

The Seneca Planning Commission met on Monday, July 19, 2021, at 6:00 p.m. in the Council Chambers at City of Seneca. Members present included Mr. Barry Duvall, Chair, Mr. Ted Durham Jr., Mr. Keith Hart, Vice Chair, Mr. John Gillespie, and Mr. Matthew Durham. Also present, Mr. Edward Halbig, Director, and Ms. Tracy Chapman, Zoning Administrator and other interested persons listed in minute book. The press and public were duly notified as required by law. Mr. Drew Merck was absent.

Mr. Duvall opened the meeting.

OPENING

Motion made by Mr. Durham to approve minutes as submitted.

**MOTION-
MINUTES**

SECOND made by Mr. Gillespie

AYE Mr. Hart, Mr. Durham Jr., Mr. Duvall, Mr. Durham, and Mr. Gillespie

NAY none

**DOCKET #1
ZA 2021-06**

Ms. Chapman read the application: Docket #1: ZA 2021-06

Mr. Duvall read the procedures.

Mr. Halbig read the staff report. He recommended the resubmittal of PDR zoning, and discussed Section 521.11 of the Official City of Seneca Ordinance concerning Administrative Application and Review Procedures for Planned Development.

Mr. Duvall asked if there was anyone who would like to speak in favor of application.

Mr. Chad Kirby the developer for project addressed the board and presented a handout to board. He discussed the intent of the application request and the reason for requesting the rezoning.

Mr. Duvall asked if there was anyone to speak in opposition of application.

There being none.

**MOTION-
To Discuss**

MOTION made by Mr. Hart to discuss.

SECOND made by Mr. Gillespie

AYE Mr. Hart, Mr. Durham Jr., Mr. Duvall, Mr. Durham, and Mr. Gillespie

NAY none

Mr. Hart asked for clarification on interior streets.

Mr. Kirby stated the original plans did have interior homes, lots, and streets. He discussed "eyebrow" streets instead due to SCDOT requirements for fewer driveway access onto streets.

Mr. Duvall asked if infrastructure cost was an issue.

Mr. Kirby stated yes. SCDOT and DHEC regulations and requirements will be very costly.

Mr. Duvall discussed the present PDR zoning and that it gave the city a plan for the development. He asked what issues would arise if the zoning was changed to R-6 or to a new PDR zoning.

Mr. Halbig discussed the different buffering requirements for each zoning, such things as common area, and green spaces. He discussed the modification requirements when going from R-6 zoning to a PD-R zoning. He stated that while in discussions with Mr. Kirby their might have been some miscommunications of which zoning direction staff wanted them to go. Mr. Halbig stated a resubmittal of PDR would be a better solution. He discussed the requirements of SC DHEC.

Mr. Kirby discussed the DHEC concerns, resubmittal of plans, including drainage. He stated to resubmit plans with the PDR zoning it would be very expensive, but with R-6 zoning the project would not be as costly. He discussed the reasons for requesting the R-6 zoning.

Mr. Duvall discussed his concern was a possible 38 lots and a need for a basin to catch runoff.

Mr. Kirby discussed the basin and only having a 50-foot minimum of road frontage in R-6. He stated there would be no way to fit 38 lots due to not having enough road frontage to support.

Mr. Halbig stated that flag lots have always been allowed when not meeting minimum requirements for R-6 and in all zoning districts. It is not a road width it's a width of the property where house is being built.

Mr. Duvall asked staff what the adjacent properties are zoned.

Mr. Halbig stated R-10 single family and NC neighborhood commercial.

Mr. Hart asked if driveways would be allowed off eyebrow streets.

Mr. Halbig stated it would take the driveway control away from SCDOT. They would create two encroachments points for however many houses and the eyebrow streets would be private. Mr. Halbig stated eyebrow streets were not a facet to R-6 zoning and there has been a lot of discussion regarding this being a means to bypass DOT regulations, but not a requirement of R-6.

Discussion followed.

Mr. Hart asked if Mr. Kirby could present a better layout to visualize the homes and driveways.

Mr. Duvall agreed. The board would have a better understanding how the number of homes and driveways would fit regulations as well as different zoning destinations and what is allowed.

Mr. Halbig stated that the board didn't need to try and visualize the layout, that is for the developer to do. He discussed a block of R-6 zoning being suitable where you have different mix of zoning surrounding property.

