

**REGULAR MEETING  
GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY  
November 15, 2019**

The Greater Asheville Regional Airport Authority ("Authority") met on Friday, November 15, 2019 at 8:30 a.m. in the Conference Room at the Authority's Administrative Offices, Asheville Regional Airport ("Airport"), 61 Terminal Drive, Suite 1, Asheville, NC 28732.

**MEMBERS PRESENT:** Matthew C. Burrell, Chair; K. Ray Bailey, Vice-Chair; George H. Erwin, Jr.; Brad Galbraith; and Carl H. Ricker, Jr.

**MEMBERS ABSENT:** Stephanie Pace Brown; Thomas M. Apodaca

**STAFF AND LEGAL COUNSEL PRESENT:** Cindy Rice, Authority Legal Counsel; Lew Bleiweis, Executive Director; Michael Reisman, Deputy Executive Director; Kevan Smith, Chief of Public Safety; Tina Kinsey, Director of Marketing and Public Relations; Janet Burnette, Director of Finance and Accounting; Shane Stockman, IT Director; John Coon, Director of Operations and Maintenance; Lisa Jump, Director of Administration and Human Resources; Jared Merrill, Airport Planning Manager; Samuel Sales, Public Safety Captain; Beauford Rice, Maintenance Technician; and Ellen Heywood, Clerk to the Board

**ALSO PRESENT:** Patrick Pettit, Haskell; Dan Mullinix, Gould Killian; Jon McCalmont, Parrish & Partners; Hunter Boniface; Parrish & Partners; Charles Buckland, Signature Flight Support; Jeb Blackwell, AECOM; Paul Jenkins; AECOM; James Moose, Avcon; Jeff Kirby, Parrish & Partners; Bridget Cox; Signature Flight Support; Paul Puckli, CHA Consulting; Nick Loder, RS&H

**CALL TO ORDER:** The Chair called the meeting to order at 8:30 a.m.

**SERVICE AWARD PRESENTATION:** The Chair recognized Beauford Rice with a service award and gift for his 10 years of service with the Authority.

**PRESENTATIONS:** None

**FINANCIAL REPORT:** The Director reported on the airport activity for the month of September which included enplanements, aircraft operations, and general aviation activity. Janet Burnette reported on the financial activity for the month of September.

**CONSENT ITEMS:** The Chair stated that Consent Item C, Approval of the Greater Asheville Regional Airport Authority October 11, 2019 Closed Session Minutes, would be pulled for review in Closed Session.

**A. Approval of the Greater Asheville Regional Airport Authority October 11, 2019 Regular Meeting Minutes:** Mr. Erwin moved to approve the Greater Asheville Regional Airport Authority October 11, 2019 Regular Meeting Minutes. Mr. Bailey seconded the motion and it carried unanimously.

**B. Ratification of Easement with Duke Energy:** Mr. Galbraith moved to approve the Ratification of Easement with Duke Energy. Mr. Erwin seconded the motion and it carried unanimously.

**OLD BUSINESS:** None

**NEW BUSINESS:**

**A. Presentation of the Annual Audited Financial Report for Fiscal Year 2018/2019:** Janet Burnette advised the Board that the audited financial statements for fiscal year ended June 30, 2019 have been submitted to the Local Government Commission (LGC). Ms. Burnette introduced Dan Mullinix with Gould Killian CPA Group, the firm that completed the audit. Mr. Mullinix stated that his firm issued an unmodified (clean) opinion with reasonable assurance that the financial statements were free from material misstatement. Mr. Mullinix briefly spoke about GASB No. 87 with regard to leases and how these will need to be reported moving forward. Also reviewed were the key statistics of the audit including the cash and investments, net position, operating income and depreciation expense as well as debt service. Mr. Mullinix advised the Board that while the audited financials still need LGC approval, he did not foresee any issues.

Mr. Bailey moved to accept the 2018/2019 Audit Report as presented by staff. Mr. Ricker seconded the motion and it carried unanimously.

**B. Adoption of the Asheville Regional Airport Five-Year Capital Improvement Plan (CIP) for FY 2021-2025:** Michael Reisman remarked that the CIP is a requirement for all airports by the FAA and helps the FAA, NCDOT and Authority staff plan for projects already underway or planned in the future. Mr. Reisman stated that the combined totals for FY2021-2025 amount to a little over \$300,000,000 and include apron expansions and improvements, roadway and parking lot rehabilitation as well as the terminal expansion.

