



CITY OF HENDERSONVILLE CITY COUNCIL REGULAR MEETING

City Hall-2nd Floor Meeting Room | 160 6th Avenue E. | Hendersonville NC 28792
Thursday, October 03, 2024 – 5:45 PM

AGENDA

1. **CALL TO ORDER**
2. **INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG**
3. **PUBLIC COMMENT** - *Up to 15 minutes is reserved for comments from the public not listed on the agenda.*
4. **CONSIDERATION OF AGENDA**
5. **CONSENT AGENDA** - *Items are considered routine, noncontroversial in nature and are considered approved by a single motion and vote.*
 - A. Adoption of City Council Minutes - Jill Murray, City Clerk

September 5, 2024 Regular Meeting

September 20, 2024 Fire Station 1 Grand Opening Celebration
 - B. Amendment 1 - Engineering Services to Support the WTF 15-MGD Filter Expansion Project—
Adam Steurer, Utilities Director
 - C. VC3 Contract Renewal – *Brian Pahle, Assistant City Manager*
 - D. October 2024 Budget Amendments – *Adam Murr, Budget & Eval. Director*
 - E. Above the Mud Greenway and Streetscape Project Capital Project Ordinance and Reimbursement Resolution – *Adam Murr, Budget & Eval. Director*
6. **PRESENTATIONS**
 - A. Proclamation-American Pharmacists Month - *Barbara Volk, Mayor*
 - B. Proclamation-Fire Prevention Week 2024 - *Barbara Volk, Mayor*
 - C. Proclamation-GreaseBusters Day 2024 - *Barbara Volk, Mayor*
 - D. Proclamation-Duchenne Muscular Dystrophy Awareness - *Barbara Volk, Mayor*
7. **PUBLIC HEARINGS**
8. **UNFINISHED BUSINESS**
9. **NEW BUSINESS**

A. New Grant Opportunity, Our State, Our Homes – *Angela S. Beeker, City Attorney*

10. CITY MANAGER REPORT - John F. Connet, City Manager

A. September 2024 Contingency and Adjustment Report – *John Connet, City Manager*

B. Tropical Storm Helene Update - *John Connet, City Manager*

11. CITY COUNCIL COMMENTS

12. CLOSED SESSION

A. Closed Session – *Jill Murray, City Clerk*

13. ADJOURN

The City of Hendersonville is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or an accommodation for this meeting please contact the City Clerk no later than 24 hours prior to the meeting at 697-3005.



MINUTES

September 5, 2024

REGULAR MEETING OF THE CITY COUNCIL

CITY OPERATIONS CENTER | 305 WILLIAMS ST. | 5:45 p.m.

Present: Mayor Pro Tem Lyndsey Simpson and Council Members: Dr. Jennifer Hensley, Jeff Miller and Melinda Lowrance

Absent: Mayor Barbara G. Volk

Staff Present: City Manager John F. Connet, Assistant City Manager Brian Pahle, City Clerk Jill Murray, Staff Attorney Daniel Heyman, Budget & Evaluation Director, Communications Coordinator Brandy Heatherly and others

1. CALL TO ORDER

Mayor Pro Tem Simpson called the meeting to order at 5:48 p.m. and welcomed those in attendance. A quorum was established with all members in attendance.

2. INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG

The City Council observed a moment of silence for prayer or reflection followed by the Pledge of Allegiance to the Flag.

3. PUBLIC COMMENT *Up to 15 minutes is reserved for comments from the public not listed on the agenda.*

In Person:

Virginia Tegel spoke in favor the rezoning of the Felicia Reeves home, the bird sanctuary in Crystal Cauley's name and spoke against having Color Us United speak at the last City Council meeting as they are not taxpayers and gave biased and erroneous information which now resides on the city's website via the video of the meeting and they do not represent my values or opinions. As a city resident and taxpayer, I fully support the city's Diversity, Equity & Inclusion process and the Diversity, Equity & Inclusion Committee.

Clifford Meek spoke about Transportation in Raleigh that had a train of about 2500 people going to the US Open Golf Tournament, I would like City Council to consider contacting Raleigh to speak with the Governor and the Secretary of Transportation to arrange a charter passenger rail service from Raleigh to Hendersonville for next years Apple Festival. I think we can beat 2500 people.

Leslie Carey spoke in favor of DEI and thanked City Council for having a DEI Board. The city has many examples in our community to make sure everyone belongs and I am thankful that the city has invested in its residents.