Mr. Durham stated that having a PDR zoning is a safe zoning and to have it brought back to the board and asked to be changed, is going to be a difficult decision by the board to use a zoning classification that will be a lot less restrictive.

Discussion followed regarding lot size and units.

Mr. Duvall discussed his concerns.

Mr. Durham asked if it benefited the city to leave it zoned PD-R.

Mr. Duvall stated it benefited the board. It gives a true guideline as to what is going to go into location.

Mr. Hart discussed the number of homes.

Mr. Gillespie asked for clarification on driveways.

Mr. Kirby discussed lots, the number of driveways allowed onto streets, and the eyebrow streets.

Mr. Durham asked if there was an option to table and give board more time to review.

Mr. Halbig stated yes.

Mr. Duvall asked staff if the application were tabled till next month would that give staff and the developer enough time to bring a draft or an overlay of the home, lots, and driveway plan and what would be needed to zone property PD-R and a study of what R-10 zoning would work like. He asked for those minimum requirements and bring those to next month's meeting.

Mr. Halbig stated yes. He discussed all that was requested from developer in previous PDR zoning request and will provide to board.

Mr. Duvall asked Mr. Kirby if he could provide a mockup of his intentions with R-6 and R-10 zoning.

Mr. Kirby stated yes, he could provide information to board.

MOTION made by Mr. Durham to table application ZA 2021-06 as submitted from PDR to R-6 zoning until planning staff and developer provide more information.

SECOND made by Mr. Gillespie

AYE Mr. Hart, Mr. Durham Jr., Mr. Duvall, Mr. Durham, and Mr. Gillespie

NAY none

MOTION: Table

SENECA PLANNING COMMISSION

July 19, 2021

Mr. Duvall asked if there was any new business to discuss.

NEW BUSINESS

There being none.

OLD BUSINESS

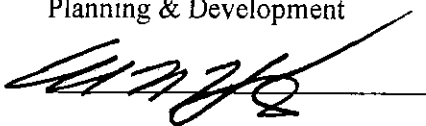
Mr. Duvall asked if there was any old business to discuss.

There being none.

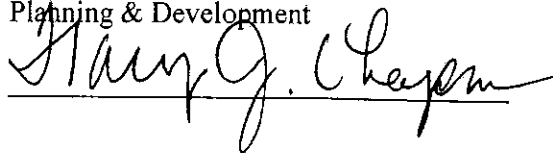
ADJOURN

Meeting adjourned at 6:52 p.m.

Edward Halbig, Director
Planning & Development

A handwritten signature in black ink, appearing to read 'E. Halbig', written over a horizontal line.

Tracy J. Chapman, Zoning Administrator
Planning & Development

A handwritten signature in black ink, appearing to read 'Tracy J. Chapman', written over a horizontal line.

STATE OF SOUTH CAROLINA)
COUNTY OF OCONEE)
CITY OF SENECA)

RESOLUTION

A RESOLUTION AUTHORIZING THE NEGOTIATION, EXECUTION, AND DELIVERY OF LEASE NO. 004-0769051-101 DATED MARCH 19, 2021, (the "Lease"), between City of Seneca, 698 W S 4th Street, Seneca, SC 29678 and VGM Financial Services, a division of TCF National Bank, 1111 West San Marnan Dr, Suite A2 West, Waterloo, IA 50701-8926; and prescribing other details in connection therewith.

WHEREAS, the City of Seneca, SC, (the "Lessee") is a political subdivision duly organized and existing pursuant to the Constitution and laws of the State of South Carolina; and,

WHEREAS, Lessee is duly authorized by applicable law to acquire such items of personal property as are needed to carry out its governmental functions and to acquire such personal property by entering into lease-purchase agreements; and,

WHEREAS, Lessee hereby finds and determines that the execution of a Lease for the purpose of leasing with the option to purchase the property designated and set forth in the Lease is appropriate and necessary to the function and operations of the Lessee; and,

WHEREAS, VGM Financial Services, a division of TCF National Bank, (the "Lessor") shall act as Lessor under said Lease; and,

WHEREAS, the Lease shall not constitute a general obligation indebtedness of the Lessee within the meaning of the Constitution and laws of the State;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF City of Seneca, SC:

Section 1. The Lease, in substantially the form as presently before the governing body of the Lessee, is hereby approved, and the City Administrator of the Lessee, is hereby authorized to negotiate, enter into, execute, and deliver the Lease and related documents in substantially the form as presently before the governing body of the Lessee, with such changes therein as shall be approved by such officer, and which Lease will be available for public inspection at the offices of Lessee.