Mr. Galbraith moved to adopt the Asheville Regional Airport Five Year Capital Improvement Plan for FY 2021-2025. Mr. Erwin seconded the motion and it carried unanimously.

**C. Approve Award of Contract to Patton Construction Group for Terminal Building – Phase I Utility Modernization:** Michael Reisman informed the Board that three bids for the Utility Modernization project were received the second time the project was put out for bid. Patton Construction Group submitted the lowest bid in the amount of \$1,868,160.00. The project will be funded with airport funds and is included within the \$25,000,000 budgeted for the terminal building expansion in the current fiscal year budget.

Mr. Erwin moved to approve award of contract to Patton Construction Group for the Phase I Utility Modernization project in the amount of \$2,054,976.00 (\$1,868,160.00 plus \$186,816.00 allowance) and authorize the Executive Director to execute the necessary documents. Mr. Bailey seconded the motion and it carried unanimously.

**D. Approve Task Order No. 1 for Rental Car Facility Assessment:** Jared Merrill informed the Board that staff is working towards a new agreement with the rental car companies. Mr. Merrill stated that it will be necessary to document details of the current conditions of the rental car facilities to implement improvements as well as requirements for on-going maintenance of the facilities. Task Order No. 1 with CHA provides for the completion of a facility assessment of the rental car service center. The fee to complete the assessment is \$119,913.00 and will be paid for utilizing Customer Facility Charge (CFC) funds. Mr. Merrill further stated that the following budget amendment will be necessary:

BE IT ORDAINED by the Greater Asheville Regional Airport Authority that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2020:

**Section 1.** To amend the appropriations as follows:

**EXPENDITURES:**

	<u>Decrease</u>	<u>Increase</u>
Renewal & Replacement	_____	\$119,913.00
Totals	_____	\$119,913.00

This will result in a net increase of \$119,913.00 in the appropriations. Revenues will be revised as follows:

**REVENUES:**

	<u>Decrease</u>	<u>Increase</u>
CFC Funds	_____	<u>\$119,913.00</u>
Totals	_____	<u>\$119,913.00</u>

**Section 2.** Copies of this budget amendment shall be furnished to the Clerk to the Greater Asheville Regional Airport Authority, and to the Budget Officer and to the Finance Officer for their direction.

Adopted this 15<sup>th</sup> day of November 2019.

\_\_\_\_\_  
Matthew Burril, Chair

Attested by:

\_\_\_\_\_  
Ellen Heywood, Clerk to the Board

The Board questioned if the lease agreement with the rental car companies includes a provision to charge back the rental car companies for maintenance that they failed to complete. The Director stated that language to this effect can be included in the lease agreement and the airport does charge back the rental car companies. Currently the CFC funds that are currently being collected are being used to pay down the debt service on the parking garage, however, some of those funds could be used for facility improvements.

Mr. Ricker moved to approve Task Order No. 1 with CHA in the amount of \$119,913.00, authorize the Executive Director to execute the necessary documents, and amend the FY 2019/2020 budget by adopting the budget ordinance amendment presented by staff. Mr. Galbraith seconded the motion and it carried unanimously.

**E. Approve Award of Contract to Chatham Civil Contracting, LLC for Parking Lot Construction Project:** Michael Reisman provided a brief summary of the issues staff experienced with bidding this project over the last few months. At the last bid opening, Chatham Civil Contracting, LLC submitted the lowest responsive bid in the amount of \$1,870,432.90 and \$34,898.00 for Add Alternate No. 1 for a total bid of \$1,905,330.90. Mr. Reisman further stated that an additional cost of \$92,930.00 will be needed for equipment and infrastructure which includes credit card equipment, gate arms, bus shelters, etc. A review of the areas for the additional parking was provided.

