed, or the receivership or trusteeship vacated within 10 days after the institution or appointment;

C. Failure to pay rent when the same becomes due and a continuing failure to pay rent for 10 days after notice thereof from Lessor to Lessee. For these purposes, all funds due from Lessee constitute rental whether denominated as rental or otherwise elsewhere herein;

D. If Lessee fails to fully perform and comply with each and every condition and covenant of this Lease Agreement, and such failure of performance continues for a period of 30 days after notice thereof;

E. If Lessee vacates or abandons the Premises

F. If the interest of Lessee is transferred, levied upon, or assigned to any other person, firm, or corporation whether voluntary or involuntary except as herein permitted;

21. Remedies In Event of Default. In the event of any default hereunder as set forth in the foregoing section, Lessor is entitled to re-enter and re-take the Premises and exercise all its rights under the laws of the State of North Carolina.

22. Breach. Upon any breach hereof, regardless of what such breach is or if such breach becomes an "event of default," either party is to be reimbursed by the other party for any reasonable attorney's fees incurred in connection with such breach.

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23. Waiver. No failure to exercise any rights hereunder to which Lessor is entitled will be deemed a waiver of the right to subsequently exercise same. Lessee will gain no rights nor become vested with any right to remain in default under the terms hereof by virtue of Lessor's failure to timely assert rights. No waiver of an acceleration of rentals, regardless of how often occurring, which Lessor chooses to ignore by thereafter accepting rental or other performance by Lessee will constitute a waiver of the right to thereafter accelerate rentals.

24. Law Applicable. This Lease is entered into in North Carolina and is to be construed under the laws, statutes, and ordinances of such jurisdiction.

25. Severability. The provisions hereof are independent covenants and should any provision or provisions contained in this Lease be declared by a court or other tribunal of competent jurisdiction to be void, unenforceable or illegal, then such provision or provisions are severable and the remaining provisions remain at Lessor's option to be in full force and effect.

26. Easements, Restrictions and Right of Way. Lessor rents the Premises subject to all easements, restrictions, and right of way legally affecting the Premises.

27. Binding Effect and Complete Terms. The terms, covenants, conditions and agreements herein contained are binding upon and inure to the benefit of and may be enforceable by the parties and their respective heirs, successors, and assigns. All negotiations and agreements of Lessor and Lessee are merged herein. No modification hereof or other purported agreement of the parties is enforceable unless the same is in writing and signed by the parties.

28. Rental Payments. All rental payments, unless otherwise designated in writing, are to be made to Lessor at such place as Lessor may from time to time designate in writing.

29. Lessor's Performance of Lessee's Covenants. Should Lessee, after seven days' notice from the Lessor, fail to do any of the things required to be done by it under the provisions of this Lease, Lessor, in addition to any and all other rights and remedies, may (but is not required to) do the same or cause the same to be done, and the amount of any money expended by Lessor in connection therewith constitutes additional rental due from Lessee to Lessor payable as rental on the next date for payment of rentals following the expenditure.

30. Covenant of Title and Quiet Enjoyment. Lessor covenants and warrants to Lessee that it has full right and lawful authority to enter into this Lease for the term hereof and provided Lessee is not in default hereunder, and no one claiming through Lessor will disturb Lessee's quiet and peaceable enjoyment of the Premises.

31. Construction. This Lease Agreement is not to be construed more strictly against either party regardless of which party is responsible for the preparation of the same.

32. Notice. Any notice to a party to this lease is to be given at the following address:

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Lessor:

City of Lenoir
Attn: City Manager
Post Office Box 958
Lenoir, North Carolina 28645
Shildebran@CI.LENOIR.NC.US

Lessee:

Bernhardt Transportation, LLC
Attn: Kevin McDougall, General Counsel
1839 Morganton Blvd.
Lenoir, North Carolina 28645
Kevinmcdougall@bernhardt.com

IN WITNESS WHEREOF, the parties have signed and sealed this Lease Agreement, this day and year first above written.