Section 2. The Lessee shall, and the officers, agents and employees of the Lessee are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the Lessee with respect to the Lease.

Section 3. the Lessee's obligations under the Lease shall be expressly subject to annual appropriation by Lessee; and such obligations under the Lease shall not constitute a general obligation of Lessee or indebtedness of Lessee within the meaning of the Constitution and laws of the State of South Carolina.

Section 4. All other related contracts and agreements necessary and incidental to the Lease are hereby authorized, ratified, and approved.

Section 5. This resolution shall take effect immediately upon its adoption and approval.

CERTIFIED AS TRUE AND CORRECT this 31st day of August 2021.

CITY OF SENECA, SOUTH CAROLINA

Daniel W. Alexander, Mayor

ATTEST:

Kathy Wilkes, Clerk

Approved as to form:

R. Boatner Bowman, City Attorney



Invoice

Date of Invoice: 03/19/2021
Application Number: 441282
Contract Number: 004-0769051-101

To: City of Seneca, SC
698 W.S. 4th Street
Seneca, SC 29678

Advance Payments/Security Deposit

Description	Contract Payment	Sales/Use Tax	Other	Amount
First Payment in Advance	\$1,041.04	\$62.46		\$1,103.50
Last Payment in Advance	\$0.00	\$0.00		\$0.00
			\$0.00	\$0.00
Sub Total				\$1,103.50

Other Fees/Charges

Fee Description	Amount
Other Fees/Charges Sub Total	\$0.00

Invoice Total Due

Invoice Total Due	\$1,103.50
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Remit Payment with 866-465-3149
Completed Documents to: OR
VGM Financial Services, a division of TCF
National Bank
1111 West San Marnan Dr, Suite A2 West
Waterloo, IA 50701-8926



CERTIFICATE OF INCUMBENCY
LEASE NO. 004-0769051-101
DATED AS OF March 19, 2021

I, _____, do hereby certify that I am the duly elected or appointed and acting Clerk/Secretary of City of Seneca, SC (the "Lessee"), a political subdivision duly organized and existing under the laws of the State of South Carolina, and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the Lessee holding the offices set forth opposite their respective names.

NAME	TITLE	SIGNATURE
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, I have duly executed this certificate this ____ day of _____, 20 ____.

Signed: _____

Title: _____

NOTE: The Clerk or Secretary of the Lessee should sign unless that person is also the signor of the documents in which case the President or some other Officer of the Lessee should execute this document.



Turf Equipment Schedule (Fair Market Value Purchase Option)

The "Lease": Equipment Schedule Number 004-0769051-101 Dated March 19, 2021 to Master Lease Number 769051L Dated July 3, 2019

"Lessee": City of Seneca, SC, 698 W.S. 4th Street, Seneca, SC 29678

Contact: Casey Alexander

Phone: (864) 885-2709

"Lessor": VGM Financial Services, a division of TCF National Bank, 1111 West San Marnan Dr, Suite A2 West, Waterloo, IA 50701-8926

This Equipment Schedule (this "Schedule") is entered into pursuant to and incorporates the terms of the Master Lease (except as expressly modified by this Schedule) identified above between Lessor and Lessee (the "Master Lease" and, together with this Schedule, this "Lease"). All capitalized terms not otherwise defined in this Schedule have the meanings assigned in the Master Lease. Upon execution and delivery of this Schedule by Lessor and Lessee, and Lessee's acceptance of the Equipment described below, Lessor leases to Lessee and Lessee leases from Lessor the Equipment on the terms and conditions of this Lease.

SUMMARY OF TERM AND RENTAL PAYMENTS:

Commencement Date	Initial Term	Rent Payment Period	Each Rent Payment	Advance Rent Payment(s)	Interim Rent Daily Factor	Security Deposit
	60 Months	Monthly	\$1,041.04 plus applicable taxes except financed sales tax included in the Final Cost	\$1,041.04 For Installments(s): First	N/A	N/A

EQUIPMENT, PERSONAL PROPERTY, SERVICES AND/OR SOFTWARE (the "Equipment"):

MAXIMUM HOURS:

698 W.S. 4th Street, Seneca, SC 29678:

(1) Smithco Sand Star II & (1) Pre-Owned Jacobsen LF570 together with all attachments and accessories thereto

3000/Term

Each Rent Payment shall be payable in advance on the Commencement Date and on the same day of each subsequent Rent Payment Period for the Initial Term and any renewal term.