Mr. Reisman stated that the project will be funded with airport funds and will require the following budget amendment:

BE IT ORDAINED by the Greater Asheville Regional Airport Authority that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2020:

**Section 1.** To amend the appropriations as follows:

**EXPENDITURES:**

	<u>Decrease</u>	<u>Increase</u>
Capital Improvements		\$2,188,793.90
Totals	<u>\$0</u>	<u>\$2,188,793.90</u>

This will result in a net increase of \$2,188,793.90 in the appropriations. Revenues will be revised as follows:

**REVENUES:**

	<u>Decrease</u>	<u>Increase</u>
Transfer from GARAA Cash		\$2,188,793.90
Totals		<u>\$2,188,793.90</u>

**Section 2.** Copies of this budget amendment shall be furnished to the Clerk to the Greater Asheville Regional Airport Authority, and to the Budget Officer and to the Finance Officer for their direction.

Adopted this 15<sup>th</sup> day of November 2019.

\_\_\_\_\_  
Matthew Burrell, Chair

Attested by:

\_\_\_\_\_  
Ellen Heywood, Clerk to the Board

Mr. Bailey moved to approve award of contract to Chatham Civil Contracting, LLC for the parking lot construction project in the amount of \$2,095,863.90 (\$1,905,330.90 plus \$190,533.00 allowance), plus equipment and infrastructure costs of \$92,930.00, authorize the Executive Director to execute the necessary documents, and amend the FY2019/2020 budget by adopting the budget ordinance amendment presented by staff. Mr. Ricker seconded the motion and it carried unanimously.

**DIRECTOR'S REPORT:** The Director advised the Board that he had a few additional items to include that were not on the agenda.

**A. Status of State Grant:** The Director reported that the Governor signed the mini transportation budget that provides approximately \$78 million for the 10 commercial airports in the state. Funds are expected to be released after the first of the year and Asheville should receive approximately \$5 million each year. These funds are now a recurring item and should be in the state's budget each year.

**B. Holiday Parking Update:** Shuttle services will start the week of Thanksgiving. A temporary lot across NC280 with some temporary fencing will be constructed. Passengers can pre-pay at the main parking lot exit booth and the shuttle will be available for the passengers.

**C. United Way:** The Director was pleased to report that 62% of Authority employees pledged to the United Way campaign this year, raising \$12,312.00 which surpassed the goal of \$11,900 set by United Way.

**D. Marketing Awards:** The Director reported that ACI's annual Marketing conference was recently held and Asheville received two awards: Honorable Mention for Overall Marketing Programs and Honorable Mention for Overall Public Relations Programs.

**E. Mission Health Grant:** As part of the grant Mission Health received from the North Carolina Appalachian Regional Commission, an onsite health clinic for employees was implemented and is held weekly for two hours through the month of January.

**F. Parking Tickets:** The City of Asheville has agreed in principle to process the parking tickets issued at the airport, but it needs City Council approval. City staff is working it through the ordinance process. The City will keep the revenue.

**G. ATC Tower:** The Director reported that the FAA has begun the process of looking for a new tower site. The Director and staff will travel to New Jersey in January to visit the FAA's lab where a 3D working model of the airport will be used to determine possible site locations.

**H. Parking Update:** To help with some complaints and confusion experienced by passengers with regard to the options available for parking, staff is implementing a color-coded system to differentiate the parking lots. A colored strip may also be painted in the drive lane of the parking lots to coincide with the signage that will be erected.

**I. ACI World Governing Board (WGB) Meeting:** The Director summarized the topics discussed during a WGB meeting he attended the previous month in Colombia. The Director further stated that ACI had a seat at the tri-annual assembly of International Civil Aviation Organization (ICAO), an agency of the United Nations that sets standard and recommendations for practices and policies globally. ACI is the only trade association from the airport side that has a seat with ICAO.

**INFORMATION SECTION:** No comments

**PUBLIC AND TENANTS COMMENTS:** None

**CALL FOR NEXT MEETING:** The Chair stated that the next regular meeting of the Authority Board will be held on December 13, 2019.

**AUTHORITY MEMBER REPORTS:** None

**CLOSED SESSION:** At 9:31 a.m. Mr. Bailey moved to go into Closed Session Pursuant to Subsections 143-318.11 (a)(3) and (4) of the General Statutes of North Carolina to Consult with Legal Counsel in Order to Preserve the Attorney-Client Privilege and to Discuss Matters Relating to the Location and/or Expansion of Industries or Other Businesses in the Area Served by the Greater Asheville Regional Airport Authority, Including Agreement on a Tentative List of Economic Development Incentives that may be Offered by the Greater Asheville Regional Airport Authority in Negotiations. Mr. Erwin seconded the motion and it carried unanimously.