Colby Coren spoke against Color Us United and for DEI and believes that the city works to make sure everyone feels included and I am proud to call Hendersonville my home.

Gina Baxter spoke in favor of DEI and their effort towards DEI. While the presentation by Color Us United was a voice that deserved to be heard, it was wholly unrepresentative of the community of Hendersonville. I just wanted to give my unequivocal support for DEI.

Lynne Williams spoke in support of Mr. Meeks charter train trip. She again spoke about preserving farm land in the ETJ and getting the city and county to work together. Please save Berkley Park forest and pray for justice for Elijah Timmons III and his mother.

Digital Comments

Rial Fitch wrote: I have been a visitor to Hendersonville, NC for many years, starting in 1959. My wife and I love your town. We often comment that if we ever moved the only other place we could live would be Hendersonville. I was very disappointed to see that y'all are now charging for handicap parking. I do understand the need to increase revenue, but I wish this increase was not on the backs of handicapped persons.

Jay Carey wrote: My comment is in response to the Color Us United presentation. Mr. Xu said that white men felt discriminated against because of DEI. As a straight white male, and resident of Hendersonville, I can assure you that he does not speak for me or most of the other white men I know. In fact, what I love about living in Hendersonville is the variety of events and activities that are available for everyone to enjoy. I don't feel excluded because everything doesn't revolve around my interests. Thank you for using my tax dollars to hire a qualified consultant.

4. CONSIDERATION OF AGENDA

Council Member Melinda Lowrance moved that City Council approve the agenda as presented. A unanimous vote of the Council followed. Motion carried.

5. CONSENT AGENDA

Council Member Melinda Lowrance moved that City Council approve the consent agenda as presented. A unanimous vote of the Council followed. Motion carried.

- A. Adoption of City Council Minutes – Jill Murray, City Clerk**
August 1, 2024 Regular Meeting
August 28, 2024 Second Monthly Meeting

- B. Ashe Street Neighborhood and 4th Avenue Water and Sewer Replacement Loan Acceptance – Richard Shook, Civil Engineer III**

Resolution #R-24-72

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ACCEPT LOAN OFFERS FOR THE CONSTRUCTION OF ASHE STREET NEIGHBORHOOD AND 4TH AVENUE WATER AND SEWER REPLACEMENT

WHEREAS, the Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Fund have authorized the making of loans and/or grants, as applicable, to aid eligible, drinking-water system owners in financing the cost of construction for eligible, drinking-water infrastructure; and

WHEREAS, the North Carolina Department of Environmental Quality has offered State Revolving Fund loans in the amount of \$4,514,929.00 for the construction of Ashe Street Neighborhood and 4th Ave Water and Sewer Replacement hereafter referred to as the “Project”; and

WHEREAS, the City of Hendersonville intends to construct said Project in accordance with engineering plans and specifications that have been or will have been approved by the North Carolina Public Water Supply Section.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that

1. That City of Hendersonville does hereby accept the State Revolving Fund Loan offers in the total amount of \$4,514,929.00 and
2. That the City of Hendersonville does hereby give assurance to the North Carolina Department of Environmental Quality that they will adhere to all applicable items specified in the standard “Conditions” and “Assurances” of the Department’s funding offer, awarded in the form of a Clean Water State Revolving Fund loan and a Drinking Water State Revolving Fund loan and
3. That Brendan Shanahan, City Engineer, and successors so titled, is hereby authorized and directed to furnish such information, as the appropriate State agency may request, in connection with such application or the Project; to make the Assurances as contained above; and to execute such other documents as may be required in connection with the application; and

4. That the City of Hendersonville has complied substantially or will comply substantially with all Federal, State and local laws, rules, regulations, and ordinances applicable to the Project, and to Federal and State grants and loans pertaining thereto.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of September, 2024.

Barbara G. Volk, Mayor
 Attest: /s/Jill Murray, City Clerk
 Approved as to form: /s/Angela S. Beeker, City Attorney

C. Purchase of Biosolid Thermal Dryer Equipment – Adam Steurer, Utilities Director

Resolution #R-24-73

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO PURCHASE BIOSOLIDS THERMAL DRYER EQUIPMENT

WHEREAS, the proposed Wastewater Treatment Facility (WWTF) Biosolids Thermal Dryer project will produce a high-quality, thermally dried product that is safe for beneficial reuse through distribution or land application.; and

WHEREAS, the thermal dryer equipment, once operational after completion of the project, will reduce the utility's current solids hauling and disposal costs and reduce the utility's vulnerability on reliance of the volatile private hauling and landfills disposal markets.