The following additional provisions apply to the Equipment and this Lease only:

- So long as this Lease has not been canceled or terminated early and no Event of Default exists, upon expiration of the Initial Term ("Lease End"), Lessee may purchase all, but not less than all, of the Equipment for the fair market value of the Equipment, as mutually determined by Lessor and Lessee, plus all sales and use taxes arising on the sale of the Equipment. To exercise the foregoing purchase option, Lessee must give written notice thereof to Lessor at least 90 days and no more than 120 days prior to Lease End. If Lessee fails to give such notice, or if the parties cannot agree on the Fair Market Value of the Equipment by 60 days before Lease End, then the purchase option shall lapse. If the purchase option lapses, then at least 30 days before Lease End or the end of any renewal term, Lessee must give Lessor notice of its intent to return the Equipment and request return location instructions. If Lessee fails to give such notice, or gives notice but fails to return the Equipment in accordance with Section 5 of the Master Lease, this Lease will automatically renew, at the same rental and other terms set forth in this Lease, for additional successive non-cancelable 1-month terms after the Initial Term until timely written notice of return and proper return of the Equipment is made.
- If Lessee gives timely notice of election to purchase the Equipment as provided in paragraph 1 and fails to timely pay the purchase price, then Lessor may, in its sole discretion, by written notice to Lessee (a) treat the Equipment as purchased and enforce payment of the purchase price, or (b) declare a failure to meet the purchase conditions whereupon Lessee's interest in the Lease and Equipment shall automatically be canceled and Lessee shall return the Equipment in accordance with Section 5 of the Master Lease.
- Upon Lessee's exercise of the purchase option and Lessor's receipt of the purchase price plus applicable sales and use tax and any rent or other amount owing under this Lease, the Equipment will be deemed transferred to Lessee at its then location and, on Lessee's request at such time, Lessor will deliver to Lessee a bill of sale for the Equipment, "WHERE IS, AS IS" WITHOUT ANY WARRANTY AS TO TITLE OR WITH RESPECT TO THE EQUIPMENT, EXPRESS OR IMPLIED.
- If Lessor suffers a Tax Loss because, for federal or state income tax purposes, for any reason, this Lease is not a true lease or Lessor otherwise is not entitled to depreciate the Equipment in the manner Lessor anticipated when entering into this Lease, then Lessee shall pay Lessor, as additional rent hereunder, a lump-sum amount which, after payment of all federal, state, and local income taxes on the receipt of such amount, and using the same assumptions as to tax benefits and other matters Lessor used in originally evaluating and pricing this Lease, will in Lessor's reasonable opinion maintain Lessor's net after-tax rate of return with respect to this Lease at the same level it would have been had such Tax Loss not occurred. Lessor will notify Lessee of any claim that may give rise to indemnity hereunder and will make a reasonable effort to contest any such claim at the administrative level of the applicable taxing authority. Lessor shall control all aspects of any settlement and contest, and Lessee agrees to pay the legal fees and other out-of-pocket expenses thereof even if Lessor's defense is successful. Notwithstanding the foregoing, Lessee will not be obligated to indemnify Lessor for any Tax Loss caused solely by (a) a casualty Loss to the Equipment if Lessee pays the amount required under Section 8 of the Master Lease, (b) Lessor's sale of the Equipment other than on account of an Event of Default, (c) failure of Lessor to have sufficient income to utilize its anticipated tax benefits or to timely claim such tax benefits, and (d) tax law changes, including rates, effective after the Lease begins. Lessee's indemnity obligations hereunder shall survive cancellation and termination of this Lease. For purposes of this paragraph, the term "Tax Loss", means Lessor's loss of, or loss of the right to claim, or recapture of, all or any part of the federal or state income tax benefits Lessor anticipated as a result of entering into this Lease and owning the Equipment; and the term "Lessor" shall include any member of an affiliated group of which Lessor is (or may become) a member if consolidated tax returns are filed for such affiliated group for federal income tax purposes.
- If this Lease terminates or is cancelled prior to the end of the Initial Term, then the Maximum Hours specified above shall be reduced pro rata based on the number of months remaining in the current year or Initial Term, as applicable. If the Lease is renewed or extended, the Maximum Hours allowed during such renewal or extension shall be calculated pro rata based on the number of Maximum Hours specified above and the number of months of such extension or renewal.
- This Schedule may, in Lessor's sole discretion, be delivered and/or reproduced by facsimile, optical scanning or other electronic means ("e-copy") and such e-copy or a printed version thereof shall be enforceable as an original and admissible as such in any court or other proceeding, provided that there shall be only one original of this Schedule and it shall bear the original ink or electronic signature of Lessor and be marked "Original." Each party's electronic signature on this Schedule shall be unconditionally valid and legally enforceable, and each party agrees not to contest the validity or enforceability of any electronic signature (or the authority of the electronic signer to sign). To the extent that this Schedule constitutes chattel paper (as that term is defined by the Uniform Commercial Code), a security or ownership interest intended to be created through the transfer and possession of this Schedule can be done only by the transfer of the "Original" bearing the original ink or electronic signature of Lessor; provided that, if the "Paper Out" process shall have occurred, or if there shall simultaneously exist both the "Paper Out" printed version and an electronic version of this lease, then the "Paper Out" printed version of such document bearing the legend "Original" applied by Lessor shall constitute the sole chattel paper original and authoritative version. Lessee agrees to deliver to Lessor, on request, this Schedule bearing Lessee's original signature.