The Chair indicated they would break for five minutes at which time the Board would resume in closed session.

Open Session resumed at 11:06 a.m.

**GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY NOVEMBER 15, 2019**

**CLOSED SESSION MINUTES:** Mr. Bailey moved to seal the minutes for the Closed Session just completed and to withhold such Closed Session minutes from public inspection so long as public inspection would frustrate the purpose or purposes thereof. Mr. Erwin seconded the motion and it carried unanimously.

**GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY OCTOBER 11, 2019**

**CLOSED SESSION MINUTES:** Mr. Bailey moved to approve the minutes for the October 11, 2019 Closed Session and to seal and withhold the minutes for the October 11, 2019 Closed Session from public inspection so long as public inspection would frustrate the purpose or purposes thereof. Mr. Galbraith seconded the motion and it carried unanimously.

**SETTLEMENT OF CLAIMS WITH GLF CONSTRUCTION:** Ms. Rice reported that all claims asserted by GLF Construction, Inc., the contractor for Phase 3 of the Airfield Re-development Project, have been resolved, as have the Authority's claims for liquidated damages against GLF. GLF completed all of the required remedial work, and resolution was in accordance with the Board's prior instructions to Administration and a Settlement Agreement has been executed. Ms. Rice reviewed the terms of the settlement and requested that the following Settlement Agreement be incorporated into the minutes:

[INTENTIONALLY LEFT BLANK]



## MUTUAL RELEASE AND SETTLEMENT AGREEMENT

This is a Mutual Release and Settlement Agreement ("Settlement Agreement") between GLF Construction Corporation (the "Contractor"), and Greater Asheville Regional Airport Authority (the "Owner") (collectively the "Parties"). The Settlement Agreement is effective once it is executed by all Parties ("Effective Date").

### RECITALS

- A. WHEREAS, the Owner is the owner and operator of the Asheville Regional Airport (hereinafter "the Airport");
- B. WHEREAS, on or about March 15, 2016, the Owner and the Contractor entered into a Contract ("Contract") whereby the Contractor agreed to serve as the General Contractor and supply labor, material, and equipment to Owner in connection with a construction project at the Airport known as the Permanent Runway 17-35 Construction, Bid Package 3, Site Preparation and Nav aids (the "Project").
- C. WHEREAS, a dispute arose between the parties regarding work performed by the Contractor and regarding payments made by the Owner, pursuant to the Contract.

Notwithstanding their dispute, the Contractor and the Owner now wish to resolve the dispute and close out the Project in accordance with the terms of this Settlement Agreement. The compromises inherent in this Settlement Agreement are in no way intended as an admission by either party, and by entering into this Settlement Agreement, neither Party is making an admission of liability towards any other Party involved in this Settlement Agreement.

### AGREEMENT

For the foregoing reasons and others, the Contractor and the Owner, for good and sufficient consideration, the sufficiency of which is acknowledged, hereby agree as follows:

1. *Payment.* The Owner will pay to the Contractor the sum of \$659,903.41 within fifteen (15) business days of the date of the execution of this Settlement Agreement. Owner will pay to Contractor an additional \$100,000 in held retainage within ten (10) days of Contractor's completion of any and all punch list items. This total payment (the "Settlement Amount") of \$759,903.41 represents all amounts owed and to be paid to Contractor in connection with the Project, and the Contractor hereby acknowledges that upon receipt of the full \$759,903.41 no further amounts are owed by the Owner. The Parties have agreed that the full and final punch list will be prepared by the Owner and provided to the Contractor after the flight check for the new permanent runway is completed.