WHEREAS, in accordance with NCGS 143-129(e), the Hendersonville City Council approved the sole-source purchase of the equipment at its August 1, 2024, regular meeting.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The purchase of Biosolids Thermal Dryer Equipment, Model 1050 direct-fired medium-temperature belt dryer manufactured by Gryphon Environmental and provided by Interstate Utility Sales, Inc. is approved for the WWTF Biosolids Thermal Dryer Project.
2. The City Manager is authorized to execute the purchase contract in the amount of \$3,646,000 and is authorized to approve change orders which cumulatively do not exceed 5% of the approved purchase amount, provided however that any necessary budget ordinance or project ordinance amendments must be brought back to City Council for approval.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of September, 2024.

Barbara G. Volk, Mayor
 Attest: /s/Jill Murray, City Clerk
 Approved as to form: /s/Angela S. Beeker, City Attorney

D. Annexation: Certificate of Sufficiency – Lakeside Drive (Summerville) (C24-52-ANX) – Tyler Morrow, Current Planning Manager

Resolution #R-24-74

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31

WHEREAS, a petition requesting annexation of the contiguous area described herein has been received; and

WHEREAS, certification by the City Clerk as to the sufficiency of the petition has been made;

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Hendersonville, North Carolina that:

Section 1. A public hearing on the question of annexation of the contiguous area described herein will be held at the City Operations Center located at 305 William St. Hendersonville NC, 28792 at 5:45 p.m. October 3rd, 2024, or as soon thereafter as it may be heard.

Section 2. The area proposed for annexation is described as follows:

Being all of that real property consisting of PINs 9568-33-5111 and 9568-33-6042 described in the plat recorded in Book 2024- ____ [to be inserted at recording of the plat] of the Henderson County Registry, said PINs 9568-33-5111 and 9568-33-6042 being described by metes and bounds as follows:

Being all those pieces, parcels, or tracts of land situate in Henderson County, North Carolina, and being all of Lots 1R & 2R, "Lot Line Adjustment Peter & Rhonda Summerville" of the plat thereof as recorded as Plat Slide 15681, Register of Deeds of Henderson County (RODHC), North Carolina, and being more particularly described as follows:

Beginning at a new iron pin at the northeast corner of the lands now or formerly of Mary Willson as conveyed in Deed Book 706, Page 307 RODHC and show on aforesaid plat and the western right of way line of Lakeside Drive (SR 1144); thence with the lands of Mary Wilson the following three (3) courses to wit: (1) North 82°44'53" West for 42.04 feet to a found iron pin; (2) North 88°54'11" West for 68.57 feet to a point in a creek, passing a new iron pin at 62.62 feet; (3) South 27°59'10" West for 60.74 feet to a point in a creek on the northeastern line of the lands now or formerly of Meredith & Trevor Calhoun as conveyed in Deed Book 1542, Page 387, RODHC; thence with the lands of Meredith and Trevor Calhoun the following two (2) course to wit: (1) North 54°04'16" West for 69.97 feet to a found iron pin; (2) North 54°54'02" West for 161.25 feet to a found iron pipe at the southwest corner of the land now or formerly of Stephanie Whiteside as conveyed in Deed Book 1337, Page 722, RODHC; thence with the lands of Stephe Whiteside the following two (2) courses to wit: (1) North 17°09'26" East for 191.15 feet to a found iron pin with cap; (2) North 85°19'43" East for 27.74 feet to a point in a creek and southwestern line of the lands now of formerly of Robin Staton as conveying Deed Book 531, Page 411 RODHC; thence with the lands of Robin Staton the following five (5) courses to wit: (1) South 45°46'29" East for 33.32 feet to appoint in the creek; (2) South 25°10'20" East for 42.08 feet to a point in the creek; (3) South 45°16'58" East for 45.16 feet to a point in the creek; (4) South 69°36'16" East for 29.30 feet to a point in the creek; (5) South 67°21'32" East for 18.80 feet to a point in the creek and on the southwestern line of the lands now or formerly of Francis & Reid as conveyed in Book of Record 3254, Page 378, RODHC; thence with the lands of Francis & Reid the following four (4) course to wit: (1) South 38°18'11" East for 11.12 feet to a point in the creek; (2) South 18°11'22" West for 11.31 feet to a point in the creek; (3) leaving the creek South 10°22'13" West for 22.20 feet to a found iron pin; (4) South 86°29'46" East for 128.17 feet to a found iron pipe on the western right of way line of Lakeside Drive; thence with the western right of way line of Lakeside Drive the following two (2) course to wit: (1) South 06°06'38" West for 20.04 feet to a set iron pin; (2) South 05°43'52" West for 94.69 feet to a the Point of Beginning, containing 1.24 acres, more or less.

Re: Petition for Contiguous Annexation
 Petitioner: Peter and Rhonda Summerville
 File No. C24-52-ANX

Section 3. Notice of the public hearing shall be published once in The Hendersonville Times-News, a newspaper having general circulation in the City of Hendersonville, at least 10 days prior to the date of the public hearing.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of September, 2024.

Barbara G. Volk, Mayor
 Attest: /s/Jill Murray, City Clerk
 Approved as to form: /s/Angela S. Beeker, City Attorney

E. Resolution to Apply for Funding for the WWTF 6MGD Expansion and Improvements
 – Adam Steurer, Utilities Director

Resolution #R-24-75

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO APPLY FOR FUNDING FOR THE WASTEWATER TREATMENT FACILITY 6-MGD EXPANSION AND IMPROVEMENTS PROJECT

WHEREAS, the North Carolina Department of Environmental Quality Division of Water Infrastructure administers a funding program for investment in drinking water, wastewater, and stormwater systems; and

WHEREAS, The City of Hendersonville has need for and intends to construct a Wastewater Treatment Facility 6-mgd Expansion and Improvements project; and

WHEREAS, The City of Hendersonville intends to request State loan and/or grant assistance for the project; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. That City of Hendersonville, the Applicant, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.
2. That the Applicant will provide for efficient operation and maintenance of the project on completion of construction thereof.
3. That the Applicant will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

4. That the governing body of the Applicant agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Hendersonville to make scheduled repayment of the loan, to withhold from the City of Hendersonville any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.
5. That Adam Steurer, Utilities Director, the Authorized Official, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a loan and/or grant to aid in the study of or construction of the project described above.
6. That the Authorized Official, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.
7. That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of September, 2024.

Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

F. Resolution to Accept Grant Funds (#C2501) – Matthew Manley, AICP – Long Range Planning Manager

Resolution #R-24-76

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL
ACCEPTING A GRANT FROM BLUE RIDGE BICYCLE CLUB FOR THE PURPOSE OF
SUPPLEMENTING EFFORTS TO IMPROVE SAFETY AND CONNECTIVITY FOR THOSE
TRAVELING BY BICYCLE**

WHEREAS, Blue Ridge Bicycle Club (BRBC) has established a grant for use by the local community to focus on the needs of people to safely move around the community on bicycles; and

WHEREAS, the Community Development Department applied for and was awarded a Community Challenge Grant from BRBC for this endeavor in the amount of \$5,000 to match the \$15,000 the Department received from AARP for a Community Challenge Grant; and

WHEREAS, the City of Hendersonville desires to accept the grant funds which will supplement the project earmarked for the AARP Community Challenge Grant; and

WHEREAS, the Grant acceptance provides that the City will undertake activities to promote the safer movement of people within the City including, but not limited to improving infrastructure, providing new facilities, and engaging with local;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The City hereby accepts the \$5,000 BRBC Grant to be used for the purposes as set out in the AARP Community Challenge Grant Agreement; and
2. The City Manager is authorized to execute the Grant Agreement, with such changes as he deems appropriate, provide they are consistent with the terms of this Resolution;
3. City Staff are authorized and directed to proceed with the performance and implementation of the BRBC Grant and AARP Community Challenge Grant as outlined in the AARP Grant Agreement.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of September, 2024.

Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

Approved as to form: /s/Angela S. Beeker, City Attorney

G. Contract Award for Construction of the Water Treatment Filter Expansion Project – Adam Steurer, Utilities Director

Resolution #R-24-77

**RESOLUTION BY THE CITY OF HENDERSONVILLE TO AUTHORIZE THE CITY
MANAGER TO ENTER INTO A CONTRACT FOR THE CONSTRUCTION OF THE
WATER TREATMENT FACILITY FILTER EXPANSION PROJECT**

WHEREAS, the City owns and operates a water treatment facility (WTF) that has a permitted capacity of 12 million gallons per day (mgd) and intends to install additional dual media filters and associated piping, instrumentation, and appurtenances, which will increase the facility's permitted capacity to 15-mgd; and

WHEREAS, on August 20, 2024, at 2:00pm am sealed formal bids were received for the Water Treatment Facility Filter Expansion project summarized below:

- Cove Utility, LLC: \$1,788,900.50
- State Utility Contractors, Inc.: \$2,687,000.00
- Wharton-Smith, Inc. \$3,377,000.00
- WGK Construction, LLC: \$2,037,500.00; and

WHEREAS, formal bids were reviewed by staff for completeness and accuracy. Cove Utility, LLC. was the lowest responsive and responsible bidder in the total bid amount of \$1,788,900.50; and

WHEREAS, the project engineer and utility staff are recommending award of the WTF Filter Expansion Project to Cove Utility, LLC.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

- The City Manager is authorized to award and execute a contract for the construction of the WTF Filter Expansion Project to Cove Utility, LLC the lowest responsive and responsible bidder in the total amount of \$1,788,900.50.
- The City Manager is authorized to approve change orders which cumulatively do not exceed 10% of the approved contract amount of \$1,788,900.50, provided however that any necessary budget ordinance or project ordinance amendments must be brought back to the City Council for approval.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 5th day of September, 2024.

Barbara G. Volk, Mayor
 Attest: /s/Jill Murray, City Clerk
 Approved as to form: /s/Angela S. Beeker, City Attorney