LESSOR:

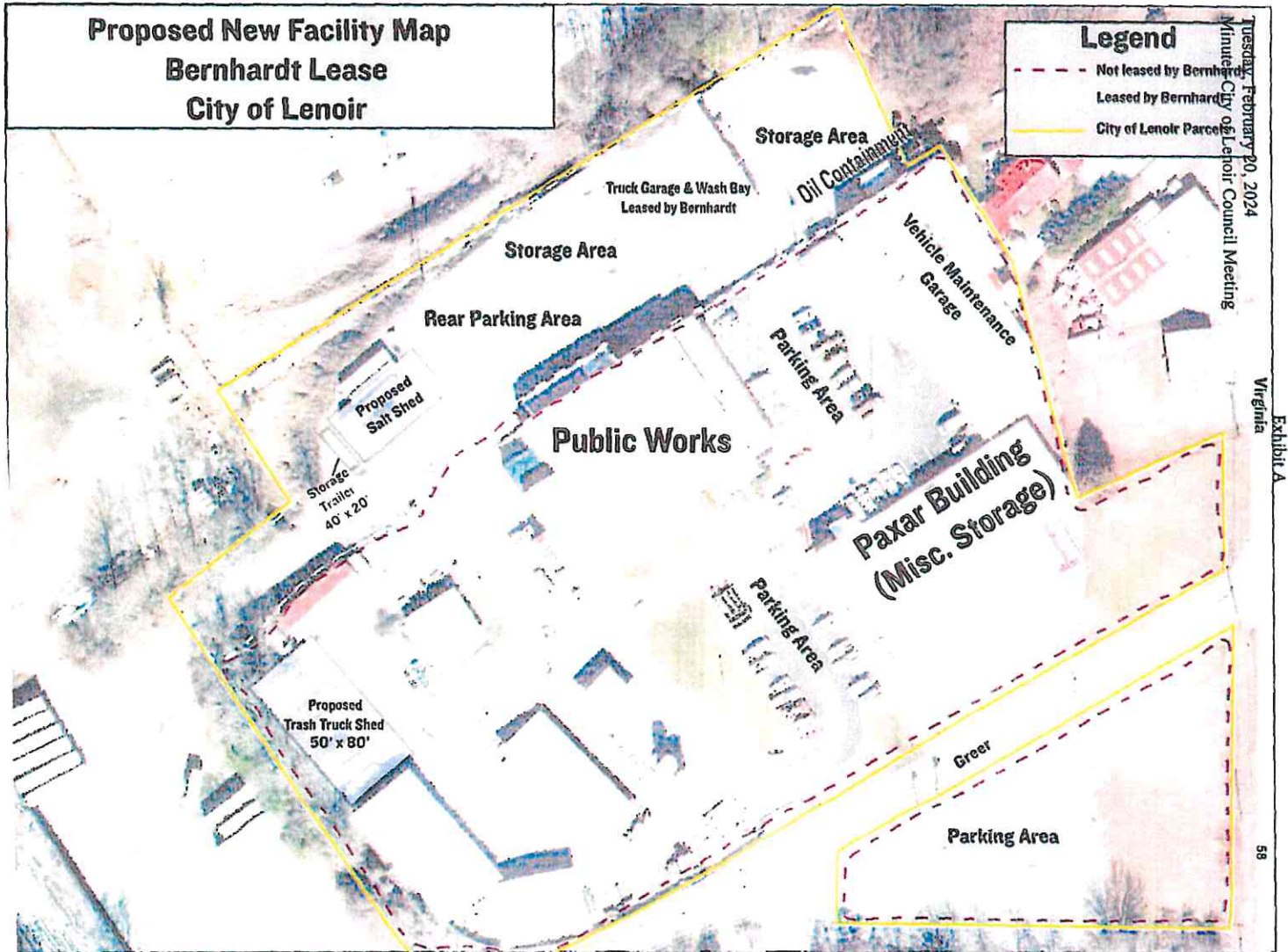
CITY OF LENOIR, (SEAL)
a North Carolina municipal corporation

By: _____
Scott Hildebran, Manager

LESSEE:

BERNHARDT TRANSPORTATION, LLC (SEAL)

By: _____
Title:



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Exhibit B

Salt Shed: (Approx. 20' x 30')

- Wood Pole and Roof Framing construction
- Sloped Flat Roof
- 7/16" OSB Roof Materials
- High Temp Ice & Water Shield
- Galvalume Roofing and Trim Materials
- Exterior Aluminum Siding Materials on (3) sides for weatherproofing
- (9) 72" x 24" x 24" Concrete Blocks along back wall for scooping salt

Trash Truck Shed: (Approx. 50' x 80')

- Steel Pole and Truss construction
- 7/16" OSB Roof Materials
- High Temp Ice & Water Shield
- Galvalume Roofing and Trim Materials

Exclusions:

- Concrete and/or asphalt floors
- Lighting and/or Power Circuits
- Site Grading
- Gutters and/or downspouts