2. *Release by Contractor.* Upon receipt of and in exchange for the Settlement Amount in good funds, and without any further action on its part, Contractor, for itself, its agents, its representatives, its affiliates, its successors and assigns, its shareholders, its directors, its officers, its employees, its attorneys, its bonding company and its insurers, release and forever discharge the Owner, its agents, its representatives, its affiliates, its successors and assigns, its members, its Board, its officers, its employees, its attorneys, its corporate and individual sureties, and its insurers from any and all liens (including liens against the real property on which the Project is located) claims, demands, costs, liabilities, actions, and causes of action, of every nature, whether in law or in equity, known or unknown, suspected or unsuspected, that exist as of Effective Date of this Settlement Agreement and arise out of or relate in any way to the Contract, the Project or the dispute stated above, save and except for any breach of the Owner's obligations in this Settlement Agreement. The Parties agree that there are no additional unnamed third-party beneficiaries of this Settlement Agreement, and that nothing in this Settlement Agreement shall be construed as a release or waiver by Contractor of any of its claims or rights, whether past or future, against any of Contractor's subcontractors.
3. *Release by Owner.* Owner agrees that conditional upon: (1) the execution of the Settlement Agreement by all Parties and (2) the payment of the Settlement Amount, and without any further action on its part, Owner for itself, its agents, its representatives, its affiliates, its successors and assigns, its members, its Board, its employees, its attorneys, release and forever discharge Contractor, its agents, its representatives, its successors and assigns, its shareholders, its directors, its officers, its employees, its attorneys, its bonding company, and insurers from all known breach of contract and negligence claims, demands, costs, liabilities, actions, and causes of action, that exist as of the Effective Date of this Settlement Agreement and arise out of or relate in any way to the Contract, the Project or the dispute stated above. The Parties agree that the foregoing release does not alter, impact or limit, in any way: the ongoing warranty obligations Contractor has to Owner; Contractor's ongoing indemnity obligations and other obligations as specified in this Agreement; or Owner's rights with respect to unknown claims, demands, costs, liabilities, actions or causes of action in equity, resulting from the Contractor's breach of contract, or resulting from the negligent acts or omissions of Contractor, its agents, employees, subcontractors or suppliers on the Project.
4. *No Impact on Warranty Claims.* The Parties hereby agree that nothing contained in this Settlement Agreement shall eliminate, reduce, or modify, in any way, the Contractor's (or any of its subcontractors') ongoing obligations and responsibilities pursuant to any warranties pursuant to the Contract.
5. *Cooperation.* The Owner agrees that in the event that Contractor requires document production or testimony regarding the Project in order to allow Contractor to pursue its claims against any of its subcontractors, Owner will reasonably cooperate in providing the necessary documents and testimony to substantiate the work performed

and the value of the Contactor's claim. Each party shall perform all acts and shall execute and deliver all additional documents reasonably necessary to carry out the provisions of this Settlement Agreement.

6. *Entire Agreement.* This Settlement Agreement contains the entire understanding between the Parties with respect to the subject matter and therefore supersedes all prior agreements, written or oral, with respect to the subject matter.
7. *Binding on Successors.* This Agreement shall be binding upon and shall inure to the benefit of the successors, heir and assigns of the Parties hereto.
8. *Mutual Non-Disparagement.* The Parties agree to refrain from any disparagement, criticism, defamation or slander of the other.
9. *Severability.* If any court subsequently determines that one or more of the provisions of this Settlement Agreement are unlawful, then the provisions deemed unlawful, and only those provisions, shall be rendered void and shall be considered severed from the other terms and conditions of this Settlement Agreement.
10. *Effectiveness:* The Parties agree that in any dispute or litigation which arises out of or relates to the enforcement of any or all provisions of this Settlement Agreement, a fully-executed copy of this Settlement Agreement shall be deemed authentic and admissible in any court of law or dispute resolutions proceeding. Further, the Parties agree that the Settlement Agreement shall be valid and enforceable even if the original signature of one party was made on a separate page than the original signature of another party.
11. *Investigation of Subject Matter.* The parties agree that they have executed this Settlement Agreement based on their own knowledge and their own investigation of the facts, and that this Settlement Agreement is not executed in reliance upon any statement of any person connected with, representing or represented by any of the entities hereby released.
12. *Binding Effect.* This Settlement Agreement is binding upon and shall inure to the benefit of the parties hereto and their assignees and successors in interest.
13. *Contractual Terms.* The terms of this Settlement Agreement are contractual and not merely a recital. This Settlement Agreement may not be altered or amended except by an agreement in writing duly executed by both of the parties hereto.
14. *Attorney's Fees.* The Parties agree that each party shall be responsible for its own costs, fees and expenses incurred in connection with the prosecution, defense and settlement of this dispute. If any action is filed to enforce any provision of this Settlement Agreement, the prevailing party in such dispute as determined by the adjudicator shall be entitled to recover from the other party all reasonable fees, costs,

and expenses including, without limitation, reasonable fees and expenses of attorneys and accountants, including all fees, costs, and expenses of appeals.

15. *Governing Law and Injunctive Relief.* This Settlement Agreement shall be interpreted, construed, and enforced according to the laws of the State of North Carolina

16. *Indemnity.* Contractor agrees to indemnify and hold harmless the Owner and its present and future members, officers, agents and employees, from and against all liabilities, claims, damages, causes of action, losses, costs and expenses, including, but not limited to, attorney's fees, arising out of or resulting from claims for non-payment, whether at law or in equity, asserted by any of the subcontractors that worked for Contractor on the Project or suppliers that provided materials to the Project.

17. *Warranties.*

- a. Each party warrants that it has made no prior assignment of its claims against the other.
- b. Each party, and the individual signing this Settlement Agreement on its behalf, warrants to the other party that the individual signing this Settlement Agreement on the party's behalf is authorized to do so.
- c. Each party warrants that it has had the opportunity to review this Settlement Agreement, negotiate it, and discuss it with counsel and any other parties it deems appropriate. As a result, each party agrees that it is not entitled to construe the Settlement Agreement against the other as the drafter.
- d. Each party agrees to defend, indemnify, and hold the other harmless from any claims that arise as a result of a breach of these warranties.

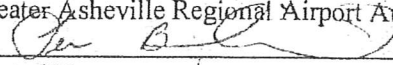
AGREED:

GLF Construction Corporation.

Printed Name: \_\_\_\_\_

Date Executed by GLF Construction Corporation: \_\_\_\_\_

Greater Asheville Regional Airport Authority

  
\_\_\_\_\_

Printed Name: Lew BLEIWEL

Date Executed by GARAA: 10-17-19

and expenses including, without limitation, reasonable fees and expenses of attorneys and accountants, including all fees, costs, and expenses of appeals.

15. *Governing Law and Injunctive Relief.* This Settlement Agreement shall be interpreted, construed, and enforced according to the laws of the State of North Carolina

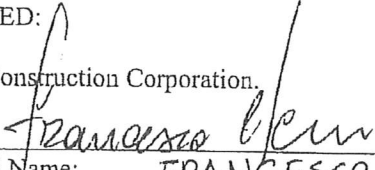
16. *Indemnity.* Contractor agrees to indemnify and hold harmless the Owner and its present and future members, officers, agents and employees, from and against all liabilities, claims, damages, causes of action, losses, costs and expenses, including, but not limited to, attorney's fees, arising out of or resulting from claims for non-payment, whether at law or in equity, asserted by any of the subcontractors that worked for Contractor on the Project or suppliers that provided materials to the Project.

17. *Warranties.*

- a. Each party warrants that it has made no prior assignment of its claims against the other.
- b. Each party, and the individual signing this Settlement Agreement on its behalf, warrants to the other party that the individual signing this Settlement Agreement on the party's behalf is authorized to do so.
- c. Each party warrants that it has had the opportunity to review this Settlement Agreement, negotiate it, and discuss it with counsel and any other parties it deems appropriate. As a result, each party agrees that it is not entitled to construe the Settlement Agreement against the other as the drafter.
- d. Each party agrees to defend, indemnify, and hold the other harmless from any claims that arise as a result of a breach of these warranties.

AGREED:

GLF Construction Corporation.

  
Printed Name: FRANCESCO SENIS, PRESIDENT & CEO

Date Executed by GLF Construction Corporation: October 16, 2019

Greater Asheville Regional Airport Authority

Printed Name: \_\_\_\_\_

Date Executed by GARAA: \_\_\_\_\_

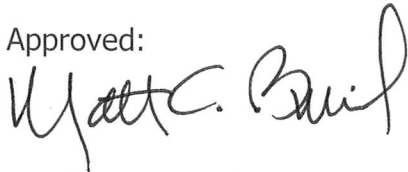
**ADJOURNMENT:** Mr. Erwin moved to adjourn the meeting at 11:10 a.m. Mr. Galbraith seconded the motion and it carried unanimously.

Respectfully submitted,



Ellen Heywood  
Clerk to the Board

Approved:



Matthew C. Burril  
Chair