

Jody L. McLeod  
**MAYOR**

Bruce Thompson  
**TOWN ATTORNEY**

Steve Biggs  
**TOWN MANAGER**



Bob Satterfield  
R.S. "Butch" Lawter, Jr.  
Art Holder  
Jason Thompson  
**COUNCIL MEMBERS**

Michael Grannis  
**MAYOR PRO TEM**

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## **TOWN COUNCIL MEETING**

**JANUARY 06, 2014**

### **AGENDA**

#### **MAYOR AND TOWN COUNCIL**

**MAYOR JODY L. MCLEOD  
MAYOR PRO TEM MICHAEL GRANNIS  
COUNCILMAN BOB SATTERFIELD**

**COUNCILMAN ART HOLDER  
COUNCILMAN R.S. "BUTCH" LAWTER, JR.  
COUNCILMAN JASON THOMPSON**

#### **TOWN STAFF**

**STEVE BIGGS, TOWN MANAGER  
SHERRY L. SCGGINS, TOWN CLERK  
BRUCE THOMPSON II, TOWN ATTORNEY**

**AGENDA**  
**THE REGULAR MEETING OF THE CLAYTON TOWN COUNCIL**

**MONDAY, JANUARY 06, 2014**  
**6:30 PM**

**THE CLAYTON CENTER**  
**COUNCIL CHAMBERS**

**1. CALL TO ORDER**

Pledge of Allegiance & Invocation – Mayor Jody L. McLeod

**2. ADJUSTMENT OF THE AGENDA**

**3. CONSENT AGENDA**

(Items on the consent agenda are considered routine in nature or have been thoroughly discussed at previous meetings. Any member of the Council may request to have an item removed from the consent agenda for further discussion.)

- a. Resolution between the Town of Clayton and Johnston County for Erosion and Sediment Control.
- b. Location proposal for new “Welcome to Clayton” sign.

**4. INTRODUCTIONS AND SPECIAL PRESENTATIONS**

- a. Presentation of results for the weight loss challenge sponsored by Dr. Benjamin Atkeson.
- b. Recognition of long-term service by Town of Clayton employee(s).

**5. PUBLIC HEARINGS**

- a. Public hearing for rezoning request RZ 2013-76 from R-E to B-3 located adjacent to the existing self storage facility on Powhatan Road near US 70 Business HWY.
- b. Public hearing for proposed utility development agreement with Grifols Biopharmaceuticals.

**6. OLD BUSINESS**

**7. NEW BUSINESS**

- a. Addendum to the Inter-Local Agreement for Provisions of Fire Service with Johnston County.

**8. STAFF REPORTS**

- a. Town Manager
- b. Town Attorney

- c. Town Clerk
  - Calendar of Events
- d. Other Staff

9. OTHER BUSINESS

- a. Informal Discussion & Public Comment.
- b. Council Comments.

10. ADJOURNMENT

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Slated for the Wednesday, January 22, 2014, agenda:

- Draft minutes from the December 16, 2013, regular meeting.
- Status of 110 West Front Street, former Red and White Store (continued from the December 16, 2013, Council meeting).
- Status of the Clayton-Raleigh transmission project.

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

**Agenda Item: 3a**

**Meeting Date: 1/06/14**

**TITLE: RESOLUTION BETWEEN THE TOWN OF CLAYTON AND  
JOHNSTON COUNTY FOR EROSION AND SEDIMENT CONTROL.**

**DESCRIPTION: Draft resolution attached.**

At its December 16, 2013, Council meeting, it was the consensus of the Council to place this item on the consent agenda.

**RELATED GOAL: Manage Growth Producing Quality Developments**

**ITEM SUMMARY:**

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
12-16-13	Presentation.	DRAFT resolution.
01-06-14	Approval.	Resolution.

**THE TOWN OF CLAYTON AND JOHNSTON COUNTY  
JOINT RESOLUTION  
EROSION AND SEDIMENT CONTROL ENFORCEMENT**

**WHEREAS**, the Town of Clayton has requested that Johnston County exercise and enforce Chapter 14, Article XII, Erosion and Sediment Control, County of Johnston, North Carolina Code of Ordinances within the corporate limits and extraterritorial jurisdiction of the Town of Clayton; and

**WHEREAS**, Johnston County does hereby agree to this request; and

**WHEREAS**, pursuant to the execution of this agreement, both the Town of Clayton and Johnston County understand this request must be heard by the North Carolina Sediment Control Commission for their endorsement prior to enforcement action of the Erosion Control Ordinance by the County in said jurisdiction; and

**WHEREAS**, by General Statute, the North Carolina Sediment Control Commission is the controlling authority for approval of such requests as the final action in the condoning process in the matter specific to Chapter 14, Article XII, Erosion and Sediment Control.

**NOW, THEREFORE**, it is hereby resolved by Joint Resolution of the Town Council of the Town of Clayton and the Board of Commissioners of Johnston County, acting in separate regular sessions of each respective body, as follows:

1. The Town of Clayton relinquishes its jurisdiction within its corporate limits and extraterritorial zoning jurisdiction with regard to local enforcement of the erosion and sediment program pursuant to GS 113A-60, and hereby by agreement and resolution, grants to Johnston County jurisdiction within said areas for the purpose of administering a joint program pursuant to such statute as provided in Chapter 16, Article XII, Erosion and Sediment Control, County of Johnston, North Carolina Code of Ordinances.
2. Johnston County Board of Commissioners does agree to exercise jurisdiction to enforce the ordinance identified herein, within the corporate limits and extraterritorial zoning jurisdiction, pursuant to the authority set forth herein.
3. The initial terms of this Agreement shall be for a period of one (1) year, commencing on the 1<sup>st</sup> day of \_\_\_\_\_, 2014, and terminating on

the 1<sup>st</sup> day of \_\_\_\_\_, 2015. Either party may terminate the Agreement at the end of the initial term. Thereafter, this Agreement shall automatically renew for a successive one year term at the end of each term unless notice is given by either part at least four (4) months prior to the end of the current one year term that the party wishes to terminate the Agreement at the end of the current term. This Agreement may be terminated at any time upon mutual agreement of both parties.

4. Should any claims arise out of services provided by Johnston County under this agreement, the Town of Clayton agrees to indemnify and hold Johnston County, its employees, agents, and contractors harmless from any and all claims for liability, loss, injury, damages to persons or property, cost or attorney's fees resulting from any action brought against Johnston County, its employees, agents, contractors and Commissioners arising as a result of these services performed on behalf to the Town of Clayton that are the subject matter of this Agreement, except where such claims result from actionable acts of negligence by Johnston County.

**DULY ADOPTED** by the Town Council of the Town of Clayton, North Carolina, meeting in regular session on the 6th day of January 2014, and by the Board of Commissioners of Johnston County meeting in regular session on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**TOWN OF CLAYTON**

**JOHNSTON COUNTY**

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

BY: \_\_\_\_\_  
Chairman, Board of Commissioners

ATTEST:

ATTEST:

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Clerk to Board of Commissioners

(SEAL)

(SEAL)

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

**Agenda Item: 3b**

**Meeting Date: 01/06/14**

**TITLE: LOCATION PROPOSAL FOR NEW “WELCOME TO CLAYTON”  
SIGN.**

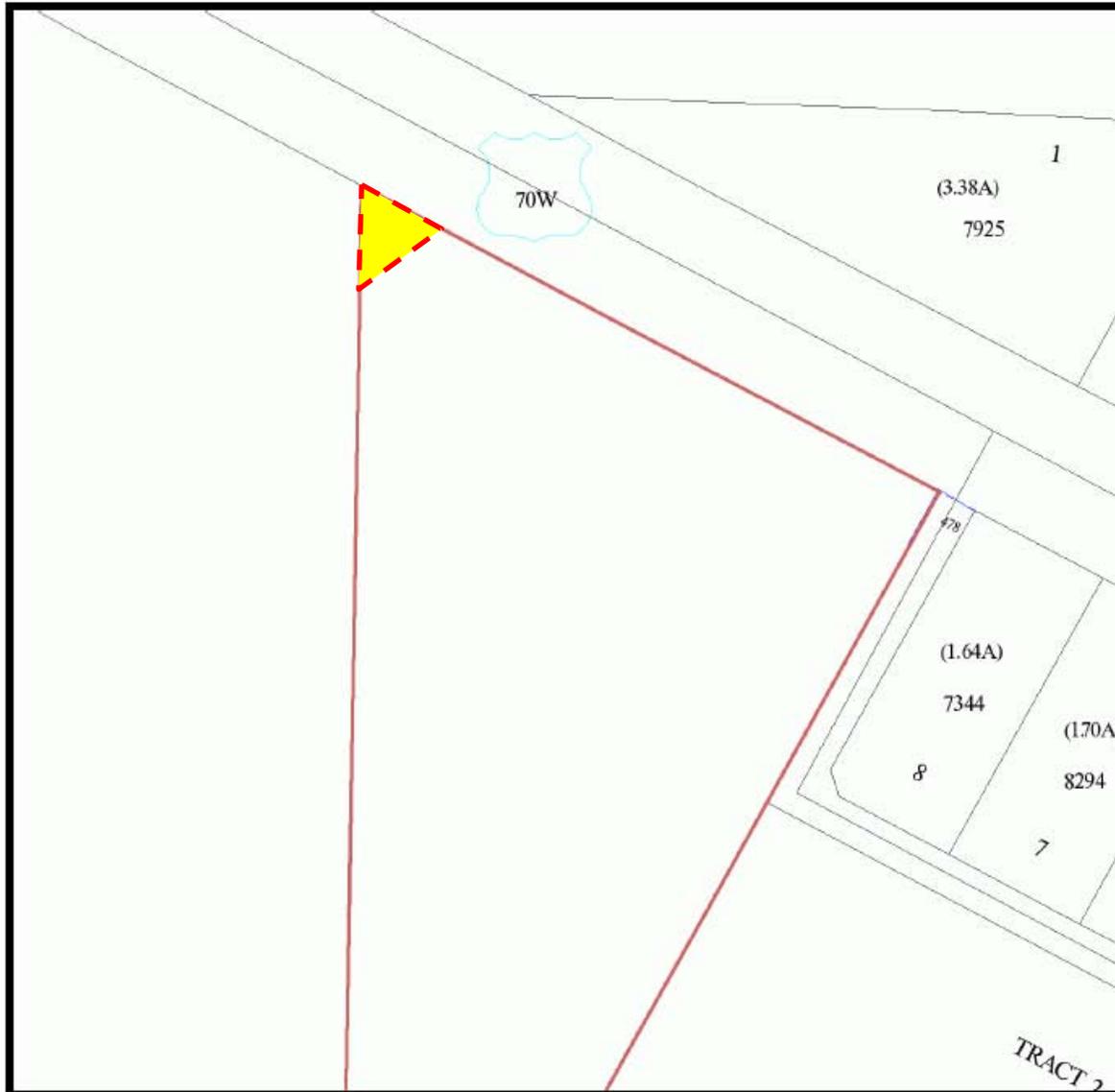
**DESCRIPTION: Attached.**

**At its December 16, 2013, Council meeting, it was the  
consensus of the Council to place this item on the consent  
agenda.**

**RELATED GOAL: Beautify the Town of Clayton and Create an Arts Community**

**ITEM SUMMARY:**

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
12-16-13	Discussion.	Map.
01-06-14	Approval.	Map.



\*\*\* DISCLAIMER \*\*\*

Johnston County assumes no legal responsibility for the information.

**Query Parcel 1**

Tag: 05G02001A

NCPin: 164900-95-2419

Mapsheet No: 1649

Owner Name1: STEPHEN DOUGLAS I IRRVOC TRUST

Owner Name2: CYNTHIA M STEPHENS IRRVOC TRST

Mail Address1: 319 CHAPANOKE RD STE 102

Mail Address2:

Mail Address3: RALEIGH NC 27603-0000

Site Address1: Not Available

Site Address2: Not Available

Book: 01875

Page: 0903

Market Value: 1170740

Assessed Acreage: 66.13

Calc Acreage: 67.47

Sale Price: 288000

Sale Date: 1999-10-08



1 inch = 219 feet

(The scale is only accurate when printed landscape on a 8.5x11in size sheet with page scaling set to none.)

Date December 3, 2013

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

**Agenda Item: 4a**

**Meeting Date: 1/06/14**

**TITLE: PRESENTATION OF RESULTS FOR THE WEIGHT LOSS CHALLENGE SPONSORED BY DR. BENJAMIN ATKESON.**

**DESCRIPTION: Dr. Benjamin Atkeson sponsored a weight loss challenge between two Town of Clayton departments. He will share the results and announce the winner(s).**

**RELATED GOAL: Administrative**

**ITEM SUMMARY:**

**Date:**

**Action:**

**Info. Provided:**

**01-06-14**

**Presentation.**

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 4b

Meeting Date: 1/06/14

**TITLE: RECOGNITION OF LONG-TERM SERVICE BY TOWN OF CLAYTON  
EMPLOYEE(S).**

**DESCRIPTION: Fire Chief Lee Barbee would like to recognize employee(s)  
with long term service.**

**RELATED GOAL: Administrative**

**ITEM SUMMARY:**

**Date:**

**Action:**

**Info. Provided:**

01-06-14

Recognition.

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 5a

Meeting Date: 01/06/14

**TITLE: PUBLIC HEARING FOR REZONING REQUEST RZ 2013-76 FROM R-E (RESIDENTIAL ESTATE) TO B-3 (HIGHWAY BUSINESS) LOCATED ADJACENT TO THE EXISTING SELF-STORAGE FACILITY ON POWHATAN ROAD NEAR US 70 BUSINESS HWY.**

**DESCRIPTION:** The applicant, Dalton Engineering & Associates PA, is requesting approval to rezone the property at 3936 Powhatan Road from Residential Estate (R-E) to Highway Business (B-3). A neighborhood meeting for this request was held on November 5, 2013. This item was reviewed by the Planning Board at its November 25, 2013, Planning Board meeting. The Planning Board recommended approval of this request. This item is slated for public hearing at the Monday, January 6, 2014, Council meeting.

**RELATED GOAL:** Administrative

**ITEM SUMMARY:**

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
12-16-13	Presentation & Public notice.	Staff report, Planning Board recommendation, Aerial map, application, & neighborhood meeting Information.
01-06-14	Public hearing.	Staff report, Planning Board recommendation, Aerial map, application, & neighborhood meeting Information, motion form, & Statement of Consistency And Reasonableness.



Town of Clayton  
Planning Department  
111 E. Second Street, Clayton, NC 27520  
P.O. Box 879, Clayton, NC 27528  
Phone: 919-553-5002  
Fax: 919-553-1720

*Planning Board  
November 25, 2013  
Case A*

## STAFF REPORT

**Application Number:** RZ 2013-76 (Rezoning)  
**Project Name:** Powhatan Self Storage – Rezoning

**NC PIN:** 167700-39-7173  
**Town Limits/ETJ:** Extraterritorial Jurisdiction  
**Overlay:** None  
**Applicant:** Dalton Engineering & Associates PA  
**Owners:** Powhatan Self Storage LLC

**Neighborhood Meeting:** Held November 5, 2013  
**Public Noticing:** Property posted November 14, 2013

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**PROJECT LOCATION:** The property is located adjacent to the existing self-storage facility on Powhatan Road, approximately 1/10 mile from the intersection of Powhatan Road and US 70 Business Highway West.

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**REQUEST:** The applicant is requesting approval to rezone the property at 3936 Powhatan Road (Parcel ID Number 167700-39-7173) from Residential Estate (R-E) to Highway Business (B-3).

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### SITE DATA:

**Acreage:** 1.01 acres  
**Present Zoning:** Residential Estate (R-E)  
**Proposed Zoning:** Highway Business (B-3)  
**Existing Use:** Residential

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### ADJACENT ZONING AND LAND USES:

**North:** Zoning: Heavy Industrial (I-2)  
Existing Use: Industrial

**South:** Zoning: Residential-Estate (R-E)

Existing Use: Residential

**East:** Zoning: Residential-Estate (R-E)  
Existing Use: Residential

**West:** Zoning: Highway Business (B-3)  
Existing Use: Self-Storage Facility

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### **STAFF ANALYSIS AND COMMENTARY:**

The applicant is requesting approval for rezoning of the subject property from Residential Estate (R-E) to Central Business (B-1).

The property has been purchased by and is now owned by Powhatan Self-Storage, which is the facility located immediately to the west of the property.

The applicant has indicated that the proposed use is outdoor storage to support the existing self-storage facility (Powhatan Self-Storage) to the west. This request is accompanied by a site plan application, which will be acted upon by the Planning Board, subject to approval of this rezoning request. Although the applicant is proposing an expansion of the self storage facility, all uses permitted in the B-3 District will be permitted with this rezoning.

➤ **Consistency with the Strategic Growth Plan**

The proposed rezoning is consistent with the following Objectives of the Strategic Growth Plan:

Objective 2.1: Balanced Development/Investment: Old & New

The Strategic Growth Plan Proposed Land Use Map designates this property as “industrial.” However, as there are B-3 commercial uses to the west of this site this rezoning is consistent with surrounding zoning, and staff feels that the proposed zoning is suitable for this site.

➤ **Consistency with the Unified Development Code**

The proposed rezoning is consistent with and meets the applicable requirements of the Unified Development Code (UDC).

➤ **Compatibility with Surrounding Land Uses**

The subject site sits adjacent to residential land located to the east and south (across Powhatan Road) of the property. The property is surrounded by industrial and commercial uses to the north and west and so the proposed zoning is compatible with these properties. Staff’s opinion is that while the zoning classification itself may not be inherently compatible with adjacent residential uses, the landscaping and other requirements of the UDC that will be required for site development will provide adequate mitigation to any incompatibility concerns. Commercial and industrial development in this area is an expected use of the land, as shown on the Proposed Land Use Map.

➤ **Waivers/Deviations/Variances from Code Requirements**

None.

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**CONSIDERATIONS:**

- The applicant is requesting a rezoning from R-E to B-3.
  - When adopting or rejecting the rezoning, the Town Council shall approve a statement describing whether its action is consistent with an adopted plans and policies of the town and explaining why the board considers the action taken to be reasonable and in the public interest.
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**STAFF RECOMMENDATION:**

Staff is recommending approval of the rezoning.