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**RESOLUTION OF INTENT TO AUTHORIZE THE LEASE OF A PORTION OF
PROPERTY LOCATED AT 510 GREER PLACE SW (DESCRIBED IN BOOK 1094, AT
PAGE 1690) TO BERNHARDT TRANSPORTATION, LLC**

WHEREAS, the City of Lenoir ("City") owns a tract of land, approximately 7.89 acres, with various structures, warehouses and buildings located at 510 Greer Place SW in Lenoir (the "Property"); and

WHEREAS, Bernhardt Transportation, LLC, a North Carolina corporation, has leased a portion of the Property for over the past 30 years on an annual basis, and desires to continue its leasing of a portion of the Property for a parking area, a truck garage, a wash bay, and related uses; and

WHEREAS, North Carolina General Statute §160A-272 gives the City the right and option to lease the Property upon such terms and conditions as it determines provided it also determines the Property will not be needed for the term of the lease and upon resolution adopted at a regular council meeting following thirty 30 days' public notice; and

WHEREAS, the proposed lease would be for a 10-year term, commencing on January 1, 2025, at a rental rate of \$1,500 per month and ending December 31, 2034; and

WHEREAS, the City will not otherwise need the Property during the proposed term; and

WHEREAS, in consideration of leasing the Property, Bernhardt Transportation, LLC has agreed to lease the property for the aforementioned purpose and pay water and sewer expenses incurred, and the conditions outlined in the attached lease of the Property; and

NOW THEREFORE, BE IT RESOLVED by the City Council for the City of Lenoir that it hereby authorizes the necessary publication of the 30-day lease notice of the above referenced Property as follows: The City Council is considering a lease of the Property described above to Bernhardt Transportation, LLC upon the terms and conditions set forth herein and described in the attached lease, and authorizes the City Manager, or his Designee, to execute all instruments necessary for City Council consideration of the lease.

Adopted this 20th day of February, 2024.

Joseph L. Gibbons, Mayor

Shirley M. Cannon, City Clerk

**CITY OF LENOIR
COUNCIL ACTION FORM**

- I. Agenda Item: Authorize the City Attorney and City Manager to proceed with executing the necessary documents to satisfactorily acquire:

#1 - a 0.235748-acre lot (NCPIN 2749655863, Parcel ID 06- 13-3-21) located on College Avenue from College Avenue Baptist Church. The church owns 9/10th of the parcel, with all heirs but one signing over their interest in the lot. It is anticipated that the balance of the parcel can be acquired for \$1,000.

#2 - a 0.234321-acre lot (NCPIN 2749656730, Parcel ID 06- 13-3-22) located on Spainhour Street from College Avenue Baptist Church, and

at a total purchase price for both parcels will not exceed \$11,200.

- II. Background Information: The City owns a 0.457019-acre tract adjacent to these two parcels located along College Avenue. All of these tracts are located across the street from Mack Cook Stadium and can provide land for future public off-street parking, as recommended in the recently adopted Lenoir Downtown Master Plan.

College Avenue Baptist Church owns a 0.234321-acre lot (NCPIN 2749656730, Parcel ID 06- 13-3-22) located on Spainhour Street. The Church also owns a 9/10th interest in 0.235748-acre lot (NCPIN 2749655863, Parcel ID 06- 13-3-21) located on College Avenue, with all heirs but one signing over their interest in the lot.

A tentative agreement has been reached with College Avenue Baptist Church to purchase both parcels for \$10,200, their current tax value, subject to the approval of City Council. It is anticipated that the balance of the College Avenue parcel from an heir can be acquired for \$1,000.

The total purchase price for both lots will not exceed \$11,200.

A tax map of all the tracts are enclosed for your information.

- III. Staff Recommendation: 1) Approval of purchase of a 0.235748-acre lot (NCPIN 2749655863, Parcel ID 06- 13-3-21) located on College Avenue for \$5,100 (the current tax value). The church owns 9/10th of the parcel, with all heirs but one signing over their interest in the lot. It is anticipated that the balance of the parcel can be acquired for \$1,000. 2) Approval of purchase of a 0.234321-acre lot (NCPIN 2749656730, Parcel ID 06- 13-3-22) located on Spainhour Street for \$5,100 (the current tax value). 3) Authorize the City Attorney and City Manager to proceed with the executing the necessary documents to satisfactorily acquire the parcels at a purchase price not to exceed \$11,200. The City anticipates the properties will be used for public parking.

- IV. Reviewed By:

City Attorney:
City Manager: