

**A RESOLUTION AUTHORIZING THE TOWN MANAGER TO EXECUTE A LEASE  
AGREEMENT FOR THE ANDREWS-RIGGSBEE PARKING LOT SITE AND THE USE OF  
TOWN FUNDS FOR SITE IMPROVEMENTS**

**Resolution No. 50/2009-10**

WHEREAS, the Town of Carrboro is experiencing an increase in parking needs in the Downtown Business District; and

WHEREAS, Town Staff was asked to evaluate the parking deck proposition made by the Main Street Partners and another potential location for town-owned or leased parking in downtown on the Andrews-Riggsbee site; and

WHEREAS, Town Staff has presented three options for board consideration including a recommendation; and

WHEREAS, Staff will recommend a future Town Code Amendment to disallow parking on Carr Street from Maple Avenue to South Greensboro Street and limit parking in the lot to two hours; and

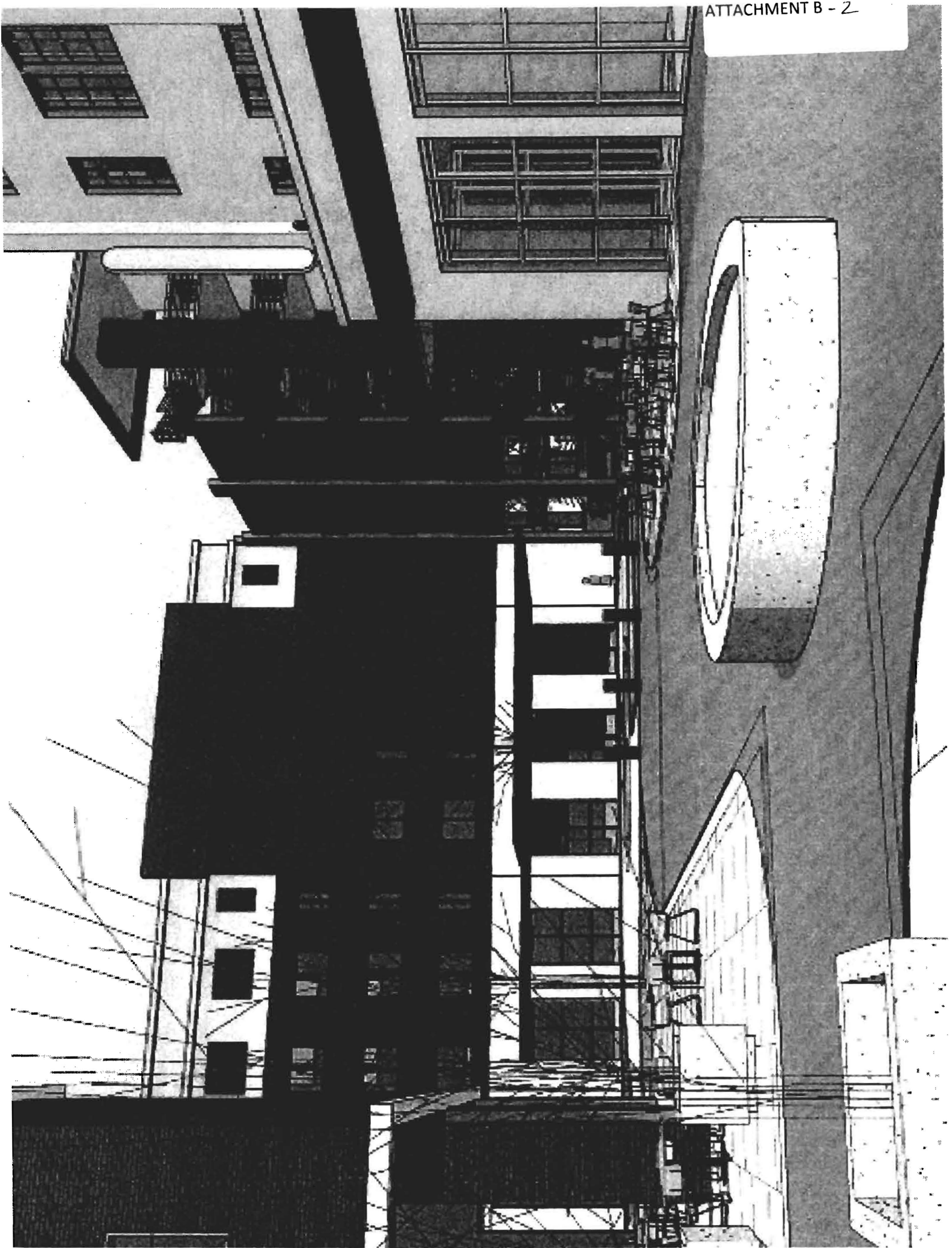
WHEREAS, the recommended option would create 90 parking spots at a minimal cost to the town, and includes financial contributions by downtown businesses and the Carrboro Business Association and offers the site owner flexibility to proceed with an already approved project when economic conditions improve; and

WHEREAS, the Board of Aldermen must approve all lease agreements; and

NOW THEREFORE BE IT RESOLVED, that the Board of Aldermen authorize the Town Manager to execute a contract with the owners of the Andrews-Riggsbee property for an annual amount of \$7,500 and use funds from the Public Works budget to up-fit the site for use as a public parking lot.



Atlanta, GA



Compound Period: Annual

Nominal Annual Rate: 4.750%

## CASH FLOW DATA

Event	Date	Amount	Number	Period	End Date
1 Loan	10/19/2009	2,700,000.00	1		
2 Payment Fixed Principal (+Int.)	10/19/2010	180,000.00	15	Annual	10/19/2024

## AMORTIZATION SCHEDULE - Normal Amortization

	Date	Payment	Interest	Principal	Balance
Loan	10/19/2009				2,700,000.00
2009 Totals		0.00	0.00	0.00	
1	10/19/2010	308,250.00	128,250.00	180,000.00	2,520,000.00
2010 Totals		308,250.00	128,250.00	180,000.00	
2	10/19/2011	299,700.00	119,700.00	180,000.00	2,340,000.00
2011 Totals		299,700.00	119,700.00	180,000.00	
3	10/19/2012	291,150.00	111,150.00	180,000.00	2,160,000.00
2012 Totals		291,150.00	111,150.00	180,000.00	
4	10/19/2013	282,600.00	102,600.00	180,000.00	1,980,000.00
2013 Totals		282,600.00	102,600.00	180,000.00	
5	10/19/2014	274,050.00	94,050.00	180,000.00	1,800,000.00
2014 Totals		274,050.00	94,050.00	180,000.00	
6	10/19/2015	265,500.00	85,500.00	180,000.00	1,620,000.00
2015 Totals		265,500.00	85,500.00	180,000.00	
7	10/19/2016	256,950.00	76,950.00	180,000.00	1,440,000.00
2016 Totals		256,950.00	76,950.00	180,000.00	
8	10/19/2017	248,400.00	68,400.00	180,000.00	1,260,000.00
2017 Totals		248,400.00	68,400.00	180,000.00	
9	10/19/2018	239,850.00	59,850.00	180,000.00	1,080,000.00
2018 Totals		239,850.00	59,850.00	180,000.00	
10	10/19/2019	231,300.00	51,300.00	180,000.00	900,000.00

Attachment # 2

2019 Totals		231,300.00	51,300.00	180,000.00	11/3, ATTACHMENT C - 2
11	10/19/2020	222,750.00	42,750.00	180,000.00	720,000.00
2020 Totals		222,750.00	42,750.00	180,000.00	
12	10/19/2021	214,200.00	34,200.00	180,000.00	540,000.00
2021 Totals		214,200.00	34,200.00	180,000.00	
13	10/19/2022	205,650.00	25,650.00	180,000.00	360,000.00
2022 Totals		205,650.00	25,650.00	180,000.00	
14	10/19/2023	197,100.00	17,100.00	180,000.00	180,000.00
2023 Totals		197,100.00	17,100.00	180,000.00	
15	10/19/2024	188,550.00	8,550.00	180,000.00	0.00
2024 Totals		188,550.00	8,550.00	180,000.00	
Grand Totals		3,726,000.00	1,026,000.00	2,700,000.00	

NORTH CAROLINA

ORANGE COUNTY

**LEASE AGREEMENT**

THIS LEASE AGREEMENT made and entered into as of the \_\_\_\_ day of November, 2009, (the "Lease") by and between DARCON of NC, Inc., of 4008 Ovid Lane, Raleigh, North Carolina 27613 (hereinafter referred to as "Lessor"), and the TOWN OF CARRBORO, North Carolina, a North Carolina municipal corporation, with its municipal offices at 301 West Main street, Carrboro, NC 27510 (hereinafter referred to as "Lessee").

**WITNESSETH:**

IN CONSIDERATION of the covenants and agreements hereinafter set forth, Lessor has demised and leased, and does hereby demise and lease, to Lessee for the term and upon the conditions hereinafter set out, the exclusive use of that certain property located at 201 South Greensboro Road, Carrboro, North Carolina, known as the "Riggsbee Hardware Property" (referred to herein as the "Leased Premises"), which Property is identified by Orange County Tax Parcel Identification Number (PIN) \_\_\_\_\_, and is more particularly described in Exhibit A attached hereto and made a part hereof, for use as a public parking lot.

TO HAVE AND TO HOLD said Leased Premises and the privileges and appurtenances thereto belonging to Lessor, its representatives, successors and assigns, upon the following terms and conditions:

1. Term. This Lease shall begin on \_\_\_\_\_, 2009, and shall continue for a term of two (2) years, provided that either party may terminate the lease sooner upon giving the other party ninety (90) days advance written notice of termination.

2. Automatic Renewal. The term of this Lease shall be automatically renewed and extended for an additional one year term UNLESS either party notifies the other of its intent NOT to renew at least ninety (90) days prior to the expiration of the original term.

3. Rental. As rental for the Leased Premises, upon execution of this Lease Agreement Lessee shall pay to Lessor an amount equal to Seven Thousand Five Hundred Dollars (\$7,500) for the first year of the Lease Term. Each subsequent year of the Lease Term, the rental shall increase by a percentage of the previous year's rent equal to the percentage increase in the Consumer Price Index — All Urban Consumer (1982-1984; all items less food and energy) for the most recent preceding year for which data is available. Each subsequent year of the Lease Term, Lessee shall, on the Anniversary Date, pay rent to Lessor.

4. Use. Lessee shall use and occupy the Leased Premises throughout the duration of the Lease wholly for a public parking lot. No unlawful or offensive use shall be made of the Leased Premises. Lessee agrees to use the Leased Premises in a careful manner and to comply with all laws, ordinances and governmental restrictions relating to the use of said Leased Premises. Lessee shall not permit a nuisance to exist upon the Leased Premises, and Lessee hereby agrees to hold Lessor harmless from any and all acts committed or permitted by Lessee upon the Leased Premises resulting from the creation of a nuisance or other use of the Leased Premises prohibited by law.

5. Repairs and Maintenance. Lessee agrees that during the term of this Lease, Lessee will, at its own expense, keep and maintain the parking lot on the Leased Premises in good condition.

Lessee agrees that it shall not, except with the prior written consent of Lessor, make any permanent structural alterations or additions to the Leased Premises. If improvements are made,

Lessee agrees that when completed, such improvements shall be free and clear of all claims for liens by mechanics or materialmen for and on account of labor and material, and indemnify Lessor from and against any such costs, expenses and liabilities including, but not limited to, all or any liabilities from mechanics', laborers', or materialmen's liens.

Upon the expiration or termination of the term of this Lease, Lessee shall quit and surrender to Lessor the Leased Premises and any permanent improvements. Any temporary structures installed during the term of this Lease shall be removed by Lessee on or before the expiration or termination date of this Lease.

6. Taxes and Assessments. During the term of this Lease, Lessor shall be responsible for and shall pay all property taxes and assessments which may be assessed or levied upon the Property subject to the Lease.

7. Utilities. During the term of this Lease, Lessee shall provide and pay the bills for all utilities, including but not limited to electricity and any other utility charges arising out of Lessee's use of the Leased Premises during the term of this Lease. Lessee shall cause a separate utility billing account to be created and separate meter(s) to be installed for any utilities it may use on the Leased Premises.

8. Insurance. Lessee warrants and covenants that at all times during the term of this Lease, the coverage provided by its General Liability Insurance Policy shall extend to the Leased Premises and the use of such as a public parking lot.

9. Personal Property and Improvements. Any equipment, temporary structures and other personal property installed in or attached to the Property by and at the expense of Lessee shall remain the property of the Lessee and Lessor agrees that Lessee, if not in default hereunder, shall have the right to remove any and all of such equipment, temporary structures and other



personal property which may be stored or installed on or attached to the property; provided, however, that Lessee shall, upon such removal restore the Property to substantially the same condition in which it was prior to the installation or attachment of such equipment, temporary structures or other personal property, reasonable wear and tear excepted; and provided further, that Lessee shall remove any such equipment, temporary structures or other personal property on or before the expiration or termination date of this Lease, or any extension thereof.

10. Signs. Lessee shall obtain the prior consent of Lessor prior to erecting any signs. Lessor shall not unreasonably withhold or delay its consent.