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**PLANNING BOARD RECOMMENDATION:**

**ATTACHMENTS:** 1) Zoning/Aerial Map, 2) Application, 3) Neighborhood Meeting Materials

TOWN OF CLAYTON, NC

PLANNING BOARD RECOMMENDATION FORM

Project Name and File #: RZ 2013-76 Powhatan Outdoor Storage Rezoning

On November 25, 2013 the Planning Board heard the above-referenced request and makes the following recommendation(s) to the Town Council:

1) Rezoning approval request

Approval of the request

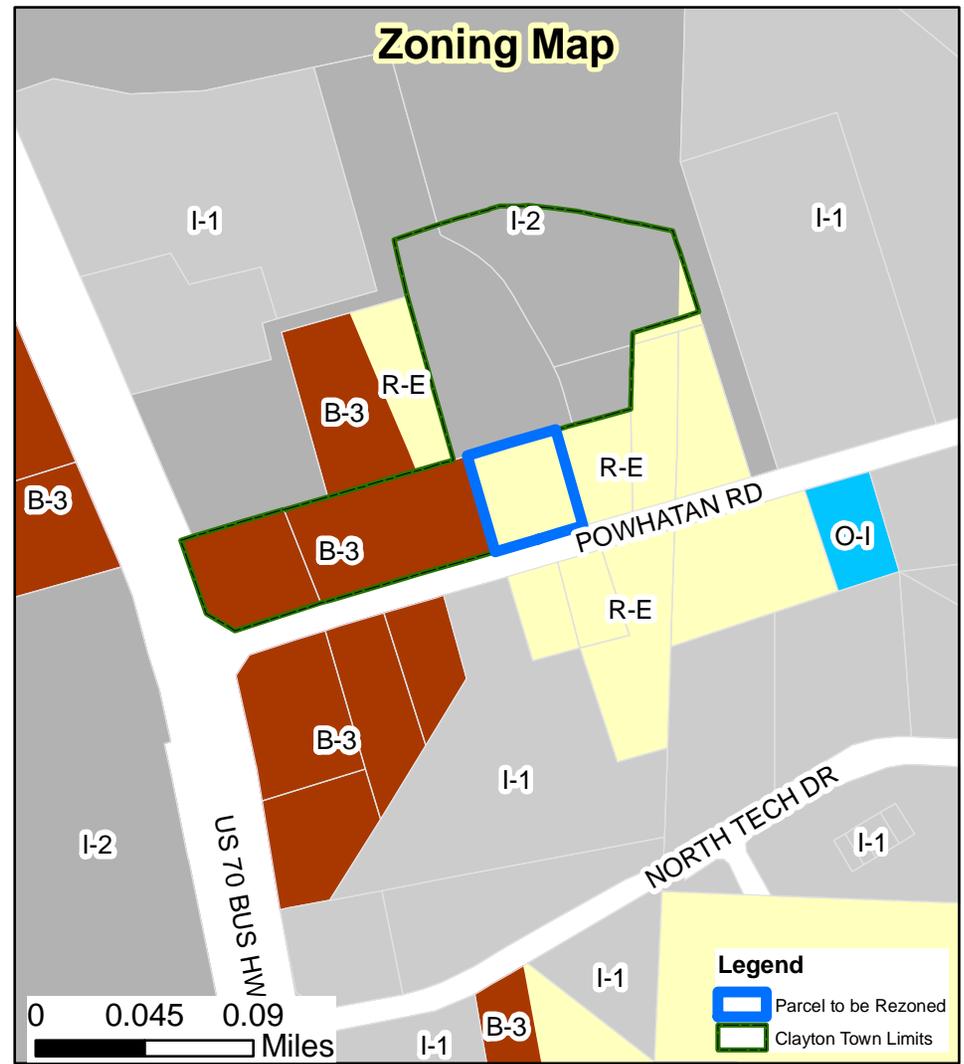
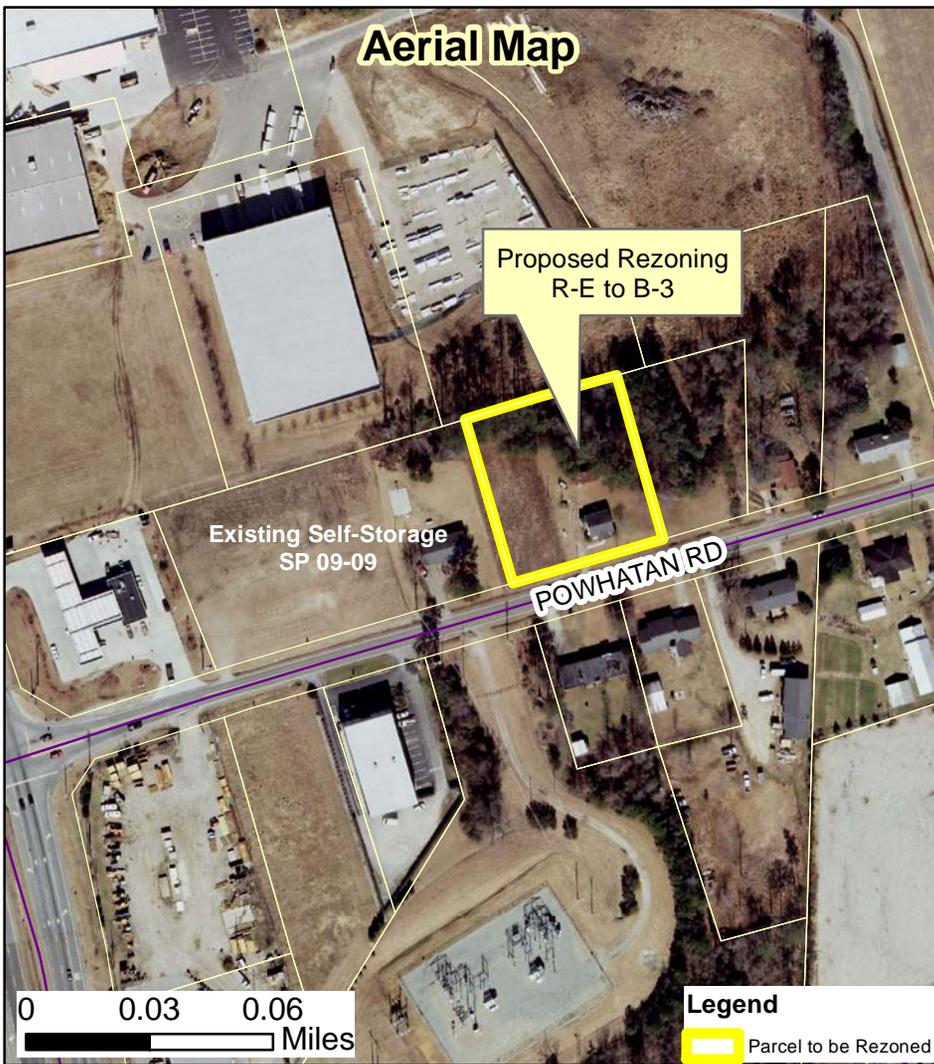
Denial of the request

Signed:



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Frank Price, Planning Board Chair

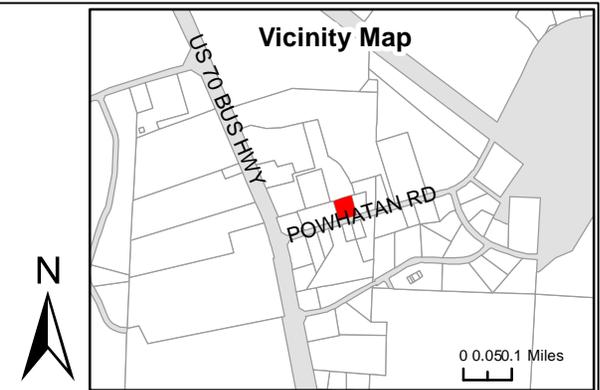


## Powhatan Self-Storage Rezoning R-E to B-3

Applicant: Powhatan Self Storage, LLC  
 Property Owner: Powhatan Self Storage LLC  
 Parcel ID Number: 167700-39-7173  
 File Number: RZ 2013-76

Produced by: TOC Planning  
 Disclaimer: Town of Clayton assumes no legal  
 responsibility for the information represented here.

10/10/13





Town of Clayton  
 Planning Department  
 111 E. Second Street, Clayton, NC 27520  
 P.O. Box 879, Clayton, NC 27528  
 Phone: 919-553-5002  
 Fax: 919-553-1720

## REZONING APPLICATION

*Pursuant to Article 7, Section 155.704 of the Unified Development Code, an owner of land within the jurisdiction of the Town (or a duly authorized agent) may petition the Town Council to amend the Official Zoning Map.*

*Rezoning applications must be accompanied by nine (9) sets of the application, nine (9) sets of required plans, an Owner's Consent Form (attached) and the application fee. The application fee is \$500.00 for a rezoning to a Standard District. A rezoning to a Planned Development District requires a fee of \$1,000.00 +\$5.00 per acre. All fees are due when the application is submitted.*

*If the rezoning request is to a Planned Development District, the application must be accompanied by a Major Site Plan application and associated fees.*

*Please note that Section 155.702(B) of the Unified Development Code requires a Neighborhood Meeting for all Rezoning Petitions.*

### SITE INFORMATION:

Name of Project: Powhatan Self Storage      Acreage of Property: 1.01 acres  
 Parcel ID Number: 167700-39-7173      Tax ID: 05I05019B  
 Deed Book: 3270      Deed Page(s): 986  
 Address: 3936 Powhatan Rd, Clayton, NC 27527  
 Location: 3936 Powhatan Rd, Clayton, NC 27527

Existing Use: Vacant      Proposed Use: Outdoor Storage  
 Existing Zoning District: R-E  
 Requested Zoning District: B-3  
 Is project within a Planned Development:       Yes       No  
 Planned Development District (if applicable): PD-R  
 Is project within an Overlay District:       Yes       No  
 Overlay District (if applicable): \_\_\_\_\_

### FOR OFFICE USE ONLY

File Number: _____	Date Received: _____	Amount Paid: _____
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**OWNER INFORMATION:**

Name: Powhatan Self Storage, LLC.

Mailing Address: PO Box 327, Clayton, NC 27528

Phone Number: (919) 427-3736

Fax:

Email Address:

**APPLICANT INFORMATION:**

Applicant: Dalton Engineering & Associates PA

Mailing Address: PO Box 426, Clayton, NC 27528

Phone Number: (919) 550-4740

Fax: (919) 550-4741

Contact Person: Carlos Bagley

Email Address: cbagley@daltonengineering.com

**REQUIRED PLANS AND SUPPLEMENTAL INFORMATION**

*The following items must accompany a rezoning application. This information is required to be present on all plans, except where otherwise noted:*

- A signed and sealed boundary survey (**not more than a year old unless otherwise approved by the Planning Department**) with the azimuth or courses and distances of every property line shown. Distances shall be in feet or meters and decimals thereof. The number of decimal places shall be appropriate to the class of survey required. The survey must include any and all easements of record (referenced by Deed Book and Page) and must be prepared by a surveyor registered in the State of North Carolina.
- Property legal description typed (10 pt. font or greater) on an 8.5 inch by 11 inch paper with one inch margins. The legal description must also be submitted electronically in Microsoft Word format.
- A copy of the last recorded deed for the subject property.

**JUSTIFICATION STATEMENT**

*Please provide detailed information concerning all requests. Attach additional sheets if necessary.*

This is an application to rezone an adjacent property to the existing Powhatan Self Storage  
To be combined with the existing Powhatan Self Storage.

## APPROVAL CRITERIA

*All applications for a Rezoning must address the following findings:*

1. Consistency with the adopted plans of the Town.

The subject property is proposed to be zoned B-3 and the project will comply with all zoning Requirements of the Town of Clayton Unified Development Code.

2. Suitability of the subject property for uses permitted by the current vs. the proposed district.

The subject property is proposed to be zoned B-3 and the project will comply with all zoning Requirements of the Town of Clayton Unified Development Code.

3. Whether the proposed change tends to improve the balance of uses, or meets specific demand in the Town.

The subject property is proposed to be zoned B-3 and the project will comply with all zoning Requirements of the Town of Clayton Unified Development Code.

4. The capacity of adequate public facilities and services including schools, roads, recreation facilities, wastewater treatment, potable water supply and stormwater drainage facilities is available for the proposed use.

We will not be requiring any additional water allocation at this time. There are existing Stormwater facilities in place at this time.

5. It has been determined that the legal purposes for which zoning exists are not violated.

The subject property is proposed to be zoned B-3 and the project will comply with all zoning Requirements of the Town of Clayton Unified Development Code.

6. It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare.

The subject property is proposed to be zoned PD-R and the project will comply with all zoning Requirements of the Town of Clayton Unified Development Code. No adverse effects upon Adjoining properties are expected.

7. It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

The development of this property will benefit the Town as well as surrounding business.

**APPLICANT AFFIDAVIT**

*I/We, the undersigned, do hereby make application and petition to the Town Council of the Town of Clayton to amend the Zoning Ordinance and change the Official Zoning Map of the Town of Clayton as requested. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Clayton, North Carolina, and will not be returned.*

Carlos Bagley  
Print Name

  
Signature of Applicant

10/21/13  
Date



Town of Clayton
Planning Department

111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

OWNER'S CONSENT FORM

Consent is required from the property owner(s) and if applicable, to an agent if the property owner(s) do not intend to attend all meetings and public hearings and submit in person all material pertaining to the application. A separate form is required from each owner. Consent is valid for one year from date of notary, unless otherwise specified. Attach copy of last recorded deed for subject property.

Project Name: Powhatan Self Storage Submittal Date: 10/1/13

I hereby give CONSENT to (type, stamp or print clearly full name of agent) to act on my behalf, to submit or have submitted this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s) indicated above. Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify that I have ownership interest in the subject of this application. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I further agree to all terms and conditions, which may be imposed as part of the approval of this application.

OWNER INFORMATION: (Corporations must submit verification that signatory has authorization to sign)

Powhatan Self Storage Brad Gordon (Name - type, print clearly)
PO Box 327 (Address)
Signature: Charles B. Gordon Jr.
Clayton, NC 27528 (City, State, Zip)

AGENT INFORMATION:

Dalton Engineering & Associates PA (Name - type, print clearly)
PO Box 426 (Address)
Signature: Lynn A. Watkins
Clayton, NC 27528 (City, State, Zip)



STATE OF North Carolina
COUNTY OF Wake

Sworn and subscribed before me Lynn A. Watkins, a Notary Public for the above State and County, this the 21 day of October, 2013.

SEAL Notary Public Lynn A. Watkins
My Commission Expires: 12-7-2016

# NEIGHBORHOOD MEETING INFORMATION

Purpose: The purpose of the neighborhood meeting shall be to inform the neighborhood of the nature of the proposed land use and development features, answer questions, respond to concerns, and solicit comments.

Meeting Date: The meeting must be held at least ten (10) calendar days prior to the Planning Board meeting.

Meeting Time & Location: The meeting must be held no earlier than 6:00 pm Monday through Friday, and must be held in a location generally accessible to residents within close proximity of the request.

Meeting Notice Mailing requirements:

- The applicant must contact all adjacent property owners via first class mailing (see sample letter).
- The mailing must include all the persons, firms, or corporations owning property within 100 feet and immediately adjacent to the subject property. Where the subject property immediately adjoins a public or private right-of-way, landscape or riparian buffer, commonly-owned private area, public property, or homeowners' association property, then letters of notification shall be sent to adjoining property owners as if they directly abut the subject property.
- The notice must be mailed at least ten (10) calendar days but not more than twenty-five (25) days prior to the date of the neighborhood meeting.

Information provided to Planning Department: Alert the Planning Department when the date, location, and time are determined. Planning staff may attend the neighborhood meeting to answer process/code questions.

Return the following items to the Planning Department at least ten (10) calendar days prior to the Planning Board or Board of Adjustment meeting in electronic or hard copy format:

- Neighborhood Meeting Summary Form
- Copy of the letter mailed
- Mailing list
- Attendance roster

# NEIGHBORHOOD MEETING SUMMARY FORM

## FILL OUT THE FOLLOWING:

Date of Mailing: October 22, 2013

I hereby attest that letters were mailed to the addresses listed on the Adjacent Property Owners List (attached):

Printed Name: Carlos Bagley

Signature: 

Date of Meeting: November 5, 2013

Time of Meeting: 6:00 pm

Location of Meeting: Dalton Engineering, 446 East Main St., Clayton NC

**Meeting Summary/Minutes:** *provide a summary of the discussion held at the meeting, including issues raised and any changes made by the applicant as a result of the meeting.*

There was no attendance at the meeting. Jim Lee and Nathan Evans made phone calls to our Office inquiring about the project. They did not express any concerns.

*Please write clearly (or submit a typed summary), and use additional sheets if necessary*

# Dalton Engineering

and Associates, P.A.



October 22, 2013

1667700-38-6495  
Carolina Power and Light  
PO Box 1551  
Raleigh, NC 27602

Dear Clayton Area Property Owner:

The purpose of this letter is to notify you of an application filed with the Town of Clayton for a land use proposal involving property adjacent to, or in close proximity to, property shown in your ownership by Johnston County tax records. Per Town of Clayton regulation, a neighborhood meeting will be held to provide information to area residents about the nature of the proposal. A representative of the applicant will be present to explain their application, answer questions, and solicit comments.

Meeting Date: Tuesday, November 5, 2013

Location: Dalton Engineering  
446 East Main Street  
Clayton, NC 27520

Time: 6:00 pm.

Type of Application: Rezoning

General Description: Rezoning adjacent lot beside Powhatan Self Storage

If you have any questions prior to or after this meeting, you may contact the Clayton Planning Department at (919) 553-5002.

Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Bagley', is written over a light blue horizontal line.

Carlos Bagley  
Dalton Engineering and Associates, P.A.  
(919) 550-4740

cc. Clayton Planning Dept



## 1. ACTION [MOTION] ON REZONING REQUEST

### **Motion:**

**Council motion** to approve [or deny] the rezoning request RZ 2013-76.

*If the rezoning request is approved, Council will continue with the Consistency and Reasonableness Statement.*

## 2. ACTION [MOTION] ON CONSISTENCY AND REASONABLENESS STATEMENT

### **MOTION:**

**Council motion** to approve [or deny] the Statement of Consistency and Reasonableness for the text amendment as included in the agenda packet.

**TOWN OF CLAYTON**  
**CONSISTENCY AND REASONABLENESS STATEMENT**  
**RZ 2013-76**

**THE TOWN COUNCIL OF THE TOWN OF CLAYTON HEREBY STATES** that **RZ 2013-76** is consistent with the Town of Clayton Strategic Growth Plan and based upon information presented at the public hearing and by the applicant, and based upon the recommendations and detailed information developed by staff and/or the Planning Board contained in the staff report, and considering the criteria of ~~Section 155.703(H), Section 155.704(J) and/or Section 155.705(J)~~ of the Unified Development Code of the Town of Clayton, **RZ 2013-76** is reasonable and in the public interest.

Date of approval: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Jody L. McLeod  
Mayor

\_\_\_\_\_  
Sherry L. Scoggins, MMC  
Town Clerk

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

**Agenda Item: 5b**

**Meeting Date: 01/06/14**

**TITLE: PUBLIC HEARING FOR PROPOSED UTILITY DEVELOPMENT AGREEMENT WITH GRIFOLS BIOPHARMACEUTICALS.**

**DESCRIPTION:** The Town of Clayton and Grifols Biopharmaceuticals are discussing utility development agreements and the following outlines are presented for discussion:

- Terms and elements of a development agreement that are not set forth in the wastewater and water term sheets;
- Terms and elements of a pending development agreement regarding industrial wastewater treatment / supply services and costs for service; and
- Terms and elements of a pending development agreement regarding industrial wastewater treatment / supply services and costs for service.

The following development agreement is for Council’s review and comment. In accordance with the NC GS, this item is noticed for public hearing slated for the Monday, January 6, 2014, Council meeting [NC GS 160A-400.24]. If the development agreement is approved, the developer shall record the agreement with the register of deeds in the county where the property is located within 14 days after a local government approves entering into the agreement [160A-400.30].

**RELATED GOAL:** Grow the Local Economy

**ITEM SUMMARY:**

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
11-18-13	Presentation	Outlines (3).
12-16-13	Presentation & Public notice.	
01-06-14	Public hearing.	Agreements (3).



Southern Tract, the Northern Tract, the 7 acre Tract, the 24 acre Tract and the 20.15 acre Tract being collectively referred to as the “Property”); and

WHEREAS, the Property contains more than 25 acres of developable property; and

WHEREAS, GTI uses and intends to further use the Property for biomanufacturing which is the manufacture of products or product intermediates derived from a biological origin such as, without limitation blood, blood products, cells, and tissues and/or use biochemical steps to produce molecules and materials and includes without limitation uses, structures, buildings accessory to, appurtenant to, incidental to or reasonably related to biomanufacturing, including without limitation infrastructure, trucking, warehousing and distribution activities as well as utilities and other similar structures or improvements (the “Project”); and

WHEREAS, the Town and GTI agree that biomanufacturing is constantly evolving and changing in terms of practices, protocols, methods, processes and final products because of many factors (including evolving scientific inquiries and discoveries), and the Town and GTI agree that such evolutions and changes are inherent in biomanufacturing and that biomanufacturing, including without limitation these evolutions and changes, is Laboratory Research under the Town’s Unified Development Code (the “UDO”), is a generally permitted use in the Industrial-1 Zoning District of the UDO and there is no length limitation for trucks applicable to Laboratory Research in the UDO; and

WHEREAS, the Southern Tract is currently developed and in use by GTI as a biomanufacturing facility and uses structures, buildings accessory or incidental to this facility where GTI produces from blood plasma critical treatments for people with life-threatening disorders (the “Southern Facility” or “Phase 1”) and approximately 1500 employees work in the Southern Facility; and

WHEREAS, GTI has constructed a four hundred and thirty million dollar (\$430,000,000) new biomanufacturing facility on the Northern Tract and proposed to establish and operate in this facility a fractionation facility, which will require (among other things) new machinery and equipment as well as the construction of new infrastructure to service the new fractionation facility (the “Northern Facility” or “Phase 2”); and

WHEREAS, GTI invested another thirty million dollars (\$30,000,000) to expand the Northern Facility; and

WHEREAS, GTI has under construction a new logistic warehouse facility and a new sterile filling facility and other improvements on the Property as part of the Project and these facilities represent over another \$100,000,000 investment by GTI ; and

WHEREAS, the Project will require a long-term commitment of GTI’s resources and will require the careful integration between public capital facilities planning, financing, and construction schedules and the phasing of the development of the Project to be successful from the Town’s and GTI’s standpoints; and

WHEREAS, the development of the Project will involve a substantial commitment of private capital by GTI, which GTI is unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development of the Project; and

WHEREAS, the Property is of sufficient size as to permit further and new biomanufacturing beyond what is currently operating or proposed to be operated on the Property and the Town and GTI desire to plan for possible future biomanufacturing to be located on the Property; and

WHEREAS, the Property is located in the Town's extraterritorial jurisdiction and is zoned Industrial-1 (except for the recently acquired 7 acre Tract and the 24 acre Tract) to assure that the Project is developed as a generally permitted use within a single zoning district and to provide for the careful integration and coordination between public capital facilities planning, financing and construction and the development of the Project; and

WHEREAS, because of the type, size and location of the Project, the Town and GTI believe that the orderly completion and operation of the Project will be difficult to accommodate with the Town's traditional zoning and development processes; and

WHEREAS, the Project currently includes Phases 1 and 2 and the Project may be expanded in the future; and

WHEREAS, Phases I and 2 have been approved by the Town;

WHEREAS, upon the Town Council's approval of this Development Agreement, the Project shall be vested for the duration of this Development Agreement; and

WHEREAS, after careful review and deliberation, the Town finds that the Project constitutes a development suitable to be planned and developed through a development agreement as permitted by Part 3D of Article 19 of Chapter 160A of the North Carolina General Statutes and that it is in the Town's interest to enter into this Development Agreement because significant benefits to the Town and its citizens will be realized as a result of the Project and this Development Agreement; and

WHEREAS, the details concerning the Project required by N.C.G.S. § 160A-400.25 are set forth in **Exhibit B** and made a part hereof by reference; and the schedule for development of the Project (the "Development Schedule") is attached hereto as **Exhibit C** and made a part hereof by this reference; and

WHEREAS, the Town has published notice of and has held a public hearing concerning this Development Agreement as required by N.C.G.S. § 160A-400.24 and otherwise completed all steps, conditions and requirements necessary for the Town Council to consider the adoption of this Development Agreement as permitted by law; and

WHEREAS, after holding the public hearing and carefully considering the terms and conditions of this Development Agreement, the Town Council duly adopted this Development Agreement as an ordinance as required by N.C.G.S. § 160A-400.22 and directed its execution by the Mayor and attestation by the Town Clerk.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, and pursuant to North Carolina law including N.C.G.S. § 160A-400.20 *et seq.*, the Town and GTI agree as follows:

1. Goals and Considerations

1.1. Goals

- 1.1.1 To set forth the existing relationship of cooperation and collaboration between the Town and GTI by establishing a framework for development of the GTI campus.
- 1.1.2 To carefully integrate the Town's capital facilities planning, financing and construction schedules and development of the GTI campus.

1.2. Considerations

- 1.2.1. Coordination between the Town's development of its utility system and GTI's need for water and wastewater services maximizes efficiencies and favorable outcomes for both Parties.
- 1.2.2 Coordination between the Town's land use and building regulatory system and GTI's existing uses and future planning for its campus encourages healthy and orderly growth and efficient allocation of resources by both Parties.

2. Definitions:

2.1 Recitals: The definitions set forth in the recitals to this Development Agreement are incorporated herein by this reference.

2.2 Additional Property: As defined in **Section 6** of this Development Agreement.

2.3 Effective Date: The Effective Date is the date the Development Agreement is executed by both Parties after the adoption of an ordinance approving the Development Agreement by the Town Council. The Town shall sign and deliver the Development Agreement to GTI within three (3) calendar days of adopting the ordinance approving the Development Agreement.

2.4 Land Development Regulations: Ordinances and regulations enacted by the Town for the regulation of any aspect of development and including zoning, subdivision, or any other land development ordinances.

2.5 Land Records: The Office of the Register of Deeds of Johnston County, North Carolina.

2.6 Laws: All ordinances, resolutions, regulations, comprehensive plans, land development regulations, policies, and rules adopted by the Town affecting the development of Real Property, and including, without limitation, laws governing permitted uses of Real Property, density, design, and improvements.

2.7 NCDOT: North Carolina Department of Transportation.

2.8 Parties: Collectively, the Town and GTI. “Party” shall mean and refer to any of the Parties, individually.

2.9 Person: Any individual, sole proprietorship, corporation, partnership, limited liability company, joint venture, association, joint stock company, estate, trust, trustee of a trust, unincorporated organization, a unit of local government or any other similar legal entity.

2.10 Potable Water Services Supply Agreement: As defined in **Section 3.3** of this Development Agreement.

2.11 Project Development Law: As defined in **Section 5** of this Development Agreement.

2.12 Real Property: All real property subject to land use regulation by the Town and including any improvements or structures customarily regarded as a part of real property.

2.13 Wastewater Services Supply Agreement: As defined in **Section 3.2** of this Development Agreement.

3. Provision of Public Infrastructure by the Town: In order to provide sufficient public infrastructure for the Project and other properties and citizens located in the vicinity of the Project, the Town has shall undertake the following:

3.1 Town Fire District Services: The Property is located within the Town's fire district. The Town shall provide the same fire-related emergency services to the Property that are provided for other properties located within the Town's fire district for so long as the Property remains in the Town's fire district. Any costs or fees for such services shall be in accordance with the Town's Comprehensive List of Fees and Charges, as amended from time to time. The Town and GTI will coordinate their planning and development to assure that the GTI's campus has adequate municipal services for fire protection.

3.2 Town Wastewater Services: The Town shall supply wastewater services to GTI, the Project, the Property and Additional Property pursuant to the terms of the Wastewater Services Supply Agreement between the Town and GTI dated January 6, 2014 (the "Wastewater Services Supply Agreement") and the provisions of the Wastewater Services Supply Agreement are incorporated herein and made a part of this Development Agreement by this reference.

3.3 Town Water Services: The Town shall supply potable water services to GTI, the Property, the Project and Additional Property pursuant to the terms of the Potable Water Services Supply Agreement between GTI and the Town, dated January 6, 2014 (the "Potable Water Services Supply Agreement") and the provisions of the Potable Water Supply Agreement are incorporated herein and made a part of this Development Agreement by this reference.

4. Coordination and Management of Development Approvals for the Project: In order to provide for coordination and management of the development reviews, approvals and permits associated with the Project, the Town agrees as follows:

4.1 Reviews and Approvals: The Town shall provide expedited review and approval of all plans associated with the Project, including but not limited to site layout and building plans. For each phase of the Project, the Town shall assign to the Project a specific, individual member of the Town's planning staff for the express purpose of expediting review and approval of all plans associated with the completion of the phase.

4.2 Cooperation and Assistance: The Town shall assist and cooperate with GTI in connection with reviews, approvals and permits issued by Johnston County, NCDOT or the State of North Carolina associated with the Project. Further, should GTI elect to seek recombination or rezoning of all or any of the land described in *Exhibits A-4, A-5 and A-6* or Additional Property to the Industrial-1 District, the Town staff shall receive and review the proposed subdivision or rezoning petition and the rezoning proceedings shall be conducted as expeditiously as permitted under State and local law. The Town represents that rezoning the land described in *Exhibits A-4, A-5 and A-6* to the Industrial-1 District is consistent with the Town Comprehensive Plan.

4.3 Project Approval: All improvements existing on the Property on the Effective Date have been approved by the Town.

5. Vested Rights to Complete the Project; Application of Laws and Land Development Regulations: Except for the limited grounds stated in the current (as of the

Effective Date) version of N.C.G.S. § 160A-385.1(e), the Project shall be subject only to the Laws and Land Development Regulations and policies enacted and applicable to the Property and Project at the time of the Town’s approval of the Development Agreement by adoption of an ordinance (the “Project Development Law”). Additionally, no future development moratoria or development impact fees shall apply to the Project without the written consent of GTI or its successors in interest. Laws, rules, regulations or policies enacted, adopted, formed or administered by the Town or any of its boards, officials or staff subsequent to the adoption of the Development Agreement, including but not limited to land use, streets, buffers, the division of land, grading, landscaping, water, sewer, stormwater, setbacks, and signage, shall not directly or indirectly be applicable to any aspect of the Project for the duration of this Development Agreement, as provided in **Section 10** of this Development Agreement. Subject to the provisions in N.C.G.S. §160A-400.26(c), in the event that State or federal law is changed after the Effective Date in such a way that prevents compliance with the Development Agreement by GTI, the Town and GTI will review the terms of the Development Agreement and will work together in good faith to modify the affected provisions to accomplish the intended purpose of the Development Agreement and the economic benefits foreseen by the parties when they entered into the Development Agreement.

6. Additional Property: Notwithstanding any descriptions of the Property to the contrary, this Development Agreement is hereby adopted and approved by the Town to apply to any real property contiguous to any part of the Property (whether in one or more parcels, the “Additional Property”) that GTI may acquire during the term of this Development Agreement. If GTI acquires the Additional Property, then the legal description of the Additional Property shall be attached to this Development Agreement as an additional exhibit.

7. Review to Assess Compliance with the Development Agreement: In accordance with N.C.G.S. § 160A-400.27, the Town Manager shall conduct periodic reviews to determine GTI’s compliance with this Development Agreement, at which time GTI may be requested to demonstrate good faith compliance with the terms of this Development Agreement; however, in no event shall GTI’s failure to satisfy a commencement or completion date of the Project, in and of itself, be a material breach of this Development Agreement and any such failure must be judged by the Town based upon the totality of circumstances. As with every agreement in North Carolina, the Town and GTI have an implied duty to deal in good faith and fairly with each other regarding their performances under this Development Agreement and both parties agree to work reasonably and cooperatively to address concerns related to any real or perceived inadequate performance of this Development Agreement by either party.

In addition to the foregoing review, from time to time either party, upon its own initiation, may request a review of the other party’s prior execution or prospective future ability to execute the provisions of this Development Agreement to assure compliance with this Development Agreement and the accomplishment of the purposes originally intended by the parties.

8. Default and Remedies:

8.1 GTI Cure Rights. In addition to the default and remedies provided in N.C.G.S. § 160A-400.27(b) and (c), in the event of a default in the performance of GTI’s duties

or obligations created by this Development Agreement, the Town shall provide GTI with written notice thereof, which notice shall specify a period of not less than sixty (60) days in which GTI shall have a right to cure such failure; provided, however, such cure period shall be extended if (a) a failure cannot reasonably be cured within the cure period provided in such notice, (b) GTI notifies the Town of such fact by no later than the end of the cure period provided in the notice, and (c) GTI, in such extension notice, covenants to (and thereafter actually does) diligently pursue the cure to completion.

8.2 Mortgagee Provisions. The Town agrees to send, by certified mail, return receipt requested, to any beneficiary of a mortgage or deed of trust secured by the Property and/or the Additional Property (as the same may be modified) a copy of any notice of default served upon GTI, provided that prior to such notice the Town has been notified in writing of the address of such beneficiary. The Town further agrees that if GTI shall have failed to cure any failure described in Section 8.1 within the time provided therein, then such beneficiaries shall have a reasonable period of time thereafter to commence and diligently pursue the remedies necessary to cure such failure (including but not limited to commencement of foreclosure proceedings, if necessary, to effect such cure), and the Town shall not exercise any right or remedy during the time such necessary remedies are being so diligently pursued.

8.3 Town Remedies. The Parties agree that in the event that no cure of any failure described in Section 8.1 is effected pursuant to Section 8.1 or Section 8.2, then the Town, as the Town's sole and exclusive remedy, and with written notice thereof to GTI and any beneficiaries described in Section 8.2, may terminate this Development Agreement, in which case (i) this Development Agreement shall be of no further force or effect and neither GTI nor the Town shall have any of the duties or obligations specified herein and (ii) the Town may record a notice of termination of this Development Agreement in the Land Records. Notwithstanding anything to the contrary contained in the foregoing, no termination of this Development Agreement may be declared by the Town absent provision of notice and opportunity to cure, as provided in N.C.G.S. § 160A-400.27, to GTI and any beneficiaries described in Section 8.2.

8.4 Town Cure Rights: In the event of a default in the performance of the Town's duties or obligations created by this Development Agreement, GTI shall provide written notice of the default to the Town and shall specify a period of not less than thirty (30) days in which the Town shall have a right to cure the default; provided, however, such cure period shall be extended if (a) a default cannot reasonably be cured within the cure period provided in such notice, (b) the Town notifies GTI of such fact by no later than the end of the cure period provided in the notice, and (c) the Town in such extension notice covenants to (and thereafter actually does) diligently pursue the cure to completion. In the event the Town fails to cure the default, GTI may either (i) terminate this Development Agreement or (ii) enforce this Development Agreement by seeking damages or the remedy of specific performance.

8.5 Development Schedule: The Project has been developed in accordance with the Development Schedule. The failure to meet a commencement or completion date specified in the Development Schedule shall not, in and of itself, constitute a material breach of this Development Agreement pursuant to N.C.G.S. § 160A-400.27 but must be judged based upon the totality of the circumstances, including, but not limited to, GTI's good faith efforts to

attain compliance with the Development Schedule. The Development Schedule is a planning tool and shall not be interpreted as mandating the development pace initially forecast or preventing a faster pace of development if market conditions support a slower or faster pace.

9. Recordation of Agreement: Pursuant to N.C.G.S. § 160A-400.30, within fourteen (14) days after the Effective Date, GTI shall record the Development Agreement with the Land Records.

10. Term: The term of this Development Agreement shall be a period of twenty (20) years from the Effective Date.

11. Miscellaneous:

11.1 Force Majeure: The Parties hereto shall not be liable for any failure to perform hereunder as a result of an external event or events beyond their respective control, including, without limitation, acts of the United States of America, acts of the State of North Carolina, embargos, fire, flood, drought, hurricanes, tornadoes, explosions, acts of God or a public enemy, strikes, labor disputes, vandalism or civil riots. However, if any such event interferes with the performance by a Party hereunder, such party shall diligently and in good faith act to the extent within its power to remedy the circumstances affecting its performance or to complete performance in as timely a manner as is reasonably possible.

11.2 Amendment: Except for GTI's right to modify the definition of Property from time to time as provided in **Section 6**, this Development Agreement may be amended or canceled by mutual written consent of the Town and GTI, or their successors in interest or assigns.

11.3 Severability: If any provision of this Development Agreement, or its application to any person, is held to be unenforceable for any reason, it shall be adjusted rather than voided, if possible, in order to achieve the intent of the Parties to the extent possible. In any event, invalidation of any provision of this Development Agreement, or its application to any person, shall not affect any other provisions of this Development Agreement or its application to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect. There are no intended third person beneficiaries of this Development Agreement except for those identified in **Section 8.2**.

11.4 Recitals: The recitals of this Development Agreement are material terms of the Development Agreement and shall be binding upon the Parties.

11.5 Notices: All notices or other communications required or permitted to be served hereunder shall be deemed served in accordance with this Development Agreement if the notice is: (a) mailed in a sealed wrapper and deposited in the United States mail, certified mail, return receipt requested, postage prepaid (with delivery conclusively presumed to occur on the third (3<sup>rd</sup>) business day following such deposit absent evidence of actual failure of delivery); or (b) deposited with a national overnight courier service for next day delivery that retains receipts of its deliveries, properly addressed (with delivery conclusively presumed to occur on the next business day following such deposit absent evidence of actual failure of delivery):

Town: The Town of Clayton  
P.O. Box 879  
Clayton, NC 27528  
Attn: Mr. Steve Biggs  
Town Manager

GTI: Grifols Therapeutics Inc.  
8368 U.S. Highway 70 Business West  
Clayton, North Carolina 27520  
Attn: Mr. Timothy J. Hamm  
Senior Director  
Validation and Site Development

with a copy to:

Mr. Aaron Golub  
Senior Corporate Counsel  
8368 U.S. Highway 70 Business West  
Clayton, NC 27520

The Parties, by written notice given to the other, may designate any further or different names or addresses to which all notices or other communications shall be sent without said further or different names or addresses being considered amendments to this Development Agreement.

11.6 Assignment: GTI may assign any or all of its rights and/or obligations under this Development Agreement (a) to any affiliate controlling, controlled by or under common control of GTI (and upon such assignment the assigning entity shall be relieved of its covenants, commitments and obligations hereunder), (b) to any lessee of all or part of the Property for the duration of their lease, or (c) to subsequent owners of all or any portion of the Property, without the written consent of the Town. GTI shall provide notice to the Town in the event GTI assigns any or all of its rights and/or obligations under this Development Agreement pursuant to the preceding sentence, and in the event GTI assigns, and such assignee assumes, less than all of GTI's rights and/or obligations under this Development Agreement, then in its notice of assignment to the Town, GTI shall specify which rights and/or obligations were and were not assigned and assumed. In the event that GTI sells the Property in its entirety and assigns its rights and obligations hereunder to its successor in title to the Property, then GTI shall be relieved of all of its covenants, commitments and obligations hereunder. The provisions of this Section shall be applicable to any assignment by GTI, as well as to any subsequent assignees of GTI, it being the intention of the Parties that the rights, benefits and obligations of GTI under this Development Agreement shall be freely assignable.