Lessor: VGM Financial Services, a division of TCF
National Bank

By: _____

Title: _____

Lessee: City of Seneca, SC

By: _____

T. Scott Moulder, City
Administrator

R. BOATNER BOWMAN
ATTORNEY AT LAW
P.O. BOX 8615
GREENVILLE, SOUTH CAROLINA 29604

OPINION OF COUNSEL

Date: August 26, 2021

Lessee: City of Seneca, SC
698 W.S. 4th Street
Seneca, SC 29678

Lessor: VGM Financial Services, a division of TCF National Bank
1111 West San Marnan Dr, Suite A2 West
Waterloo, IA 50701-8926

Re: Contract 004-0769051-101, dated as of March 19, 2021, by and between City of Seneca, SC and Lessor

Ladies and Gentlemen:

I have acted as counsel to Lessee with respect to the contract described above (the "Lease") and various related matters, and in this capacity have reviewed a duplicate original or certified copy of the Lease and exhibit thereto. Based upon the examination of these and such other documents as I deem relevant, it is my opinion that:

1. Lessee is a public corporation and political subdivision of the State of South Carolina (the "State") duly organized, existing, and operating under the Constitution and laws of the State. The full, true, and correct legal name of Lessee is City of Seneca, South Carolina.
2. The Uniform Commercial Code, as adopted in the State (the "UCC"), and no other statute of the State, governs the creation, perfection, priority, or enforcement of a security interest created by Lessee.
3. Lessee is authorized and has power under State law to enter into the Lease, and to carry out its obligations thereunder and the transactions contemplated thereby.
4. The Lease and the other documents described above have been duly authorized, approved, executed, and delivered by and on behalf of Lessee, and the Lease is a valid and binding contract of Lessee enforceable in accordance with its terms, except to the extent limited by State and Federal laws affecting remedies and by bankruptcy, reorganization, or other laws of general application relating to or affecting the enforcement of creditors' rights.


5. The authorization, approval, and execution of the Lease and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws, and all other applicable State and Federal laws.

6. The execution of the Lease and the appropriation of moneys to pay the payments coming due under the Lease do not result in the violation of any constitutional, statutory, or other limitation relating to the manner, form, or amount of indebtedness which may be incurred by Lessee.

7. There is no litigation, action, suit, or proceeding pending or before any court, administrative agency, arbitrator, or governmental body, that challenges the organization or existence of Lessee; the authority of the organization or existence of Lessee; the authority of its officers; the proper authorization, approval, and execution of the Lease and the other documents described above; the appropriation of monies to make Rental Payments under the Lease for the current fiscal year, or the ability of Lessee otherwise to perform its obligations under the Lease and the transactions contemplated thereby.

This opinion of counsel may be relied upon by Lessor and its successors and assigns.

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. Boatner' followed by a stylized monogram or initials.

R. Boatner "Bo" Bowman
City Attorney, City of Seneca
Bo@BoatnerBowmanLaw.com
(864) 214-5244