11. Condemnation. If, during the term of this Lease, any part or the whole of the Leased Premises shall be taken by any competent authority under the power of eminent domain, Lessor may execute such conveyance as may be required, and this Lease shall be affected as follows:

- a. If such taking shall be for street widening purposes and only a minor portion of the access areas of the Leased Premises is taken, and access is substantially unimpaired, then such taking shall have no affect on this Lease.
- b. In the event the whole of the Leased Premises or more than a minor portion shall be taken, then in that event, upon notice from any competent authority of such taking, this Lease may be canceled upon notice in writing by either party and Lessor shall refund to Lessee the pro rata portion of the prepaid rental based on the amount of time for which Lessee will have no use of the Leased Premises.

- c. Lessee agrees that the entire condemnation proceeds shall be the sole property of Lessor, except for any amount specifically paid for improvements made by the Lessee, and further provided that Lessor shall have paid to Lessee any refund of rental required.

12. Default. The happening of one or more of the following listed events (hereinafter referred to singularly as "event of default") shall constitute a breach of this Lease on the part of Lessee, namely:

- a. Failure of Lessee to pay any rents payable under this Lease; or
- b. Failure of Lessee to perform fully and promptly any act required of it in the performance of this Lease or otherwise to comply with any term or provision hereof.

Upon the happening of any event of default and failure of Lessee to cure or remove the same within fifteen (15) days after written notice to do so given by Lessor to Lessee, Lessor, at her election, may terminate this Lease by written notice of its election to do so given by Lessor to Lessee.

Upon the expiration or termination of this Lease or any extension thereof, Lessee shall promptly surrender possession of and vacate the Leased Premises and deliver possession thereof to Lessor.

13. Subletting and Assignment. Lessee may sublet the Leased Premises or any part thereof or assign this Lease or any part thereof, for parking lot use only, without the prior written consent of Lessor.

14. Holding Over. Each holding over after the expiration of the term(s) hereof, with the consent of Lessor, shall be construed to be a tenancy from month-to-month with rental

payable at a rate of  $\frac{1}{12}$  of the yearly rental (as increased or decreased pursuant to paragraph 2 of this Agreement) in advance and shall be on the terms and conditions herein specified so far as applicable.

15. **Lessee's Right of First Refusal.** During the lease term and any extensions thereof, Lessee shall have a "right of first refusal" with respect to the Leased Premises. Should Lessor receive a bona fide written offer to purchase the Leased Premises during the Lease Term or any extensions thereof, Lessor shall notify Lessee of the terms of such offer in writing within five (5) business days of receipt by Lessor of such offer. Lessee shall have ten (10) business days from receipt of such written notice to make a written offer to purchase the Leased Premises on terms at least as favorable to Lessor as the terms of the bona fide written offer. Lessor shall not accept any bona fide written offer to purchase the Leased Premises unless Lessee declines to execute its right of first refusal herein granted within the time specified.

16. **Invalid Provisions.** The invalidity or unenforceability of any particular provision of this Lease shall not affect any other provisions hereof, and the Lease shall be construed in all respects as if such invalid or unenforceable provision were omitted.

17. **Law.** The Lease shall be construed and governed in accordance with the laws of the State of North Carolina.

18. **Notices.** Any notices, requests or other communication to be given by either party hereto shall be in writing and shall be sent by registered or certified mail, postage prepaid, addressed (until another addressed is supplied to the other party by the addressee) as follows:

NOTICE GIVEN TO LESSORS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Carrboro, NC 27510

NOTICE GIVEN TO LESSEE:

Town Manager

Town of Carrboro

301 W. Main Street  
Carrboro, North Carolina 27510

For all purposes hereunder, a notice shall be deemed given on the date on which it is mailed.

19. Successors. Lessor and Lessee agree that all provisions hereof shall bind and inure to the benefit of all parties hereto, their respective heirs, legal representatives, assigns, and successor or successors.

20. Entire Agreement. This writing contains a full, final and complete contract of the parties.

21. Counterparts. This Lease may be executed in several identical counterparts, each of which shall be considered an original, but all such counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease to be executed by duly authorized individuals or officers (as the case may be) and their seal, if any, to be hereunto affixed, and the Lessee's Board of Aldermen's authorization having been duly given, as of the day and year first above written.