11.7 Run with the Land: This Development Agreement shall run with the Property and any portion thereof as it may be subdivided or recombined.

11.8 Entire Agreement and Construction with Other Agreements: This Development Agreement contains the entire agreement between the Parties regarding the Development Agreement. All prior or contemporaneous oral or written drafts are merged into the Agreement.

11.9 Multiple Counterparts: This Development Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and it shall not be necessary in making proof of this Development Agreement to produce or account for more than one such fully executed counterpart.

11.10 Applicable Law and Venue: This Development Agreement is governed by and shall be construed in accordance with the laws of the State of North Carolina.

11.11 Representations and Warranties of the Parties: The Town and GTI, and the persons executing this Development Agreement on their behalf, represent and warrant, as applicable, that (a) such Party or person has the full power and authority to enter into this Development Agreement, to execute it on behalf of the Party indicated on the signature page, and to perform the obligations hereunder, (b) such Party is acting on its own behalf and on behalf of its members, successors and assigns, (c) this Development Agreement is a valid and binding obligation, enforceable against the Parties in accordance with its terms, (d) entering into this Development Agreement does not conflict with any other agreements entered into by either Party, and (e) the execution, delivery and performance of this Development Agreement has been duly and validly authorized by all necessary corporate or governmental action on its part. Specifically (and not as a limitation), the Town represents and warrants to GTI that this Development Agreement has been pre-audited to ensure compliance with the budgetary accounting requirements (if any) that apply thereto. In the event that any of the obligations of the Town in this Development Agreement constitute debt, the Town has complied, at the time of the obligation to incur the debt and before the debt becomes enforceable against the Town, with any applicable constitutional and statutory procedures for the approval of the debt. Notwithstanding the foregoing, it is not the intent of subsection 10.11(c) to make any individual personally liable for the performance or nonperformance of this Development Agreement.

11.12 Effect on Other Vested Rights: This Development Agreement does not abrogate any rights established or preserved by N.C.G.S. § 160A-385(b) or § 160A-385.1 or that may vest pursuant to common law or otherwise in the absence of this Development Agreement.

11.13 Construction: The Parties agree that each Party have reviewed and revised this Development Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in the interpretation of this Development Agreement or any amendments or exhibits hereto. This Development Agreement shall be reasonably interpreted and construed to encourage, promote and aid the Project so that the opportunities and positive community impacts of the Project are fully realized by the Town, its citizens and GTI.

**[Remainder of Page Left Blank; Signatures Begin on Next Page]**

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the day and year indicated above.

TOWN OF CLAYTON

By: \_\_\_\_\_  
Jody L. McLeod, Mayor

[TOWN SEAL]

ATTEST:

By: \_\_\_\_\_  
Sherry L. Scoggins, Town Clerk

STATE OF NORTH CAROLINA  
COUNTY OF JOHNSTON

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County, North Carolina, do hereby certify that Jody L. McLeod, Mayor of the Town of Clayton, North Carolina, a municipal corporation, personally came before me this day and acknowledged that he is the Mayor of the Town of Clayton, that this Development Agreement has been approved by the Clayton Town Council by ordinance in accordance with the requirements of Part 3D of Article 19 of Chapter 160A, that he has been authorized by the Town Council to execute this Development Agreement on behalf of the Town, that he knows the Corporate Seal of the Town, that the Corporate Seal was affixed to this Development Agreement by Sherry L. Scoggins, the Town Clerk, pursuant to authorization from the Town Council, that this Development Agreement is the act and deed of the Town of Clayton, and that she acknowledged the due execution of this Development Agreement by him/her in the aforesaid capacity.

Witness my hand and official seal or stamp, this the \_\_\_\_ day of \_\_\_\_\_, 2014.

My commission expires:

\_\_\_\_\_ Notary Public

[NOTARY SEAL]

\_\_\_\_\_ Print Name of Notary

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

\_\_\_\_\_  
Town of Clayton Finance Director Robert W. McKie

**[Signatures Continue on Next Page]**

**[Signatures Continued from Previous Page]**

GRIFOLS THERAPEUTICS INC.,  
a Delaware corporation

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_, as \_\_\_\_\_ of Grifols Therapeutics Inc.

Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

[NOTARY SEAL]

\_\_\_\_\_  
Print Name of Notary

## EXHIBIT A-1

### LEGAL DESCRIPTION OF SOUTHERN TRACT

Being all of that property conveyed to Talecris Biotherapeutics, Inc., a Delaware corporation, by deed recorded in Book 2871, Page 336, of the Johnston County Registry, and being more particularly described as follows:

TO DETERMINE THE TRUE POINT AND PLACE OF BEGINNING, COMMENCE at USGS monument "P 190", said monument having North Carolina grid coordinates N = 678,329.11 and E = 2,173,053.63 (NAD 83); thence North 15 degrees 15 minutes 23 seconds West 1,980.23 feet to an iron rod found in the eastern margin of the right-of-way of U.S. Highway 70, the Control Corner, having North Carolina grid coordinates N = 680,239.33 and E = 2,172,532.61 (NAD 83), the TRUE POINT AND PLACE OF BEGINNING.

Thence from the TRUE POINT AND PLACE OF BEGINNING, continuing along and with the right-of-way of U.S. Highway 70, North 23 degrees 39 minutes 43 seconds West 417.57 feet to a right-of-way monument (disturbed); thence continuing with said right-of-way North 23 degrees 41 minutes 38 seconds West 761.84 feet to an iron rod found; thence North 25 degrees 49 minutes 41 seconds West 2.70 feet to an iron pipe found; thence leaving said right-of-way and running with the southeastern line of property held by Hospira, Inc., by deed recorded in Book 2702, Page 583, and shown on Plat Book 28, Page 173, of the Johnston County Registry, North 36 degrees 55 minutes 55 seconds East 532.08 feet to a computed point; thence running with the northeastern line of said property North 53 degrees 03 minutes 40 seconds West 956.42 feet to a nail set; thence South 38 degrees 15 minutes 01 seconds West 263.34 feet to an iron pipe found, said iron pipe lying in the eastern margin of the right-of-way of U.S. Highway 70; thence running with said right-of-way, North 45 degrees 54 minutes 36 seconds West 115.06 feet to an iron pipe set; thence North 46 degrees 19 minutes 36 seconds West 313.90 feet to a computed point in the eastern margin of the right-of-way of N.C.S.R. 1990, a 60' public right-of-way; thence continuing the same course North 46 degrees 19 minutes 36 seconds West 30.0 feet to a PK nail set in the centerline of said right-of-way; thence along and with said right-of-way North 43 degrees 35 minutes 27 seconds East 611.17 feet to a PK nail set in the centerline of the Southern Railroad right-of-way; thence continuing with said railroad right-of-way South 53 degrees 07 minutes 42 seconds East 2,820.83 feet to a PK nail set; thence leaving the centerline of the railroad right-of-way and running South 73 degrees 10 minutes 36 seconds West 124.38 feet to an iron pipe set; thence running along the southwestern line of the railroad right-of-way South 53 degrees 07 minutes 42 seconds East 445.30 feet to an iron pipe set, said iron pipe being the northwestern corner of that property held by Novo Nordisk Pharmaceutical Industries, Inc. by deed recorded in Book 1389, Page 114, of the Johnston County Registry, and running thence with said property line South 00 degrees 04 minutes 04 seconds East 230.50 feet to a concrete monument found; thence South 02 degrees 07 minutes 16 seconds West 114.44 feet to an existing axle; thence running with the western line of property held by the County of Johnston by deed recorded in Book 926, Page 1, of the Johnston County Registry, South 41 degrees 06 minutes 53 seconds West 161.17 feet to a concrete monument found; thence running with the northern line of property held by the Walthom Group III, LLC, by deed recorded in Book 1933, Page 678, of the Johnston County Registry, North 87 degrees 36 minutes 20 seconds West

728.06 feet to a concrete monument found (disturbed); thence continuing with said property line South 72 degrees 53 minutes 11 seconds West 694.52 feet to an iron rod found, said rod lying in the eastern margin of the right-of-way of U.S. Highway 70, the point and place of BEGINNING, containing 56.992 acres, or 2,482,584 square feet, excluding the right-of-way area of N.C.S.R. 1990, and the right-of-way area of Southern Railroad, and being the same tract as shown on that survey entitled "ALTA/ACSM Land Title Survey of Bayer HealthCare for Bayer HealthCare, LLC", by McKim & Creed, dated July 23, 2004, Clayton Township, Johnston County, North Carolina (Project No. 1601-0015).

**[End of Exhibit A-1]**

**EXHIBIT A-2**

**LEGAL DESCRIPTION OF 70 ACRE TRACT**

Being a portion of that property conveyed to Talecris Biotherapeutics, Inc., a Delaware corporation, by deed recorded in Book 2871, Page 336, of the Johnston County Registry, and being more particularly described as follows:

TO DETERMINE THE TRUE POINT AND PLACE OF BEGINNING, COMMENCE at USGS monument "P 190", said monument having North Carolina grid coordinates N = 678,329.11 and E = 2,173,053.63; thence North 20 degrees 06 minutes 13 seconds East 2,849.97 feet to an iron pipe set in the centerline of Southern Railroad (200' R/W), the Control Corner, having North Carolina grid coordinates N = 681,005.13 and E = 2,174,033.10 (NAD '83), the TRUE POINT AND PLACE OF BEGINNING.

Thence from the TRUE POINT AND PLACE OF BEGINNING, continuing along and with the centerline of the railroad right-of-way North 53 degrees 07 minutes 42 seconds West 295.88 feet to a PK nail set; thence North 53 degrees 07 minutes 42 seconds West 2,820.83 feet to a PK nail set in the centerline of the railroad right-of-way; thence leaving the centerline of the railroad right-of-way and continuing North 43 degrees 35 minutes 27 seconds East 149.55 feet to a PK nail found; thence South 53 degrees 08 minutes 09 seconds East 1,137.93 feet to an iron rod found; thence North 48 degrees 46 minutes 27 seconds East 1,205.78 feet to an iron pipe set; thence South 43 degrees 28 minutes 08 seconds East 251.46 feet to an iron pipe found; thence North 50 degrees 09 minutes 21 seconds East 1,147.44 feet to a computed point in a creek, known as Jones Branch; thence along and with the centerline of such creek the following courses and distances: (1) South 12 degrees 33 minutes 44 seconds East 74.38 feet; (2) South 40 degrees 17 minutes 03 seconds East 97.79 feet; (3) South 02 degrees 41 minutes 01 seconds East 130.68 feet; (4) South 88 degrees 01 minutes 04 seconds West 104.64 feet; (5) South 23 degrees 58 minutes 03 seconds East 135.71 feet; (6) South 12 degrees 51 minutes 58 seconds West 104.28 feet; (7) South 63 degrees 33 minutes 07 seconds East 108.90 feet; (8) South 27 degrees 03 minutes 51 seconds West 133.96 feet; (9) South 17 degrees 27 minutes 38 seconds West 63.65 feet; (10) South 07 degrees 29 minutes 29 seconds East 43.70 feet; (11) South 04 degrees 34 minutes 01 seconds West 101.90 feet; (12) South 40 degrees 12 minutes 22 seconds West 46.90 feet; (13) South 36 degrees 10 minutes 02 seconds East 69.24 feet; (14) South 16 degrees 54 minutes 32 seconds West 96.40 feet; (15) South 17 degrees 16 minutes 34 seconds West 303.40 feet to a computed point in the centerline of another creek, known as Steep Hill Branch; thence continuing along the centerline of such creek the following courses and distances: (1) South 75 degrees 39 minutes 51 seconds East 61.18 feet; (2) South 63 degrees 23 minutes 23 seconds East 150.67 feet; and (3) South 75 degrees 37 minutes 46 seconds East 101.97 feet to an iron pipe found; thence leaving the centerline of the creek and continuing South 02 degrees 09 minutes 28 seconds West 967.96 feet to a concrete monument found; thence South 89 degrees 48 minutes 43 seconds West 658.60 feet to a concrete monument found; thence South 00 degrees 13 minutes 51 seconds East 211.59 feet to the POINT AND PLACE OF BEGINNING, containing 70.284 acres, excluding the right-of-way area of Southern Railroad, and being all of Tract 2 as shown on that survey entitled "ALTA/ACSM Land Title Survey of Bayer HealthCare for Bayer

HealthCare, LLC, Clayton Township, Johnston County, North Carolina,” dated July 23, 2004, by McKim & Creed (Project # 1601-0015).

**[End of Exhibit A-2]**

**EXHIBIT A-3**

**LEGAL DESCRIPTION OF 55 ACRE TRACT**

Being a portion of that property conveyed to Talecris Biotherapeutics, Inc., a Delaware corporation, by deed recorded in Book 2871, Page 336, of the Johnston County Registry, and being more particularly described as follows:

TO DETERMINE THE TRUE POINT AND PLACE OF BEGINNING, COMMENCE at USGS monument "P 190", said monument having North Carolina grid coordinates N = 678,329.11 and E = 2,173,053.63; thence North 20 degrees 06 minutes 13 seconds East 2,849.97 feet to an iron pipe set in the centerline of Southern Railroad (200' R/W), having North Carolina grid coordinates N = 681,005.13 and E = 2,174,033.10 (NAD '83); thence continuing with the centerline of said railroad right-of-way North 53 degrees 07 minutes 42 seconds West 295.88 feet to a PK nail set; thence North 53 degrees 07 minutes 42 seconds West 2,820.83 feet to a PK nail set, the Control Corner, having North Carolina grid coordinates N = 682,875.02 and E = 2,171,540.08 (NAD 83), the TRUE POINT AND PLACE OF BEGINNING.

Thence from the TRUE POINT AND PLACE OF BEGINNING, continuing along and with the centerline of the railroad right-of-way North 53 degrees 07 minutes 42 seconds West 576.66 feet to an iron pipe found; thence leaving the centerline of the railroad right-of-way and continuing North 47 degrees 27 minutes 13 seconds East 371.04 feet to an iron pipe found in the centerline of a creek, known as Washout Branch; thence along and with the centerline of such creek the following courses and distances: (1) South 64 degrees 54 minutes 07 seconds East 92.03 feet; (2) South 83 degrees 45 minutes 47 seconds East 259.53 feet; (3) South 63 degrees 51 minutes 27 seconds East 38.30 feet; (4) North 40 degrees 28 minutes 23 seconds East 14.70 feet; (5) South 80 degrees 15 minutes 29 seconds East 159.52 feet; (6) South 75 degrees 16 minutes 14 seconds East 37.14 feet; (7) South 86 degrees 41 minutes 29 seconds East 42.19 feet; (8) North 52 degrees 00 minutes 19 seconds East 101.95 feet; (9) North 77 degrees 56 minutes 29 seconds East 24.63 feet; (10) South 71 degrees 32 minutes 14 seconds East 71.76 feet; (11) North 30 degrees 48 minutes 01 seconds East 22.23 feet; (12) North 60 degrees 17 minutes 18 seconds East 106.62 feet; (13) South 77 degrees 30 minutes 04 seconds East 73.13 feet; (14) North 81 degrees 26 minutes 10 seconds East 66.20 feet; (15) South 41 degrees 31 minutes 34 seconds East 11.84 feet; (16) North 55 degrees 06 minutes 01 seconds East 25.86 feet; (17) South 63 degrees 41 minutes 26 seconds East 40.81 feet; (18) South 22 degrees 44 minutes 35 seconds East 19.71 feet; (19) South 80 degrees 03 minutes 11 seconds East 18.34 feet; (20) South 16 degrees 37 minutes 27 seconds East 42.37 feet; (21) South 68 degrees 52 minutes 23 seconds East 103.89 feet; (22) North 80 degrees 24 minutes 00 seconds East 75.85 feet; (23) South 76 degrees 50 minutes 23 seconds East 31.92 feet; (24) North 69 degrees 19 minutes 06 seconds East 39.24 feet; (25) South 69 degrees 12 minutes 28 seconds East 45.91 feet; (26) North 73 degrees 11 minutes 20 seconds East 49.13 feet; (27) North 61 degrees 29 minutes 51 seconds East 61.15 feet; (28) North 53 degrees 44 minutes 16 seconds East 35.64 feet; (29) North 78 degrees 05 minutes 32 seconds East 45.22 feet; (30) North 58 degrees 40 minutes 39 seconds East 48.17 feet; (31) North 21 degrees 18 minutes 32 seconds East 117.53 feet; (32) South 29 degrees 58 minutes 44 seconds East 20.37 feet; (33) North 65 degrees 09 minutes 58 seconds East 17.41 feet; (34) North 41 degrees 08 minutes 55 seconds East 36.44 feet; (35) South 89

degrees 58 minutes 27 seconds East 62.79 feet; (36) North 74 degrees 25 minutes 48 seconds East 100.28 feet; (37) North 23 degrees 46 minutes 06 seconds East 32.81 feet; (38) North 74 degrees 34 minutes 58 seconds East 26.75 feet; (39) North 19 degrees 21 minutes 31 seconds East 17.59 feet; (40) North 68 degrees 47 minutes 24 seconds East 42.47 feet; (41) North 58 degrees 51 minutes 36 seconds West 45.37 feet; (42) North 76 degrees 10 minutes 05 seconds East 64.82 feet; (43) South 59 degrees 52 minutes 21 seconds East 36.88 feet; (44) South 48 degrees 30 minutes 44 seconds East 41.08 feet; (45) North 61 degrees 14 minutes 28 seconds East 65.32 feet; (46) North 02 degrees 09 minutes 34 seconds East 35.50 feet; (47) North 66 degrees 04 minutes 16 seconds West 83.72 feet; (48) North 89 degrees 05 minutes 02 seconds East 137.29 feet; (49) South 81 degrees 04 minutes 02 seconds East 45.46 feet; (50) North 11 degrees 38 minutes 09 seconds East 86.92 feet; (51) North 75 degrees 22 minutes 29 seconds East 39.59 feet; (52) North 15 degrees 16 minutes 14 seconds East 81.82 feet; (53) South 54 degrees 49 minutes 34 seconds East 82.25 feet; (54) North 75 degrees 09 minutes 46 seconds East 83.49 feet; (55) South 68 degrees 24 minutes 36 seconds East 59.50 feet; (56) North 09 degrees 35 minutes 41 seconds East 80.00 feet; (57) North 68 degrees 17 minutes 20 seconds East 77.63 feet; (58) South 57 degrees 11 minutes 59 seconds East 28.01 feet; (59) North 26 degrees 49 minutes 08 seconds East 20.87 feet; (60) South 65 degrees 31 minutes 18 seconds East 58.23 feet; (61) North 56 degrees 44 minutes 58 seconds East 71.35 feet; (62) South 37 degrees 07 minutes 42 seconds East 27.48 feet; (63) North 84 degrees 12 minutes 55 seconds East 126.76 feet; (64) North 88 degrees 10 minutes 00 seconds East 77.96 feet; (65) North 53 degrees 43 minutes 45 seconds East 34.80 feet; (66) South 89 degrees 27 minutes 11 seconds East 125.30 feet; (67) South 46 degrees 01 minutes 26 seconds East 73.88 feet; (68) North 58 degrees 01 minutes 03 seconds East 43.02 feet; (69) South 58 degrees 04 minutes 18 seconds East 31.34 feet; (70) North 19 degrees 31 minutes 54 seconds East 49.09 feet to an iron pipe in the centerline of another creek, known as Jones Branch; thence along and with the centerline of such creek the following courses and distances: (1) South 25 degrees 38 minutes 40 seconds East 73.79 feet; (2) South 84 degrees 44 minutes 53 seconds East 26.59 feet; (3) South 28 degrees 00 minutes 09 seconds East 99.99 feet; (4) South 27 degrees 24 minutes 30 seconds West 79.96 feet; (5) South 79 degrees 29 minutes 56 seconds West 33.30 feet; (6) South 01 degrees 26 minutes 21 seconds West 45.85 feet; (7) South 72 degrees 13 minutes 16 seconds West 28.67 feet; (8) South 24 degrees 54 minutes 12 seconds West 31.87 feet; (9) South 72 degrees 22 minutes 19 seconds West 40.15 feet; (10) South 00 degrees 55 minutes 08 seconds East 56.23 feet; (11) South 81 degrees 18 minutes 24 seconds West 35.15 feet to a computed point; thence leaving the centerline of the creek and continuing South 50 degrees 09 minutes 21 seconds West 1,147.44 feet to an iron pipe found; thence North 43 degrees 28 minutes 08 seconds West 251.46 feet to an iron pipe set; thence South 48 degrees 46 minutes 27 seconds West 1,205.78 feet to an iron rod found; thence North 53 degrees 08 minutes 09 seconds West 1,137.93 feet to a PK nail found; thence South 43 degrees 35 minutes 27 seconds West 149.55 feet to the POINT AND PLACE OF BEGINNING, containing 55.030 acres, excluding the right-of-way area of Southern Railroad, and being all of Tract 1 as shown on that survey entitled "ALTA/ACSM Land Title Survey of Bayer HealthCare for Bayer HealthCare, LLC, Clayton Township, Johnston County, North Carolina," dated July 23, 2004, by McKim & Creed (Project # 1601-0015).

**[End of Exhibit A-3]**

**EXHIBIT A-4**

**LEGAL DESCRIPTION OF 7 ACRE TRACT**

LYING AND BEING in Johnston County, North Carolina and being more particularly described as follows:

BEING all that certain 7.36-acre parcel identified as “Talecris Biotherapeutics, Inc. Tract” shown on that certain Recombination Survey entitled “Property of Shirley Jones Carroll Talecris Biotherapeutics, Inc” dated June 22, 2011, revised June 28, 2011 and July 26, 2011, prepared by B.L. Scott & Co., and recorded in Plat Book 76, Page 341, Johnston County Registry.

The foregoing tract is a recombination of the (i) the property described as Tract 4 in the deed to Thad and Grace Smith Properties, L.L.C. (now known as TGS Properties, LLC) recorded in Book 1921 at Page 351, Johnston County Registry; and (ii) the property conveyed by Shirley Jones Carroll to Talecris Biotherapeutics, Inc. recorded in Book 4008, Page 237, Johnston County Registry.

**[End of Exhibit A-4]**

## EXHIBIT A-5

### LEGAL DESCRIPTION OF 24 ACRE TRACT

TO LOCATE THE TRUE POINT AND PLACE OF BEGINNING, begin at NCGS concrete monument "Montague 1968" having North Carolina grid coordinates N=679055.10' and E=2173022.81' (NAD '83/2001) and run thence North 55° 40' 10" East 3,692.66 feet to an existing nail having North Carolina grid coordinates N=681137.64' and E=2176072.20' (NAD '83/2001), said existing nail being a northeasterly corner of the property of Powhatan Free Will Baptist Church (now or formerly) as described in the deed recorded in Book 1177 at Page 796, Johnston County Registry, being also a southeasterly corner of the property of Powhatan Free Will Baptist Church (now or formerly) as described in the deeds recorded in Book 76 at Page 433, Book 74 at Page 576 and Book 285 at Page 105, Johnston County Registry, being located north of (and not on) the northerly margin of the right of way of Powhatan Road (SR 1901; having a right of way width of 60 feet); and run thence with the easterly boundaries of the property of Powhatan Free Will Baptist Church (now or formerly) as described in the deeds recorded in Book 76 at Page 433, Book 74 at Page 576 and Book 285 at Page 105, Johnston County Registry, North 15° 02' 20" West 876.93 feet to a 2 inch existing iron pipe, being the TRUE POINT AND PLACE OF BEGINNING.

Thence from the TRUE POINT AND PLACE OF BEGINNING as so located, run with the northerly boundary of the property of Powhatan Free Will Baptist Church (now or formerly) as described in the deeds recorded in Book 76 at Page 433, Book 74 at Page 576 and Book 285 at Page 105, Johnston County Registry the following courses and distances: (1) South 78° 07' 19" West 192.24 feet to point in the creek known as Steep Hill Branch, and (2) South 78° 07' 19" West 3.83 feet to an iron pipe set; thence with the meanderings of Steep Hill Branch and with the northerly boundary lines of the property of Novo Nordisk Pharmaceutical (now or formerly) as described in the deed recorded in Book 1200 at Page 54, Johnston County Registry (it being the intent that no gaps or gores be created between the property being described and said property of Novo Nordisk Pharmaceutical as a result of the meanderings of Steep Hill Branch), the following courses and distances: (1) North 45° 00' 17" West 70.30 feet to a point; (2) North 78° 25' 59" West 164.69 feet to a 1/2 inch existing iron pipe; (3) South 88° 59' 32" West 198.03 feet to a 1/2 inch existing iron pipe; (4) North 79° 12' 07" West 169.65 feet to a 1/2 inch existing iron pipe; (5) North 71° 48' 45" West 241.97 feet to a 1/2 inch existing iron pipe; and (6) North 65° 19' 47" West 131.53 feet to a 2 inch existing iron pipe; thence continuing with the meanderings of Steep Hill Branch and with the meanderings of Jones Branch and with portions of the easterly and northeasterly boundary lines of the property of Talecris Biotherapeutics, Inc. (now or formerly) as described in the deed recorded in Book 2871 at Page 336, Johnson County Registry (it being the intent that no gaps or gores be created between the property being described and said property of Talecris Biotherapeutics, Inc. as a result of the meanderings of Steep Hill Branch and Jones Branch), the following courses and distances: (1) North 87° 58' 16" West 198.67 feet to a point; (2) North 24° 30' 24" West 177.50 feet to a 1/2 inch existing iron pipe; (3) North 26° 47' 30" East 135.75 feet to a point; (4) North 01° 53' 43" East 198.67 feet to a point; (5) North 11° 40' 50" East 95.34 feet to a 2 inch existing iron pipe; (6) North 03° 49' 09"

West 150.16 feet to a point; (7) North 13° 52' 03" East 222.15 feet to a point; (8) North 04° 29' 15" West 248.04 feet to a 2 inch existing iron pipe; and (9) South 52° 44' 27" East 23.16 feet to a point, being the westerly corner of the property of Martha H. Jones (now or formerly) as described in the deed recorded in Book 1088 at Page 822, Johnston County Registry; thence with the southwesterly boundary line of the property of Martha H. Jones (now or formerly) as described in the deed recorded in Book 1088 at Page 822, Johnston County Registry, South 52° 44' 27" East 276.35 feet to an existing rod; thence with the southwesterly boundary of the property of Terrance D. Brinegar and wife Tonya L. Brinegar (now or formerly) as described in the deed recorded in Book 3924 at Page 663, Johnston County Registry, South 52° 44' 40" East 212.10 feet to a 1/2 inch existing iron pipe; thence with the southwesterly boundary lines of the property of Harry Lee Jones (now or formerly) as described in the deed recorded in Book 941 at Page 405, Johnston County Registry, the following courses and distances (1) South 52° 41' 46" East 160.25 feet to an axle; (2) South 52° 40' 01" East 490.52 feet to a bent existing iron pipe; (3) South 52° 46' 28" East 243.57 feet to a 2½ inch existing iron pipe; and (4) South 52° 19' 01" East 20.29 feet to a steel rod; thence with a portion of a westerly boundary of the property of Hubert Donald Jones (now or formerly) as described in the deed recorded in Book 941 at Page 403, Johnston County Registry and with a westerly boundary of the property of Shirley Jones Carroll (now or formerly) as described in the deed recorded in Book 941 at Page 407, Johnston County Registry, South 15° 06' 55" East 550.48 feet to a 2 inch existing iron pipe, being the TRUE POINT AND PLACE OF BEGINNING as described above; containing a total of 24.923 acres or 1,085,664 square feet; and being described on the boundary survey prepared for Talecris Biotherapeutics, Inc. by B.L. Scott & Co. (Barry L. Scott, Professional Land Surveyor), Job No. 11-03-06, dated March 23, 2011 and last revised May 4, 2011.

Being the same property described as Tract 3 in the deed to Thad and Grace Smith Properties, L.L.C. (now known as TGS Properties, LLC) recorded in Book 1921 at Page 351, Johnston County Registry.

**[End of Exhibit A-5]**

**EXHIBIT A-6**

**LEGAL DESCRIPTION OF 20.15 ACRE TRACT**

Being all of Tract 1, containing 20.15 acres, more or less, as shown on a map recorded in Plat Book 77, Page 488, Johnston County Registry, to which plat reference is hereby made for a full and complete description of said tract of land.

**[End of Exhibit A-6]**

**EXHIBIT B**

**DISCLOSURES REQUIRED BY  
N.C.G.S. § 160A-400.25**

A description of the development uses permitted on the Property, including population densities and building types, intensities, placement on the site and design: The uses on the Property will be biomanufacturing as described in this Development Agreement. The buildings, types, intensities, placement and their design are shown on the plans approved by the Town. Possible future phases will be shown on future phase plans. At the current time, there are no full time residents intended to live on the Property.

A description of public facilities that will service the Property, other than those provided in the Development Agreement to be provided by the Town, the date any such new public facilities will be constructed, and a schedule to assure such public facilities are available concurrent with the impacts of the Property: None.

A description of public facilities that will service the Property, other than those provided in the Development Agreement to be provided by entities other than the Town, the date any such new public facilities will be constructed, and a schedule to assure such public facilities are available concurrent with the impacts of the Property: None.

A description of any reservation of dedication of land for public purposes and any provisions to protect environmentally sensitive property: None.

A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the Town for the public health, safety or welfare of its citizens: None.

A description of any provisions for the preservation and restoration of historic structures:  
N/A.

**EXHIBIT C**

**DEVELOPMENT SCHEDULE REQUIRED  
BY N.C.G.S. § 160A-400.25(b)**

1. Commencement Date: Effective Date of this Development Agreement.
2. Transportation Improvements for the Project: None.
3. Potable Water and Wastewater Infrastructure and Service for the Project:  
See the Potable Water Services Supply Agreement and the Wastewater Services Supply Agreement referenced in this Development Agreement.
4. All current Phases are complete except the logistic warehouse facility and the sterile filling facility which are under construction and are scheduled to be completed in 2014. Future phases are possible.

## WASTEWATER SERVICES SUPPLY AGREEMENT

**THIS WASTEWATER SERVICES SUPPLY AGREEMENT** (“Agreement”) is made this 6<sup>th</sup> day of January, 2014 (the “Effective Date”), by and between **GRIFOLS THERAPEUTICS INC.**, a Delaware corporation, formerly known as **TALECRIS BIOTHERAPEUTICS, INC.**, a Delaware corporation, its successors or assigns (“GTI”), and the **TOWN OF CLAYTON**, a municipal corporation existing under the laws of the State of North Carolina (the “Town”) (collectively the “Parties”).

### RECITALS

- A. The Town provides wastewater services to GTI at its campus in Johnston County.
- B. The campus is all land described in Exhibit A of the Parties’ Development Agreement dated January 6, 2014 (the “Campus”).
- C. To accomplish the purpose and goals set forth below, the Town agrees to supply wastewater services to GTI and GTI agrees to purchase wastewater services from the Town as provided in the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the Parties agree as follows:

### TERMS AND CONDITIONS

#### Guiding Purpose, Goals and Considerations of the Agreement

1. Purpose. The purpose of the Agreement is to set forth the terms and conditions of the agreement between the Parties regarding the Town’s supply of wastewater treatment services to GTI at its Campus and costs for these services.
2. Service Goals. The Parties set forth the mutual service goals which they intend to achieve by forming and performing the Agreement:
  - a. To allow GTI to achieve flow increases related to increased production and related biomanufacturing processes in the amounts previously reported.
  - b. To allow GTI to reduce the extent of on-site industrial pre-treatment processes.
  - c. To allow the Town to provide effective long-term treatment solutions as are necessary to meet the above goals in support of GTI.
  - d. To facilitate cost recovery by the Town in supplying the wastewater treatment services to GTI.

3. Mutually Recognized Considerations and Background for the Agreement. The Parties set forth the mutually recognized considerations and background information to guide the interpretation of the Agreement and their performance of it:

- a. Changes in pre-treatment and public service infrastructure will be subject to regulatory review by the North Carolina Department of Environment and Natural Resources and the United States Environmental Protection Agency.
  - i. The Town agrees to work with Johnston County to achieve all applicable State and Federal regulatory approvals.
  - ii. GTI recognizes and acknowledges the necessity to comply with State and Federal regulatory authority particularly compliance with EPA stipulated categorical limits.

**Necessary Easement Conveyance, Capital and Service Fee Structures  
and Industrial User Limits**

4. Conveyance by GTI to the Town. The Town needs an additional easement adjacent to the existing wastewater pump station that is located on the Campus to achieve the purpose and goals of the Agreement. GTI agrees to convey at no cost to the Town an additional 30 foot by 50 foot easement to accommodate modifications to the station by the Town to better supply wastewater services to GTI and the campus. Attached as Exhibit 1 is a drawing depicting this additional easement.

5. Capital Fee Structure and GTI's purchase of treatment capacity from the Town. The Parties set forth the current status of GTI's purchase of treatment capacity and the terms of GTI's right to purchase additional treatment capacity in the future:

- a. *Current Status of GTI's purchase of treatment capacity*
  - i. Wastewater: GTI owns through prior purchase a total of 650,000 gpd of wastewater treatment capacity. This amount exceeds current flow amounts from the Campus.
  - ii. Nitrogen Offset: GTI has not purchased any nitrogen (nutrient) treatment capacity to date.
- b. *Future Capacity*
  - i. GTI flows will be calculated on a "total site/Campus" basis for utility capacities rather than on a building project basis.
  - ii. GTI will purchase additional wastewater treatment capacity up to a combined total of 900,000 gpd.

- iii. GTI may purchase treatment capacity in increments necessary to meet future GTI needs when needed or any time in advance. Charges for GTI's purchase of future capacity beyond a combined total of 900,000 gpd will be calculated based on the fee schedule at the time the capacity is purchased, which schedule will be calculated using the formula set out on Exhibit 2 of the Agreement. The current cost of wastewater capacity is \$6 per gallon. Wastewater capacity will be accounted for on an average daily flow basis over a 30 day period.
- iv. Nitrogen Offset: Charges for nitrogen will be held in abeyance unless the Town becomes subject to those costs from third party service providers, most particularly Johnston County. If the Town becomes subject to charges for nitrogen, then those charges will be applied only to future sewer capacity purchased subsequent to implementation of the fee by the third party provider at the actual cost charged to the Town by third party providers. The current third party provider to the Town is Johnston County.

6. Treatment of GTI's Wastewater and Service Cost Structure. The Parties set forth the terms of costs charged by the Town to GTI for treatment of GTI's wastewater:

- a. Basic wastewater treatment service will continue to be charged at the existing treatment cost structure, which is \$5.77 per 1000 gallons for monthly consumption over 100,000 gallons for all wastewater.
- b. If GTI elects to discontinue use of the aeration pond and DAF pretreatment facilities and deliver high strength, partially treated industrial wastewater, then the flow will be subject to the additional surcharges noted below:
  - i. Capital surcharge: \$12,500 per month for 48 months. This cost will reduce to \$5,000 per month thereafter for the purpose of generating a maintenance and replacement reserve fund. The Capital surcharge is currently amortized over a four year period.
  - ii. \$1.95 per 1,000 gallons high strength surcharge.
- c. Subject to review and approval by the North Carolina Department of Environment and Natural Resources, additional surcharges for treatment are as follows:
  - i. Chemical Oxygen Demand (COD) surcharge for concentrations greater than 1,300 mg/l = \$0.20 / lb.
  - ii. Biochemical Oxygen Demand (BOD) surcharge for concentrations greater than 600 mg/l = \$0.05 / lb.
  - iii. Total Phosphorous (P) surcharge for concentrations greater than 10 mg/l = \$2.00 / lb (with a maximum limit of 12 mg/l).

- iv. Total Nitrogen (N) surcharge for concentrations greater than 75 mg/l = \$0.30 / lb.
  - v. Total Suspended Solids (TSS) surcharge for concentrations greater than 1,000 mg/l = \$0.25/lb.
  - vi. Surcharge parameters 6c.i-v are the maximum daily values and are subject to periodic review, at least annually, with GTI based on achieving full cost recovery and comments from the North Carolina Department of Environment and Natural Resources.
- d. Except for Capital and additional surcharges stated above, the basic wastewater treatment fees charged to GTI will not be higher than the best rate charged to any non-residential customer located outside the Town's corporate limits and set only as needed for full cost recovery of system operations and in compliance with sound financial policies.

7. Industrial User Limits. Subject to review and approval by the North Carolina Department of Environment and Natural Resources, the Parties set forth their understandings regarding the Industrial User Permit (IUP) that the Town will issue to GTI:

- a. The parameters listed in Section 6c. above are the thresholds above which user surcharges will be applicable.
- b. The following parameters listed herein as Section 7b.i-v shall be the limits in the IUP issued to GTI by the Town:
  - i. Chemical Oxygen Demand (COD) IUP limit = 1,500 mg/l.
  - ii. Biological Oxygen Demand (BOD) IUP limit = 800 mg/l.
  - iii. Total Suspended Solids (TSS) IUP limit = 1,200 mg/l.
  - iv. Total Nitrogen (TN) IUP limit = 80 mg/l.
  - v. Total Phosphorous (TP) IUP limit = 12 mg/l.
  - vi. Flow = .9 mgd
- c. All parameters and limits shall be measured based upon weekly averages, but daily spikes above the parameters/limits must not exceed 7 per month for each parameter/limit and the parties will work collaboratively to avoid such spikes.
- d. Qualitative sampling and testing of GTI's effluent for IUP permit compliance, process control, and billing will be accomplished by the Town or its designee. The cost of this sampling and testing will be covered under the normal fee structure. This sampling would apply to all parameters

except for EPA categorical constituents and is expected to be approximately four (4) times a week; however, more frequent or less frequent sampling may be conducted at the discretion of the Town. Samples may be shared (split) with GTI upon its request and all sample testing information and results will be provided to GTI upon its request.

- e. Sampling for compliance under EPA categorical limits for compliance shall be performed quarterly and shared (split) with GTI upon its request and all sample testing information and results will be provided to GTI upon its request.

8. Protection of Johnston County Wastewater Treatment Plant (WWTP) operations. The Parties agree to protect the Johnston County Wastewater Treatment Plant (WWTP) operations as follows:

- a. Within six (6) months of notice from the Town to GTI, GTI will bring on line a third MBBR unit (with the same volume and media loading as the existing MBBR units). The Town will only send such notice when either of the following has occurred: (i) concentrations of COD or TSS averaging per month at or above 80% of the parameters/limits or (ii) monthly flows for two consequent months exceed 650,000 gpd calculated by averaging daily flow during the month.

### **Other Material Terms and Conditions of the Agreement**

9. Term. The term of the Agreement is 20 years from the Effective Date, which is the date both Parties execute the Agreement.

10. Cooperation and Collaboration. In order to achieve the purpose and goals of the Agreement, the Parties shall be guided primarily in their interpretation and performance of the Agreement and IUP by principles of cooperation and collaboration as each party performs its respective role in connection with these matters. Notwithstanding the above, GTI recognizes that the Town possesses regulatory powers sufficient to protect the Town's wastewater system, Johnston County's WWTP and the public health, safety or welfare and the Town should exercise such powers as may be necessary to protect these facilities and interests.

11. Periodic Review. Prospective changes to the surcharges or parameters stated in the Agreement shall be reviewed by the Parties in advance and in any event the surcharges and parameters shall be subject to an annual review. The Parties shall conduct a full review of the Agreement at least every three (3) years. To further cooperation and collaboration between the Parties, if either party desires a review of any aspect of the Agreement at any time, the party desiring the review shall request it by providing notice to the other party as provided in the Agreement and the Parties shall jointly set a time, date and place for the review.

12. Default, Breach, Remedies and Non-Waiver. In the event of a default of the Agreement, the non-defaulting party shall provide written notice of the default to the defaulting

party and such notice shall set forth (a) the nature of the default with reasonable particularity, (b) the evidence supporting the notice of the default, and (c) a deadline to cure the default, which shall be a reasonable period of time not less than sixty (60) days in which the defaulting party shall have a right to cure the default; provided, however, such cure period may be extended if (a) a default cannot reasonably be cured within the cure period provided in such notice, (b) the curing party notifies the non-defaulting party of such fact by no later than the end of the cure period provided in the notice, and (c) the curing party in such extension notice covenants to and diligently pursues the cure to completion. In the event the defaulting party fails to cure the default, a breach of the Agreement has occurred and the non-defaulting party may either (i) terminate the Agreement or (ii) enforce the Agreement by all remedies available at law or in equity.

No waiver of any default or breach of any provision of the Agreement shall be construed as a waiver of any preceding or succeeding default or breach.

13. Force Majeure. The Parties hereto shall not be liable for any failure to perform hereunder as a result of an external event or events beyond their respective control, including, without limitation, acts of the United States of America, acts of the State of North Carolina, embargos, fire, flood, drought, hurricanes, tornadoes, explosions, acts of God or a public enemy, strikes, labor disputes, vandalism or civil riots. However, if any such event interferes with the performance by a party hereunder, such party shall diligently and in good faith act to the extent within its power to remedy the circumstances affecting its performance or to complete performance in as timely a manner as is reasonably possible.

14. Amendment and Severability. The Agreement may be amended or cancelled by a writing signed by the Town and GTI. If any provision of the Agreement, or its application to any person, is held to be unenforceable for any reason, it shall be adjusted rather than voided, if possible, in order to achieve the intent of the Parties to the fullest extent possible. In any event, invalidation of any provision of the Agreement, or its application to any person, shall not affect any other provisions of the Agreement or its application to any other person or circumstance, and the remaining portions of the Agreement shall continue in full force and effect.

Various aspects of the Agreement are subject to review and approval by third party regulators. In the event any third party regulator refuses to approve any part of the Agreement or any other agreement between the Parties concerning the implementation of the Agreement, then, in order to achieve the intent of the Parties to the fullest extent possible, the Parties agree to work together in order to obtain approval. When the Parties determine jointly that approval is unlikely, they will adjust their agreements and understandings with the goal of achieving the Parties' intent before approval was denied to the fullest extent possible.

15. Notice. All notices or other communications required or permitted to be served hereunder shall be deemed served in accordance with the Agreement if the notice is (a) mailed in a sealed wrapper and deposited in the United States mail, certified mail, return receipt requested, postage prepaid; or (b) deposited with a national overnight courier service that retains receipts of its deliveries, properly addressed as follows:

Town: The Town of Clayton  
P.O. Box 879  
Clayton, NC 27528  
Attn: Mr. Steve Biggs  
Town Manager

GTI: Grifols Therapeutics Inc.  
8368 U.S. Highway 70 Business West  
Clayton, NC 27520  
Attn: Mr. Timothy J. Hamm  
Senior Director  
Validation and Site Development

With a copy to:

Mr. Aaron Golub  
Senior Corporate Counsel  
8368 U.S. Highway 70 Business West  
Clayton, NC 27520

The parties, by written notice given to the other, may designate any further or different names or addresses to which all notices or other communications shall be sent without said further or different names or addresses being considered amendments to the Agreement.

16. Assignment. GTI may assign the Agreement, in whole or part, to any GTI affiliate and upon such assignment GTI shall be relieved of the covenants, commitments and obligations that it assigns. GTI may assign the Agreement, in whole or part, to (a) any lessee of all or part of the Campus for the duration of their lease, or (b) subsequent owner of all or any portion of the Campus without the written consent of the Town. However, any other assignment of the Agreement, in whole or in part, shall not be effective until approved by the Town and such approval will not be unreasonably withheld.

17. Run with the Land, Effect on Other Vested Rights and Applicable Law. The Agreement shall run with the Campus and any portion thereof as it may be subdivided or recombined. The Agreement does not abrogate any rights preserved by N.C.G.S. § 160A-385 or § 160A-385.1, or by way of the Development Agreement by and between the Parties dated January 6, 2014, or that have vested pursuant to common law or otherwise.

The Agreement is governed by and shall be construed in accordance with the laws of the State of North Carolina.

18. Entire Agreement, Construction and No Third Party Beneficiaries. The Agreement contains the entire agreement between the Parties regarding the supply of wastewater treatment service from the Town to the Campus and GTI. All prior or contemporaneous oral or written drafts are merged into the Agreement. It is the Parties' intention to achieve the purpose and goals set forth in the Agreement. The Parties agree that any rule of construction to the effect

that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of the Agreement. There are no third party beneficiaries of the Agreement.

19. Multiple Counterparts. The Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and it shall not be necessary in making proof of the Agreement to produce or account for more than one such fully executed counterpart.

20. Representations and Warranties of the Parties. The Town and GTI, and the persons executing the Agreement on their behalf, agree, represent and warrant, as applicable, that (a) such party or person has the full power and authority to enter into the Agreement, to execute it on behalf of the party indicated on the signature page, and to perform the obligations hereunder, (b) such party is acting on its own behalf and on behalf of its successors and assigns, (c) the Agreement is a valid and binding obligation, enforceable against the Parties in accordance with its terms and conditions, (d) entering into the Agreement does not conflict with any other agreements entered into by either party, and (e) the execution, delivery and performance of the Agreement has been duly and validly authorized by all necessary corporate or governmental action on its part. Specifically (and not as a limitation), the Town represents and warrants to GTI that the Agreement has been pre-audited to ensure compliance with the budgetary accounting requirements that apply thereto (or the Agreement need not be pre-audited to be enforceable against the Town) and the Town has taken all steps and actions required by North Carolina law or the Town's law necessary for the Agreement to be binding upon the Town and inure to the benefit of GTI. In the event that any of the obligations of the Town in the Agreement constitute debt, the Town has complied, at the time of the obligation to incur the debt and before the debt becomes enforceable against the Town, with any applicable constitutional and statutory procedures for the approval of the debt.

*(Signatures on Following Pages)*

IN WITNESS WHEREOF, the Parties hereto have caused these presents to be executed on the day and year indicated above.

TOWN OF CLAYTON

By: \_\_\_\_\_  
Jody L. McLeod, Mayor

Date of Signature: \_\_\_\_\_

[AFFIX TOWN SEAL]

ATTEST:

By: \_\_\_\_\_  
Sherry L. Scoggins, Town Clerk

Date of Signature: \_\_\_\_\_

STATE OF NORTH CAROLINA

COUNTY OF JOHNSTON

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County, North Carolina, do hereby certify that Sherry L. Scoggins (the "Subscribing Witness"), who, being by me duly sworn, says that she is the Town Clerk for the Town of Clayton, North Carolina (the "Town"), a municipal corporation organized and existing under the Constitution and laws of the State of North Carolina and acting through its Town Council, that Jody L. McLeod, being Mayor of the Town of Clayton (the "Signatory") has been authorized by said Town Council to execute the Agreement on behalf of the Town and bind the Town to the terms and conditions of the Agreement, that the Subscribing Witness attested the Signatory's signature, that the Subscribing Witness knows the Corporate Seal of the Town, that the Subscribing Witness affixed the Corporate Seal to the Agreement, pursuant to authorization from said Town Council, and that the Agreement is the act and deed of the Town.

I do hereby certify that the Subscribing Witness personally appeared before me this day, and acknowledged to me that the Signatory voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official seal or stamp, this the \_\_\_\_ day of \_\_\_\_\_, 2014.

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

[NOTARY SEAL]

\_\_\_\_\_  
Print Name of Notary

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

\_\_\_\_\_  
Name: Robert W. McKie  
Title: Administration & Finance Director,  
Town of Clayton

*[Signatures Continue on Following Page]*

GRIFOLS THERAPEUTICS INC.,  
a Delaware corporation

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

STATE OF NORTH CAROLINA

COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public of \_\_\_\_\_ County, North Carolina, certify that the following person(s) personally appeared before me this day, and acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_, as \_\_\_\_\_ of GRIFOLS THERAPEUTICS INC.

Witness my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 2014.

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

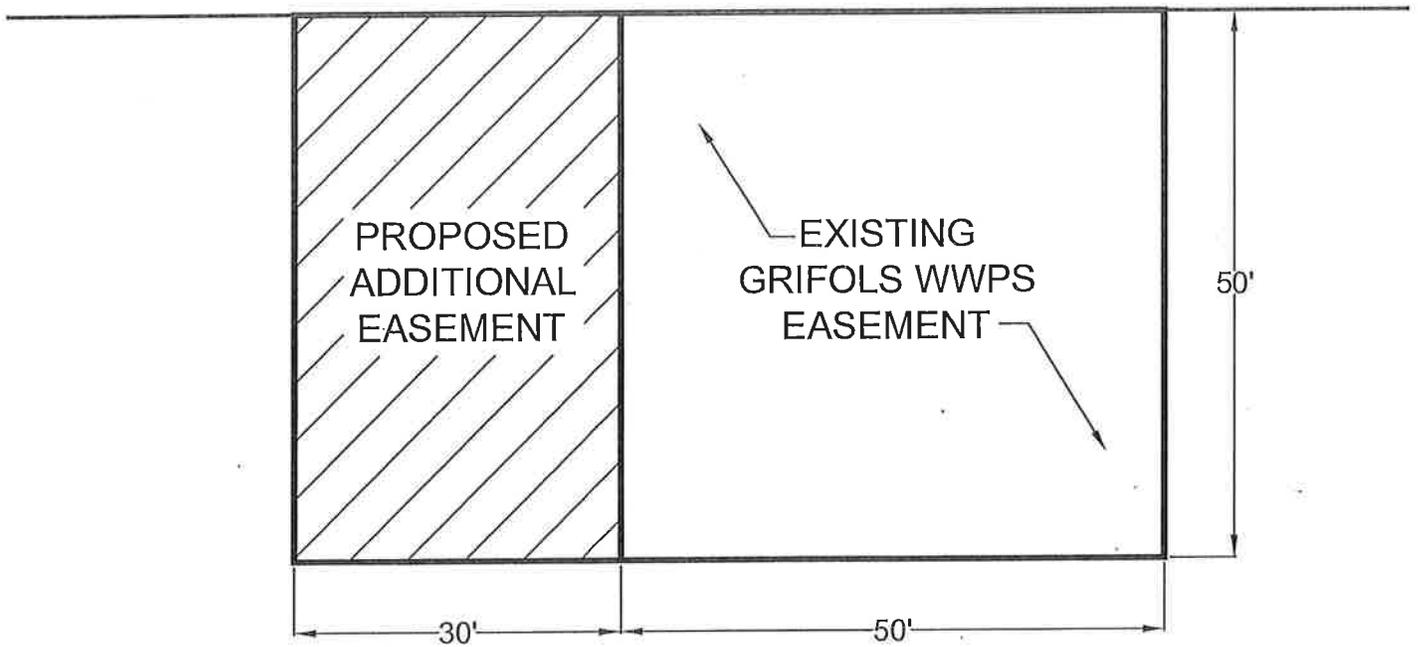
[NOTARY SEAL]

\_\_\_\_\_  
Print Name of Notary

*[End of Signatures]*

WCSR 31419459v6

N.C. RAILROAD RIGHT-OF-WAY



# GRIFOLS WASTEWATER WWPS UPGRADE

JUNE 28, 2013

## POTABLE WATER SERVICES SUPPLY AGREEMENT

**THIS POTABLE WATER SERVICES SUPPLY AGREEMENT** (“Agreement”) is made this 6<sup>th</sup> day of January, 2014 (the “Effective Date”), by and between **GRIFOLS THERAPEUTICS INC.**, a Delaware corporation, formerly known as **TALECRIS BIOTHERAPEUTICS, INC.**, a Delaware corporation, its successors or assigns (“GTI”), and the **TOWN OF CLAYTON**, a municipal corporation existing under the laws of the State of North Carolina (the “Town”) (collectively the “Parties”).

### RECITALS

- A. The Town provides potable water supply services to GTI at its campus in Johnston County.
- B. The campus is all land described in Exhibit A of the Parties’ Development Agreement dated January 6, 2014 (the “Campus”).
- C. To accomplish the purpose and goals set forth below, the Town agrees to provide potable water supply services to GTI and GTI agrees to purchase potable water supply services from the Town as provided in the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the Parties agree as follows:

### TERMS AND CONDITIONS

#### Guiding Purpose, Goals and Considerations of the Agreement

1. Purpose. The purpose of this Agreement is to set forth the terms and conditions of the Agreement between the Parties regarding potable water supply services and the costs for these services.
2. Service Goals. The Parties set forth the mutual service goals which they intend to achieve by forming and performing the Agreement:
  - a. To allow GTI to achieve flow increases related to increased production and related bio-manufacturing processes in the amounts previously reported.
  - b. To allow the Town to provide effective long term treatment and supply solutions as necessary to meet the above goals in support of GTI.
  - c. To facilitate cost recovery by the Town in providing the above services to GTI.
3. Mutually Recognized Considerations and Background for the Agreement. The Parties set forth the mutually recognized considerations and background information to guide the interpretation of the Agreement and their performance of it:

- a. Changes in public service infrastructure will be subject to regulatory review by the North Carolina Department of Environment and Natural resources and the United States Environmental Protection Agency.
  - i. The Town agrees to achieve all applicable State and Federal regulatory approvals.
  - ii. GTI recognizes and acknowledges the necessity to comply with State and regulatory authority.

**Capital and Service Fee Structures**

4. Capital Fee Structure and GTI’s purchase of potable water capacity from the Town.

The Parties set forth the current status of GTI’s purchase of water capacity and the terms of GTI’s right to purchase additional water capacity in the future:

- a. *Current Status of GTI’s purchase of water capacity*
  - i. GTI owns through purchase 710,100 gpd of water capacity.
- b. *Future Capacity*
  - i. GTI may purchase up to a combined total of 1.0 M gpd at the price of \$3 per gallon through December 31, 2013. After that date, additional capacity may be purchased at the then current rate set by the Town Council as part of the Comprehensive List of Fees and Charges for all customers.
  - ii. GTI may purchase in increments necessary to meet future service needs at the time the additional capacity is needed or any time in advance. Charges will be based on the fee schedule at the time the capacity is purchased set by the Town Council as part of the Comprehensive List of Fees and Charges for all customers. Water capacity will be accounted for on an average daily flow basis over a 30 day period.
- c. All capacity purchased by GTI will be accounted for on a “total site” basis.

5. Water Supply Service Cost Structure. The Parties set forth the terms of costs charged by the Town to GTI for supply of potable water to GTI:

- a. Basic potable water supply service will continue to be charged at the existing cost structure, which is \$4.40 per 1000 gallons for monthly consumption over 100,000 gallons for all water.

- b. The basic potable water supply service fees charged to GTI will not be higher than the best rate charged to any non-residential customer located outside the Town's corporate limits and set as needed for full cost recovery of system operations and in compliance with sound management policies.

6. Supplied Water.

- a. The water supplied to GTI will be uninterrupted and of a consistent and potable quality to the absolute extent possible.
- b. GTI will not be charged wastewater surcharges caused by exceedances in the water supplied.

7. Private Wells. Private wells are permitted on GTI's property for industrial uses with the necessary protections against cross contamination.

**Other Material Terms and Conditions of the Agreement**

8. Term. The term of the Agreement is 20 years from the Effective Date, which is the date both Parties execute the Agreement.

9. Cooperation and Collaboration. In order to achieve the purpose and goals of the Agreement, the Parties shall be guided primarily in their interpretation and performance of the Agreement by principles of cooperation and collaboration as each party performs its respective role in connection with these matters. Notwithstanding the above, GTI recognizes that the Town possesses regulatory powers sufficient to protect the Town's water system and the public health, safety or welfare and the Town should exercise such powers as may be necessary to protect these facilities and interests.

10. Periodic Review. To further cooperation and collaboration between the Parties, if either party desires a review of any aspect of the Agreement at any time, the party desiring the review shall request it by providing notice to the other party as provided in the Agreement and the Parties shall jointly set a time, date and place for the review.

11. Default, Breach, Remedies and Non-Waiver. In the event of a default of the Agreement, the non-defaulting party shall provide written notice of the default to the defaulting party and such notice shall set forth (a) the nature of the default with reasonable particularity, (b) the evidence supporting the notice of the default, and (c) a deadline to cure the default, which shall be a reasonable period of time not less than sixty (60) days in which the defaulting party shall have a right to cure the default; provided, however, such cure period may be extended if (a) a default cannot reasonably be cured within the cure period provided in such notice, (b) the curing party notifies the non-defaulting party of such fact by no later than the end of the cure period provided in the notice, and (c) the curing party in such extension notice covenants to and diligently pursues the cure to completion. In the event the defaulting party fails to cure the default, a breach of the Agreement has occurred and the non-defaulting party may either (i) terminate the Agreement or (ii) enforce the Agreement by all remedies available at law or in equity.

No waiver of any default or breach of any provision of the Agreement shall be construed as a waiver of any preceding or succeeding default or breach.

12. Force Majeure. The Parties hereto shall not be liable for any failure to perform hereunder as a result of an external event or events beyond their respective control, including, without limitation, acts of the United States of America, acts of the State of North Carolina, embargos, fire, flood, drought, hurricanes, tornadoes, explosions, acts of God or a public enemy, strikes, labor disputes, vandalism or civil riots. However, if any such event interferes with the performance by a party hereunder, such party shall diligently and in good faith act to the extent within its power to remedy the circumstances affecting its performance or to complete performance in as timely a manner as is reasonably possible.

13. Amendment and Severability. The Agreement may be amended or cancelled by a writing signed by the Town and GTI. If any provision of the Agreement, or its application to any person, is held to be unenforceable for any reason, it shall be adjusted rather than voided, if possible, in order to achieve the intent of the Parties to the fullest extent possible. In any event, invalidation of any provision of the Agreement, or its application to any person, shall not affect any other provisions of the Agreement or its application to any other person or circumstance, and the remaining portions of the Agreement shall continue in full force and effect.