**LESSORS:**

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BY: \_\_\_\_\_

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BY: \_\_\_\_\_

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**LESSEE:**

BY: \_\_\_\_\_

, Town Manager

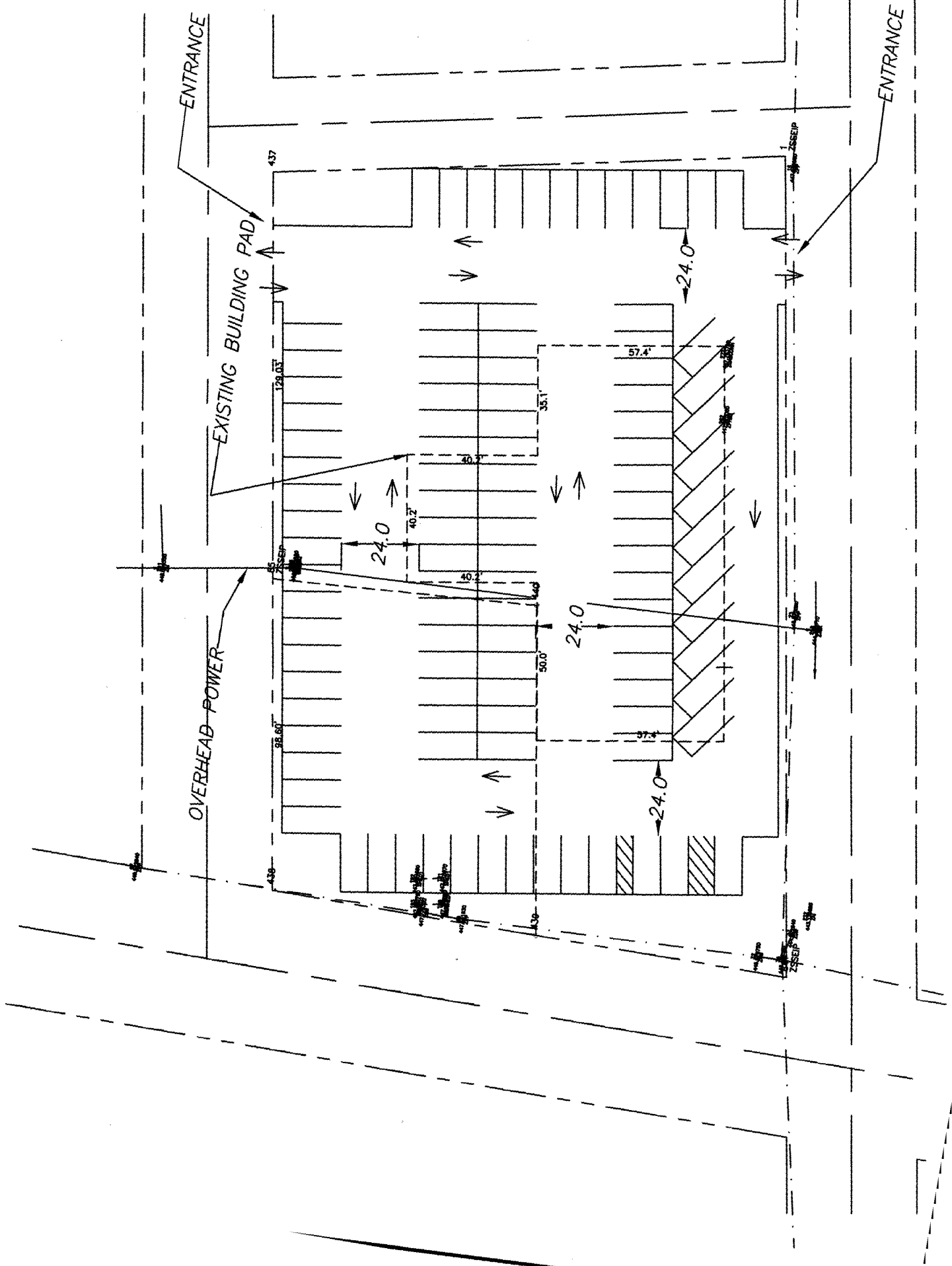
(CORPORATE SEAL)

ATTEST:

Town Clerk

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Finance Director



## ATTACHMENT F

### AN ORDINANCE AMENDING FY'2009-10 BUDGET ORDINANCE

WHEREAS, the Town Board of the Town of Carrboro on June 16, 2009 adopted the annual budget for the fiscal year beginning July 1, 2009 and ending June 30, 2010 and

WHEREAS, it is appropriate to amend the expense accounts in the funds listed to provide for increased expenses for the reasons stated.

NOW, THEREFORE, BE IT ORDAINED, that in accordance with authority contained in G.S. 159-15, the following expense and revenue accounts are amended as shown and that the total amount for the funds are herewith appropriated for the purposes shown:

FUND	ACCOUNT TITLE	INCREASE (DECREASE)	AMOUNT	FROM	TO
General Fund					
Expenditures	Nondepartmental	DECREASE	\$7500	\$770,510	\$763,010
Expenditures	Public Works	INCREASE	\$7500	\$4,343,396	\$4,350,896

REASON: Appropriate funds for parking lot lease of Andrews-Riggsbee property. Available contingency balance is now \$7,500.