14. Notice. All notices or other communications required or permitted to be served hereunder shall be deemed served in accordance with the Agreement if the notice is (a) mailed in a sealed wrapper and deposited in the United States mail, certified mail, return receipt requested, postage prepaid; or (b) deposited with a national overnight courier service that retains receipts of its deliveries, properly addressed as follows:

Town:           The Town of Clayton  
                  P.O. Box 879  
                  Clayton, NC 27528  
                  Attn: Mr. Steve Biggs  
                          Town Manager

GTI:             Grifols Therapeutics Inc.  
                  8368 U.S. Highway 70 Business West  
                  Clayton, NC 27520  
                  Attn: Mr. Timothy J. Hamm  
                          Senior Director  
                          Validation and Site Development

With a copy to:

Mr. Aaron Golub  
Senior Corporate Counsel  
8368 U.S. Highway 70 Business West  
Clayton, NC 27520

The parties, by written notice given to the other, may designate any further or different names or addresses to which all notices or other communications shall be sent without said further or different names or addresses being considered amendments to the Agreement.

15. Assignment. GTI may assign the Agreement, in whole or part, to any GTI affiliate and upon such assignment GTI shall be relieved of the covenants, commitments and obligations that it assigns. GTI may assign the Agreement, in whole or part, to (a) any lessee of all or part of the Campus for the duration of their lease, or (b) subsequent owner of all or any portion of the Campus without the written consent of the Town. However, any other assignment of the Agreement, in whole or in part, shall not be effective until approved by the Town and such approval will not be unreasonably withheld.

16. Run with the Land, Effect on Other Vested Rights and Applicable Law. The Agreement shall run with the Campus and any portion thereof as it may be subdivided or recombined. The Agreement does not abrogate any rights preserved by N.C.G.S. § 160A-385 or § 160A-385.1, or by way of the Development Agreement by and between the Parties dated January 6, 2014, or that have vested pursuant to common law or otherwise.

The Agreement is governed by and shall be construed in accordance with the laws of the State of North Carolina.

17. Entire Agreement, Construction and No Third Party Beneficiaries. The Agreement contains the entire agreement between the Parties regarding the supply of potable water services from the Town to the Campus and GTI. All prior or contemporaneous oral or written drafts are merged into the Agreement. It is the Parties' intention to achieve the purpose and goals set forth in the Agreement. The Parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of the Agreement. There are no third party beneficiaries of the Agreement.

18. Multiple Counterparts. The Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and it shall not be necessary in making proof of the Agreement to produce or account for more than one such fully executed counterpart.

19. Representations and Warranties of the Parties. The Town and GTI, and the persons executing the Agreement on their behalf, agree, represent and warrant, as applicable, that (a) such party or person has the full power and authority to enter into the Agreement, to execute it on behalf of the party indicated on the signature page, and to perform the obligations hereunder, (b) such party is acting on its own behalf and on behalf of its successors and assigns, (c) the Agreement is a valid and binding obligation, enforceable against the Parties in accordance with its terms and conditions, (d) entering into the Agreement does not conflict with any other agreements entered into by either party, and (e) the execution, delivery and performance of the Agreement has been duly and validly authorized by all necessary corporate or governmental action on its part. Specifically (and not as a limitation), the Town represents and warrants to GTI that the Agreement has been pre-audited to ensure compliance with the budgetary accounting requirements that apply thereto (or the Agreement need not be pre-audited to be enforceable against the Town) and the Town has taken all steps and actions required by North Carolina law

or the Town's law necessary for the Agreement to be binding upon the Town and inure to the benefit of GTI. In the event that any of the obligations of the Town in the Agreement constitute debt, the Town has complied, at the time of the obligation to incur the debt and before the debt becomes enforceable against the Town, with any applicable constitutional and statutory procedures for the approval of the debt.

IN WITNESS WHEREOF, the Parties hereto have caused these presents to be executed on the day and year indicated above.

TOWN OF CLAYTON

By: \_\_\_\_\_  
Jody L. McLeod, Mayor

Date of Signature: \_\_\_\_\_

[AFFIX TOWN SEAL]

ATTEST:

By: \_\_\_\_\_  
Sherry L. Scoggins, Town Clerk

Date of Signature: \_\_\_\_\_

STATE OF NORTH CAROLINA

COUNTY OF JOHNSTON

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County, North Carolina, do hereby certify that Sherry L. Scoggins (the "Subscribing Witness"), who, being by me duly sworn, says that she is the Town Clerk for the Town of Clayton, North Carolina (the "Town"), a municipal corporation organized and existing under the Constitution and laws of the State of North Carolina and acting through its Town Council, that Jody L. McLeod, being Mayor of the Town of Clayton (the "Signatory") has been authorized by said Town Council to execute the Agreement on behalf of the Town and bind the Town to the terms and conditions of the Agreement, that the Subscribing Witness attested the Signatory's signature, that the Subscribing Witness knows the Corporate Seal of the Town, that the Subscribing Witness affixed the Corporate Seal to the Agreement, pursuant to authorization from said Town Council, and that the Agreement is the act and deed of the Town.

I do hereby certify that the Subscribing Witness personally appeared before me this day, and acknowledged to me that the Signatory voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official seal or stamp, this the \_\_\_\_ day of \_\_\_\_\_, 2014.

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

[NOTARY SEAL]

\_\_\_\_\_  
Print Name of Notary

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

\_\_\_\_\_

Name: Robert W. McKie  
Title: Administration & Finance Director,  
Town of Clayton

*[Signatures Continue on Following Page]*

GRIFOLS THERAPEUTICS INC.,  
a Delaware corporation

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

STATE OF NORTH CAROLINA

COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public of \_\_\_\_\_ County, North Carolina, certify that the following person(s) personally appeared before me this day, and acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_, as \_\_\_\_\_ of GRIFOLS THERAPEUTICS INC.

Witness my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 2014.

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

[NOTARY SEAL]

\_\_\_\_\_  
Print Name of Notary

*[End of Signatures]*

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 7a

Meeting Date: 01/06/14

**TITLE: ADDENDUM TO THE INTER-LOCAL AGREEMENT FOR PROVISIONS OF FIRE SERVICE WITH JOHNSTON COUNTY.**

**DESCRIPTION: At its June 20, 2011, Council meeting, the Clayton Town Council approved the attached “Inter-Local Agreement for Provision of Fire Service” between the Town of Clayton and Johnston County.**

**At its December 2, 2013, meeting, the Johnston County Board of Commissioners approved the update to the Fire Insurance District maps. This approval necessitates adding an addendum to the current county fire contracts.**

**The attached addendum clarifies and defines the Town’s Primary Service Area as the Insurance District.**

**RELATED GOAL: Financially Responsible Town Government Providing Quality Service**

**ITEM SUMMARY:**

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
01-06-14	Approval.	Addendum and current Inter-local agreement for Provision of fire service Between the Town and Johnston County.



## JOHNSTON COUNTY EMERGENCY SERVICES

Post Office Box 530, 120 South Third Street  
Smithfield, NC 27577  
(919) 989-5050  
(919) 989-5052 (Fax)

December 3, 2013

CERTIFIED MAIL

Clayton Fire Department  
325 W. Horne St.  
Clayton, NC 27520

Chief Barbee,

At the December 2, 2013 Johnston County Board of Commissioners Meeting the updated Fire Insurance District maps were approved. This has been a long and strenuous process that without your cooperation would not have been possible. Due to the approval of the Fire Insurance District maps it is necessary to add an addendum to our current county fire contracts. This addendum is necessary to satisfy the Department of Insurance's requirement that a fire department is contracted to serve a particular area, our current contract specifies service districts. Because the new boundaries have been initially approved as Insurance Districts, an addendum is necessary to specify the fire department is providing protection to the Insurance District. **The enclosed addendum will take effect February 3, 2014.**

Enclosed, you will find two copies of the addendum to fire contracts for your department's approval signatures. Please examine this document and notify me immediately if there are any questions or discrepancies. The following actions are required of your agency

1. Sign both copies of the addendum document as designated for approval.
2. **Return the signed documents to our office by JANUARY 24, 2014.**

Once approved with all signatures, one of the original signed documents will be returned to you. Again, if you have any questions, please do not hesitate to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Hubbard".

Kevin Hubbard  
Assistant Fire Marshal

Enclosures

**ADDENDUM NO. 1**  
**Inter-local Agreement for Fire Protection**

This Contract Addendum entered into this the 3 day of February, 2014, by and between the County of Johnston and Town of Clayton (herein "Town");

WHEREAS, the parties entered into an agreement effective July 1, 2013, whereby the Town undertook to provide fire protection and emergency services within the Clayton Service District ("Fire District") (the agreement is hereafter referred to as the "Inter-Local Agreement for Provision of Fire Service"); and

WHEREAS, the Inter-Local Agreement for Provision of Fire Service provides that the Town's primary geographic area of responsibility, or Primary Service Area, is the Fire District; and

WHEREAS, the County established certain fire insurance districts pursuant to NCGS § 153A-233, including one known and designated as the Clayton Fire Insurance District ("Insurance District"), by action duly taken by the Johnston County Board of Commissioners on December 2, 2013; and

WHEREAS, the parties desire to amend the original Inter-Local Agreement for Provision of Fire Service in order to redefine and clarify the Town's Primary Service Area going forward.

NOW, THEREFORE, in consideration of the mutual premises herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

The Inter-Local Agreement for Provision of Fire Service is amended to the extent necessary to clarify and define the Town's Primary Service Area as the Insurance District, even if inconsistent with the Fire District; and except as expressly modified, the terms of the Inter-Local Agreement for Provision of Fire Service shall remain in full force and effect. This amendment does not effect any change in the Fire District for taxation purposes or for the purpose of compensation of the Fire Department.

Johnston County Board of County Commissioners

By: \_\_\_\_\_  
Chairman: Jeffrey P. Carver

Attest:

\_\_\_\_\_  
Paula G. Woodard, Clerk to the Board

Town of Clayton

By: \_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Clerk

**NORTH CAROLINA**

**JOHNSTON COUNTY**

**INTER-LOCAL AGREEMENT FOR PROVISION OF FIRE SERVICE**

THIS AGREEMENT, made and entered into this 1<sup>st</sup> day of July, 2011, by and between Johnston County, a political subdivision of the State of North Carolina, hereinafter referred to as the County, and the Town of Clayton, a body politic and corporate of the State of North Carolina, hereinafter referred to as the "Town".

WHEREAS, The Town and the County are authorized pursuant to N.C. Gen. Stat. §§ 153A-233, et seq. and 160A-460, et seq. to enter into an inter-local agreement.

Now therefore, in consideration of the mutual promises contained herein and other good and valuable consideration, the parties hereto agree as follows:

1. The County contracts and agrees that it will cause to be assessed or levied a special fire tax within statutory limits after consultation with the Fire Department; and will collect said tax as a part of the ad valorem taxes of the County of Johnston. In fixing the amount of the fire tax to be levied, the County shall take into account the needs projected in the budget estimate submitted by the Fire Department to the Town and approved by the Town Council. A copy of the department's proposed budget and the requested rate of fire tax to be levied must be provided each year.
2. A special or separate fund shall be maintained by the County for funds collected as a result of said special tax. The funds will be accounted for by the Town in a separate Claytex Fire Service District Tax Fund Budgetary Account.
3. Fire Protection service tax district (G.S. 153A-301) funds levied and collected by the County and paid to the Town by the County shall be used for fire department operations: Fire Protection, Fire Prevention, Response Preparedness, Equipment, Apparatus and related expenses regarding emergency services in the Fire District and other areas of response as dispatched and to meet the standards established by this agreement.
4. The Town will furnish fire protection and emergency services within the Fire District and shall provide the necessary equipment, personnel, and those things necessary for furnishing such protection in the Fire District. For operational purposes the Claytex Fire District and the established city limits of the Town of Clayton shall be treated as one district. The services shall be in accordance with minimum standards set forth in this agreement and all future amendments adopted in accordance with paragraph 18 of this agreement. The Town shall furnish said fire protection without charge to all persons and property located in the Fire District in an efficient and workmanlike manner. However, the Town may charge the same fees for services and penalties in the Claytex Fire District as adopted by the Johnston County Board of Commissioners for special services, (Hazard Materials responses, false fire alarm responses, stand by fees, etc.) as adopted by Town Ordinances. This provision shall not prohibit the Fire

Department from entering into contracts with the Federal, State, or local governments or utility companies for the provision of emergency protection services for a fee.

5. The County shall have the right to inspect all books and accounts for the Fire Department at any time that it shall desire. Said inspection shall be conducted by the Johnston County Fire Marshal's Office and/or Johnston County Finance Office and/or their designee. It is further agreed that the Town will present the County with an annual audit/financial statement, by a CPA, which shall be in conformity with General Accepted Accounting Principals. Additionally, the Fire Department shall follow the procedures for letting of public contracts set forth in (N.C. General Statute 143-129).
6. If the Town fails and/or refuses to provide protection as contemplated in the contract and after an investigation by the Fire Marshal's Office certifies to the County Manager that the Town has failed and/or refused to provide services contemplated in the contract, then and in the event of an investigation, the County has a right to withhold any and all funds until a resolution is made. If conditions of this contract are not being met, the Johnston County Finance Officer has the authority to withhold any and all funds.
7. The Town shall obtain and keep in force during the term of this contract the following minimum insurance coverage:

(a) Worker's Compensation

Coverage for all paid and volunteer emergency workers for statutory limits in compliance with applicable state and federal laws.

(b) Comprehensive General Liability, Malpractice and Errors and Omissions

Coverage with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate combined single minimum for bodily injury liability and property damage.

(c) Business Auto Policy

Coverage with minimum limits of \$1,000,000 per occurrence combined single limit for bodily injury liability and property damage liability. This shall include owned vehicles, hired, and non-owned vehicles and employee non-ownership.

(d) Management or Directors and Officers Liability

Coverage with minimum limits of \$1,000,000 per claim and \$2,000,000 aggregate.

(e) Umbrella Liability

Coverage with a minimum limit of \$1,000,000 with underlying coverage of auto liability, general liability, employer's liability and \$1,000,000 aggregate.

- (f) The Fire Department shall indemnify and save harmless Johnston County, up to the limits of their liability insurance policies, from any and all liability and expenses, including attorney's fees, court costs, and other costs incurred by Johnston County caused by the negligence of the department, its volunteers, agents, and employees.
8. The Town shall provide services within the Claytex Fire Insurance District (N.C. General Statute 153a-233) and maintain a minimum of 9S rating or better with the North Carolina Department of Insurance, State Fire Marshal's Office. The Town shall continuously comply with all applicable laws, ordinances, and State regulations pertaining to Emergency Services.
  9. The Town agrees that the Johnston County Fire Marshal's Office will be the point of contact for any business between the Fire Department and the County.
  10. The Town shall submit a copy of the State Fire Incident Report (current edition) of all emergency responses to the County and to the Office of State Fire Marshall at least quarterly. (Refer to paragraph #8).
  11. The Town shall provide twenty-four hour coverage, seven days per week for the district covered by the contract.
  12. The Town shall provide to the Johnston County Fire Marshal's Office, annually, a current and complete roster of members of the Fire Department to include contact numbers for the Chief and Assistant Chief(s).
  13. The Town agrees to provide automatic aid and mutual aid services to other emergency services providers within the County of Johnston. The Town understands that other agencies will maintain their own liability policies and be responsible for their own expenses. The Town further understands that it will be responsible for its own expenses while responding mutual aid to another agency. The current mutual aid agreement is included in Appendix A of this contract.

In areas where the district has been extended to six miles, the Fire Department agrees to maintain agreements with adjoining districts to respond with a minimum of one apparatus capable of transporting a minimum of 1,000 gallons of water to all alarms involving reported structure fires. This apparatus will be dispatched simultaneously with the department whose district the incident is occurring within.

14. The following minimal performance standards are agreed upon by the County and the Town and are a part of this contract:

(a) Dispatching Protocols

The Fire Department shall comply with the Johnston County Dispatching protocols.

(b) Response Time

The Town should have the goal of having an average response time (time of dispatch until time of arrival) of 9.2 minutes or less annually for structural fire calls within the Department of Insurance recognized fire district.

(c) Manpower on Scene

The Town should have adopted standard operating guidelines that address the appropriate number of firefighters needed on all type fire calls. A current, valid copy of the Fire Department's guideline should be kept on file. The Fire Department should have the goal of placing sufficient personnel on scene to operate at least one engine, one tanker (when necessary) and flow two 1.5" or 1.75" hose lines when making an initial attack on all structure fires.

(d) Training

The Town shall have the minimum standard training requirements set forth by the State Fire Marshal's Office for providing the Emergency services provided by the Fire Department to meet or retain the 9S rating requirements.

(e) Pre-Fire Incident Surveys and Inspections

The Town should have the goal of developing pre-fire incident surveys and updating them annually for all commercial buildings within the fire district. Facilities which should be given priority are institutional and assembly buildings and buildings housing hazardous materials. The Johnston County Fire Marshal's Office shall assist the Fire Department in developing pre-fire incident surveys when requested. The County Planning Department and the County Inspections Department shall furnish to the Town of Clayton Fire Inspector, a copy of site plan reviews for Subdivision and Commercial developments in the Claytex Fire District for necessary compliance.

(f) Fire Investigations

The Fire Department officer in charge at all fire scenes shall attempt to determine the cause and origin of every fire. When the officer in charge cannot determine the cause and origin of any fire within the District, or if the cause is suspected to be of an incendiary nature, the officer in charge should request assistance from the Johnston County Fire Marshal's Office. The Fire Department should provide whatever assistance is needed by the Johnston County Fire Marshal's Office at the fire scene.

(g) Reports

The Town shall keep all records in accordance with the North Carolina State Schedule for records retention and disposal. All State and County required reports and rosters shall be submitted by the requested deadline.

(h) Fire Hydrants

If fire hydrants are located within the district, the Fire Department shall adhere to the guidelines established by the Johnston County Public Utilities Department for

the flowing of hydrants. The Fire Department should conduct hydrant testing and maintenance on an annual basis. The Fire Department should ensure that every hydrant in the fire district is flushed and checked for accessibility, functionality, visibility, and operation. The Fire Department should report any malfunctions or damage to hydrants to the entity owning the water system.

(i) Emergency/Disaster Response

The Fire Department shall follow the Johnston County Emergency Operations Plan when responding to an emergency or disaster.

(j) State of Emergency

During a declared State of Emergency affecting the County the Fire Department shall assist to the extent possible with the following services: 1) Debris removal from roadways; 2) Traffic Control; 3) Alert and notification; 4) Search and rescue; 5) Evacuation; and 6) other life saving and property protection measures as necessary. All operations shall be in accordance with the Johnston County Emergency Operations Plan and the Johnston County Emergency Management Ordinance.

k) Additional Facilities

When determining the need and location of additional facilities (fire stations, etc.), the fire department shall participate in a planning process involving the County Fire Marshal which evaluates, at a minimum, the needs of the department, the effects on property owners, the effects on insurance grading, and the impacts on adjoining fire districts.

l) Other Services

The Town of Clayton may elect to participate in certain services. The Town must be contracted or franchised for the operation of such service(s), pursuant to the rules set forth by the Johnston County Board of Commissioners. If the Town has chosen to participate in any of these programs, the agreements can be found as Appendices of this contract:

SERVICE	APPENDIX #
First Responder Program	B
Rescue Services	C
Other Services	D

m) Johnston County Fire Chief's and Firemen's Association

The Fire Department should have a representative present at all association meetings to provide for an exchange of information between the County and the Fire Department unless there are extenuating circumstances that would prevent someone attending.

15. This agreement shall become effective as of the 1<sup>st</sup> day of July 2011 and remain in effect for a period not to exceed two years, subject to the continued legal

existence of the Fire District and the Town, and further subject to the termination provisions of paragraph 19 hereof.

16. This agreement may not be transferred or assigned by the Town, nor may the services contracted for herein be subcontracted to other parties.
17. This contract may be terminated by either party upon advance written notice to the other party, served upon the other party by certified mail at least one hundred and eighty (180) days prior to termination. Failure of the County and the Town to agree upon the amount of funding shall terminate this contract in accordance with this section of this contract.
18. Either party may propose an amendment to this agreement by submitting the amendment in writing to the other party at least sixty (60) days in advance of the amendment's proposed effective date. Amendments to this agreement must be approved by both the County and the Town in order to become effective.
19. This contract is not intended to serve for the benefit of any third party. The rights and obligations contained herein belong exclusively to the entities which are parties hereto and no third party shall rely upon anything contained herein as a benefit to that third party.
20. The terms and provisions herein contained constitute the entire agreement by and between the County and the Town and shall supercede all previous communications, representations, or agreements, either oral or written between the parties hereto with respect to the subject matter hereof.
21. As used herein, the term "Fire Department" shall mean the Clayton Fire Department, and the term "Fire District" shall mean the Claytex Fire Insurance District created pursuant to GS 153A-233, et seq. By executing this Agreement, the Town represents and warrants that it has the authority to bind the Fire Department to the terms hereof.

IN TESTIMONY WHEREOF, the County has caused this instrument to be executed by the Chairman of the Board of County Commissioners and attested by the Clerk of the Board of County Commissioners, and the Town has caused this instrument to be signed in its name by its Mayor, attested by its Town Clerk, all by the authorization of its Town Councilmen duly given.

Johnston County Board of County Commissioners

By: \_\_\_\_\_  
Chairman: Allen L. Mims, Jr.

Attest:

\_\_\_\_\_  
Clerk

Town of Clayton

By: \_\_\_\_\_  
Mayor: Jody McLeod

Attest:

\_\_\_\_\_  
Town Clerk

Appendix D  
AUTOMATIC AID AGREEMENT FOR FIRE PROTECTION

NORTH CAROLINA  
JOHNSTON COUNTY

The agreement, made and entered into this the 18<sup>th</sup> day of September 2006, by and between the Fire Departments of Johnston County, North Carolina, namely, Antioch Fire Department, Incorporated; Archer Lodge V.F.D., Incorporated; Town of Benson Fire Department; Bentonville Volunteer Fire Department, Incorporated; Bethany Rural Fire Department of Johnston County, Incorporated; Blackmon's Crossroads V.F.D., Incorporated; Brogden Rural Fire Department, Incorporated; Town of Clayton Fire Department; Cleveland Fire Department, Incorporated; Corinth Holder V.F.D., Incorporated; Elevation Fire Department, Incorporated; 50-210 Community Fire Department, Incorporated; Four Oaks Volunteer Fire Department, Incorporated; Kenly Volunteer Fire Department, Incorporated; Meadow Volunteer Fire Department, Incorporated; Micro Volunteer Fire Department, Incorporated; Nahunta Volunteer Fire Department, Incorporated; Newton Grove Volunteer Fire Department, Incorporated; Oakland Volunteer Fire Department, Incorporated; Pine Level Voluntary Fire Department, Incorporated; Princeton Volunteer Fire Department, Incorporated; Town of Selma Fire Department; Town of Smithfield Fire Department; Strickland's Crossroads Fire Department, Incorporated; Thanksgiving Fire Department, Incorporated; West Johnston Fire Department, Incorporated; and Wilson's Mills Fire Department, Incorporated.

THAT, WHEREAS, the General Assembly of North Carolina did enact into law an act to authorize mutual aid assistance between fire departments whereby full authority may be exercised for fire departments to send firefighters and apparatus beyond the territorial limits which they normally serve, said act having be codified as Chapter 69, Section 40, of the General Statues of North Carolina.

WHEREAS, the purpose of this agreement is to provide each of the parties hereto, through their mutual cooperation, a pre-determined plan by which each of them might render aid to the other in case of conflagration, holocaust, civil disorder or natural disaster, any of which demand fire services to a degree beyond the existing capabilities of either party;

Appendix D  
AUTOMATIC AID AGREEMENT FOR FIRE PROTECTION

WHEREAS, it is deemed to be in the public interest for parties hereto to enter into an agreement for automatic aid assistance in fire protection and in order to increase fire defenses and to assure proper fire control, as well as providing reserves needed to assure the community of adequate fire protection;

WHEREAS, by action of the governing bodies creating and supporting aforesaid fire departments, this agreement for reciprocal automatic aid assistance was duly authorized;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and between the parties hereto, it is hereby agreed as follows:

- 1) Should it become necessary to activate the terms of this agreement as herein set forth, due to conflagration, holocaust, civil disorder or natural disaster, the Chief of the Fire Department shall have the implicit authority, upon notification of one of the parties to the other that an emergency does, in fact, exist and that aid is needed, to order available apparatus, \_\_\_\_\_ equipment and manpower into action to assist the requesting party as may be required.
- 2) It shall be the responsibility of the officer of the fire department of the responding party to ensure that all personnel responding to the request for assistance are responsible persons and that the conduct and actions of said personnel shall be the responsibility of the party sending assistance.
- 3) The party responding to the request for automatic aid under the terms of this agreement shall assume all liability and responsibility for damage to its own apparatus and/or equipment. The party responding shall also assume all liability and responsibility for any damage caused by its own apparatus while responding to or returning from a specific location.
- 4) The party responding under the terms of this agreement shall assume no responsibility or liability for property damaged or destroyed at the actual scene of any disorder, holocaust, conflagration or natural disaster due to firefighter and rescue operations, fire control tactics and strategy or other operations as may be required or ordered; said liability and responsibility shall rest solely with the party requesting such aid and within whose boundaries the property shall exist, or the incident occur.

## AUTOMATIC AID AGREEMENT FOR FIRE PROTECTION

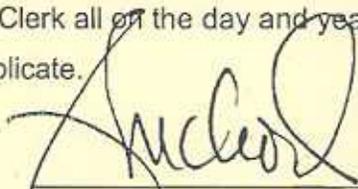
- 5) The party who requests automatic aid shall in no way be deemed liable or responsible for the personal property of the members of the fire department of the responding party which may be lost, stolen or damaged while performing their duties under the response terms herein.
- 6) Each party to this agreement shall assume all costs of salaries, wages, bonuses or other compensation for its own personnel that responds for duty under the terms of this agreement and shall assume all costs involving the use of apparatus, equipment, tools used specifically in response to the request for aid and shall make no charge for such use to the party requesting assistance; however, any special extinguishing agents used by the responding party from its own supply shall be paid for by the party requesting the aid upon receipt of an itemized statement of costs for such extinguishing agents.
- 7) Upon receipt of a request for assistance by the officer of the fire department from the requesting party, and upon a determination by the officer of the fire department of the responding party that the request be honored without impairing the capacity to provide fire protection within its own jurisdiction, the officer of the responding fire department may take such steps as necessary to furnish apparatus, manpower and assistance to the requesting party as he/she deems appropriate. Such response shall remain solely the decision of the officer of the fire department of the responding party. Neither party to this agreement shall be bound to dispatch apparatus, equipment or personnel to the assistance of the other but every effort should be made to furnish such assistance if, in the judgment of the officer of the fire department of either party, such dispatch would not impose upon his/her own respective community a serious impairment to the fire defenses and fire protection.
- 8) The fire chief, officer-in-charge, or incident commander of the fire department in whose community or fire district where the emergency exists shall in all instances be in command of the emergency as to the aspects of strategy, fire control tactics and overall direction of the operations.

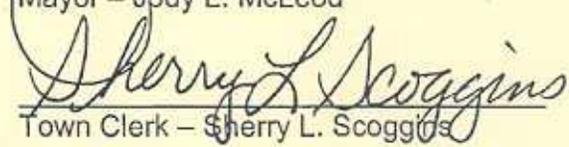
Appendix D  
AUTOMATIC AID AGREEMENT FOR FIRE PROTECTION

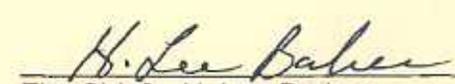
- 9) Either party may, at any time, terminate this agreement, through its respective Fire Chief, upon the serving of a thirty-day written notice to the Emergency Services Department and the 911 Emergency Communications Center.
- 10) When fire department personnel are sent to respond to a request for aid pursuant to this agreement, the jurisdiction, authority, rights, privileges and immunities, including coverage under worker's compensation laws, which they have in their normal service area shall be also enjoyed by them outside their normal service area when said personnel are acting within the scope of their authority or in the course of their employment and pursuant to the terms of this agreement until completion of the entire incident.
- 11) When any party contained in this agreement is providing automatic aid to another party, it is agreed to respond with a minimum of one piece of fire apparatus capable of carrying a minimum of 1,000 gallons of water.

IN WITNESS WHEREOF, each of the aforesaid Fire Departments of Johnston County has caused this instrument to be signed by its President or Mayor/Town Manager and Fire Chief, attested by its Secretary or Town Clerk all on the day and year first above written and this agreement is executed in duplicate.

Town of Clayton Fire Department,

  
\_\_\_\_\_  
Mayor – Jody L. McLeod

  
\_\_\_\_\_  
Town Clerk – Sherry L. Scoggins

  
\_\_\_\_\_  
Fire Chief – H. Lee Barbee

NORTH CAROLINA  
JOHNSTON COUNTY

FIRE PROTECTION CONTRACT

THIS APPENDIX DOES NOT APPLY TO THIS DEPARTMENT

APPENDIX B  
FIRST RESPONDER PROGRAM

NORTH CAROLINA  
JOHNSTON COUNTY

**RESCUE SERVICES AGREEMENT**

**WHEREAS**, Johnston County and the Johnston County Fire Departments desire to provide and promote the highest level of emergency services possible for Johnston County; and,

**WHEREAS**, the Fire Department is currently under contract with Johnston County to provide fire protection and emergency services and is a participant in the Johnston County Mutual Aid Agreement; and,

**WHEREAS**, the Fire Department voluntarily agrees to accept additional emergency duties for its designated geographic area; and,

**NOW THEREFORE**, let it be resolved that the Town of Clayton agrees to become a participating party in the program(s) indicated below:

- EXTRICATION SERVICES PROVIDER
- LIGHT RESCUE PROVIDER (as outlined by N.C. Assoc. of Rescue and EMS)
- MEDIUM RESCUE PROVIDER (as outlined by N.C. Assoc. of Rescue and EMS)
- HEAVY RESCUE PROVIDER (as outlined by N.C. Assoc. of Rescue and EMS)
- AGRICULTURAL RESCUE (as outlined by N.C. Assoc. of Rescue and EMS)
- AIR RESCUE (as outlined by N.C. Assoc. of Rescue and EMS)
- CONFINED SPACE RESCUE (as outlined by N.C. Assoc. of Rescue and EMS)
- HEAVY VEHICLE/MACHINERY EXTRICATION (as outlined by N.C. Assoc. of Rescue and EMS)
- HIGH ANGLE RESCUE (as outlined by N.C. Assoc. of Rescue and EMS)
- TRENCH RESCUE (as outlined by N.C. Assoc. of Rescue and EMS)
- WATER RESCUE-DIVE (as outlined by N.C. Assoc. of Rescue and EMS)
- WATER RESCUE-OPEN (STILL WATER) (as outlined by N.C. Assoc. of Rescue and EMS)

**AND THEREFORE**, let it be resolved that the following provisions and conditions will be in force and that the parties to this understanding agree to abide by the following:

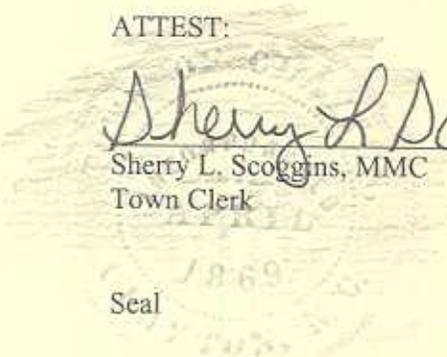
- A. The Fire Department will maintain the necessary equipment to provide the service(s) indicated above.
- B. The Fire Department will ensure that members involved are properly trained to provide the services(s) indicated above.
- C. The Fire Department will be available for response twenty-four hours daily to the extent possible, realizing that the number of responders may be limited.

This Agreement will be in effect from July 1, 2009 until such time as either party terminates the agreement upon one hundred eighty (180) days written notice to withdraw.

Appendix C

Duly executed this the 14<sup>th</sup> day of May, 2009 while in regular session.

ATTEST:

  
Sherry L. Scoggins  
Sherry L. Scoggins, MMC  
Town Clerk

Jody L. McLeod  
Jody L. McLeod  
Mayor

Seal

Duly executed this the 1 day of June, 2009 while in regular session.

ATTEST:

Paula G. Woodard

Kim Robertson  
Director  
Johnston Co Emergency Services

Seal



**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 8c

Meeting Date: 01/06/14

TITLE: TOWN CLERK

DESCRIPTION: Calendar of Events

- New Year's Day Holiday – Wednesday, January 1, 2014
- Council Mtg – Monday, January 6, 2014 @ 6:30 PM
- Youth Art Month Recognition and Reception co-hosted by The Woman's Club of Clayton and the Clayton Visual Arts – Thursday, January 9, 2014 @ 6 PM at the Clayton Center, 111 E 2<sup>nd</sup> Street
- Downtown Development Association Mtg – Monday, January 13, 2014 @ 6:30 PM in room GS 223
- Board of Adjustment Mtg – Wednesday, January 15, 2014 @ 6 PM
- Martin Luther King Jr.'s Birthday Holiday – Monday, January 20, 2014
- Council Mtg – **WEDNESDAY**, January 22, 2014 @ 6:30 PM
- Fire Advisory Board Mtg – Thursday, January 23, 2014 @ 7 PM at Fire Station 1, 325 West Horne Street
- Zaxby's Second Annual Parking Lot Polar Plunge for Special Olympics [[www.firstgiving.com/sonc/zaxbys-polar-plunge](http://www.firstgiving.com/sonc/zaxbys-polar-plunge)] – Saturday, January 25, 2014 from 12 noon to 2 PM
- The Clayton Center Palladian Series: Junior Brown – Saturday, January 25, 2014 @ 8 PM
- Planning Board Mtg – Monday, January 27, 2014 @ 6 PM
- Clayton Chamber Annual Meeting – Tuesday, January 28, 2014, @ 6 PM at the Clayton Center, 111 E 2<sup>nd</sup> Street
- Council Mtg – Monday, February 3, 2014 @ 6:30 PM
- Downtown Development Association Mtg – Monday, February 10, 2014 @ 6:30 PM in room GS 223
- The Clayton Center Palladian Series: The Hot Club of San Francisco (Meet Me in Paris) – Friday, February 14, 2014 @ 8 PM
- Council Mtg – Monday, February 17, 2014 @ 6:30 PM
- Board of Adjustment Mtg – Wednesday, February 19, 2014 @ 6 PM
- Planning Board Mtg – Monday, February 24, 2014 @ 6 PM
- Council Mtg – Monday, March 3, 2014 @ 6:30 PM
- Cooper Elementary PTA Run for the Rockets community event – Saturday, March 8, 2014 from 9 AM to 12 noon
- Spring Forward: 2014 Daylight Saving Time begins – Sunday, March 9, 2014, at 2 AM
- The Clayton Center Palladian Series: The Celtic Tenors – Saturday, March 15, 2014 @ 8 PM
- Council Mtg – Monday, March 17, 2014 @ 6:30 PM
- Board of Adjustment Mtg – Wednesday, March 19, 2014 @ 6 PM

- Planning Board Mtg – Monday, March 24, 2014 @ 6 PM
- Fire Advisory Board Mtg – Thursday, March 27, 2014 @ 7 PM at Fire Station 1, 325 West Horne Street
- The Clayton Center presents: Schoolhouse Rock Live! – Saturday, April 5, 2013 @ 3 PM
- Council Mtg – Monday, April 7, 2014 @ 6:30 PM
- The Clayton Center Palladian Series: James Gregory (The Funniest Man in America!) – Friday, April 11, 2014 @ 8 PM
- Downtown Development Association Mtg – Monday, April 14, 2014 @ 6:30 PM in room GS 223
- Board of Adjustment Mtg – Wednesday, April 16, 2014 @ 6 PM
- Good Friday Holiday – Friday, April 18, 2014
- Council Mtg – Monday, April 21, 2014 @ 6:30 PM
- Planning Board Mtg – Monday, April 28, 2014 @ 6 PM
- Council Mtg – Monday, May 5, 2014 @ 6:30 PM
- Council Mtg – Monday, May 19, 2014 @ 6:30 PM
- Board of Adjustment Mtg – Wednesday, May 21, 2014 @ 6 PM
- Fire Advisory Board Mtg – Thursday, May 22, 2014 @ 7 PM at Fire Station 1, 325 West Horne Street
- Memorial Day Holiday – Monday, May 26, 2014
- Planning Board Mtg – **TUESDAY**, May 27, 2014 @ 6 PM
- Council Mtg – Monday, June 2, 2014 @ 6:30 PM
- NCLM Town Hall Day – Wednesday, June 4, 2014
- Downtown Development Association Mtg – Monday, June 9, 2014 @ 6:30 PM in room GS 223
- Council Mtg – Monday, June 16, 2014 @ 6:30 PM
- Board of Adjustment Mtg – Wednesday, June 18, 2014 @ 6 PM
- Planning Board Mtg – Monday, June 23, 2014 @ 6 PM
- Independence Day Holiday – Friday, July 4, 2014
- Council Mtg – Monday, July 7, 2014 @ 6:30 PM
- Board of Adjustment Mtg – Wednesday, July 16, 2014 @ 6 PM
- Council Mtg – Monday, July 21, 2014 @ 6:0 PM
- Fire Advisory Board Mtg – Thursday, July 24, 2014 @ 7 PM at Fire Station 1, 325 West Horne Street
- Planning Board Mtg – Monday, July 28, 2014 @ 6 PM
- Labor Day Holiday – Monday, September 1, 2014
- NCLM Annual Conference – October 12-14, 2014; Greensboro, NC
- Fall Back: 2014 Daylight Saving Time ends – Sunday, November 2, 2014, at 2 AM
- Veteran’s Day Holiday – Tuesday, November 11, 2014
- Thanksgiving Day Holiday – Thursday, November 27, 2014 & Friday, November 28, 2014
- Christmas Holiday – Wednesday, December 24, 2014; Thursday, December 25, 2014; & Friday, December 26, 2014

Date:  
01-06-14

Action:  
N/A

Info. Provided:  
Calendar of Events