H. Telecommuting Policy – Jennifer Harrell, Human Resources Director

I. FY25 Special Appropriations – Adam Murr, Budget Manager

City Manager Appropriation Target \$ 143,500				Special Appropriation Requests – Discretionary Funding										
Organization	FY25 Request	Notes	Council Appropriation	Nil	is less a number	Exceeds Request	is less a number	Exceeds Vtd	is less a number	Amended Budget	is less a number	Full Budget	is less a number	Category
Appropriation Available (25% of Budget)				275							275		275	
Arts Council of Henderson County, Inc.	17,750	Provide for a 10% increase in the contract. Funding increases per job at contract budget.	2,750		is less	1,000	is less	3,000	is less	3,000	is less	3,000	is less	Education, Arts, Culture, & Recreation
Blue Ridge Library Council-Library Connection	10,000	Provide funding to allow library services to continue, including purchases.	2,075		is less	5,000	is less	4,000	is less	4,000	is less	4,000	is less	Education, Arts, Culture, & Recreation
Boy's & Girls Club of Henderson County	7,000	Provide for the club's ongoing operations.	3,825		is less	1,500	is less	1,500	is less	5,000	is less	5,000	is less	Education, Arts, Culture, & Recreation
Flat Rock Playhouse (Vagabond School)	15,500	Provide for Flat Rock Playhouse's "The Aristocats"	1,125		is less	1,000	is less	1,500	is less	1,000	is less	1,000	is less	Education, Arts, Culture, & Recreation
Henderson County Education Foundation	5,525	Provide for the purchase of materials for educational programs for students, educators, and paraprofessionals.	5,525		is less	4,000	is less	3,500	is less	3,500	is less	3,500	is less	Education, Arts, Culture, & Recreation
Hendersonville Community Theatre	9,000	Provide for the theatre's ongoing operations.	2,350		is less	3,000	is less	2,000	is less	2,000	is less	2,000	is less	Education, Arts, Culture, & Recreation
Hendersonville Shellfish Club	1,200	Provide for expenses for seasonal open-house and water activities.	1,200		is less	1,200	is less	1,200	is less	1,200	is less	1,200	is less	Education, Arts, Culture, & Recreation
Hendersonville Symphony – Annual Series	5,000	Provide for the purchase of materials for annual series.	1,500		is less	1,500	is less	1,500	is less	1,500	is less	1,500	is less	Education, Arts, Culture, & Recreation
Hendersonville Symphony – Youth Education	5,000	Provide for materials used in youth education.	1,500		is less	1,500	is less	1,500	is less	1,500	is less	1,500	is less	Education, Arts, Culture, & Recreation
Museum & Landmark Museum	10,000	Provide materials for educational programs for students and the general public.	2,375		is less	2,500	is less	3,000	is less	2,000	is less	2,000	is less	Education, Arts, Culture, & Recreation
Time (K-12)	9,000	Provide materials for educational programs for students and the general public.	3,000		is less	3,000	is less	3,000	is less	3,000	is less	3,000	is less	Education, Arts, Culture, & Recreation
The Hope Center of Hendersonville	15,000	Provide materials for educational programs for students and the general public.	5,525		is less	2,500	is less	4,000	is less	2,800	is less	2,800	is less	Education, Arts, Culture, & Recreation
YMCA of Western North Carolina	7,000	Provide materials for educational programs for students and the general public.	5,250		is less	3,000	is less	4,000	is less	3,000	is less	3,000	is less	Education, Arts, Culture, & Recreation
Sub-Total	118,967		35,000			35,000		35,000		35,000		35,000		
Appropriation Available (75% of Budget)				157,533										
Agriculture Henderson County (AgLife)	3,750	Provide materials for agricultural programs for students and the general public.	3,750		is less	1,000	is less	2,000	is less	2,000	is less	2,000	is less	Life Quality and Economic Services
Blue Ridge Community Health Services	10,000	Provide materials for health services for students and the general public.	5,625		is less	3,500	is less	5,000	is less	5,000	is less	5,000	is less	Life Quality and Economic Services
Blue Ridge Theatre	10,000	Provide materials for health services for students and the general public.	3,125		is less	2,500	is less	3,000	is less	5,000	is less	5,000	is less	Life Quality and Economic Services
Children & Family Resource Center	3,000	Provide funding for the center's ongoing operations.	3,000		is less	3,500	is less	2,500	is less	3,000	is less	3,000	is less	Life Quality and Economic Services
Henderson County Council on Aging	10,000	Provide funding for the council's ongoing operations.	10,000		is less	10,000	is less	10,000	is less	10,000	is less	10,000	is less	Life Quality and Economic Services
Henderson County Habitat for Humanity	95,000	Provide for the purchase of materials for housing programs.	25,000		is less	25,000	is less	25,000	is less	25,000	is less	25,000	is less	Life Quality and Economic Services
Henderson County Young Leaders (Campus)	15,000	Provide for the purchase of materials for youth leadership programs.	2,000		is less	2,000	is less	2,000	is less	2,000	is less	2,000	is less	Life Quality and Economic Services
Historically Black College Student	50,000	Provide for the purchase of materials for historically black college student programs.	10,000		is less	10,000	is less	20,000	is less	20,000	is less	20,000	is less	Life Quality and Economic Services
Medical Loan Closet of Henderson County	3,000	Provide for the purchase of materials for medical loan closet programs.	1,500		is less	1,000	is less	1,000	is less	1,000	is less	1,000	is less	Life Quality and Economic Services
Only Hope WNC	10,000	Provide for the purchase of materials for the center's ongoing operations.	3,125		is less	3,000	is less	3,000	is less	3,000	is less	3,000	is less	Life Quality and Economic Services
Orphan Legal Services - Domestic Violence	10,000	Provide for the purchase of materials for the center's ongoing operations.	4,625		is less	3,500	is less	5,000	is less	5,000	is less	5,000	is less	Life Quality and Economic Services
Rt. Grand House	3,000	Provide funding for the house's ongoing operations.	3,000		is less	3,000	is less	3,000	is less	3,000	is less	3,000	is less	Life Quality and Economic Services
Rural Life	2,000	Provide funding for the center's ongoing operations.	2,000		is less	2,000	is less	2,000	is less	2,000	is less	2,000	is less	Life Quality and Economic Services
The Meditation Center	3,000	Provide for the center's ongoing operations.	1,125		is less	500	is less	2,000	is less	1,000	is less	1,000	is less	Life Quality and Economic Services
Time	10,000	Provide for the purchase of materials for the center's ongoing operations.	7,500		is less	7,500	is less	7,500	is less	7,500	is less	7,500	is less	Life Quality and Economic Services
Time Bridge	10,000	Provide for the purchase of materials for the center's ongoing operations.	5,375		is less	4,500	is less	5,000	is less	5,000	is less	5,000	is less	Life Quality and Economic Services
Sub-Total	284,970		116,500			116,500		116,500		116,500		116,500		
Total	403,937		143,500			\$ 143,500		\$ 143,500		\$ 143,500		\$ 143,500		

City Manager Appropriation Target \$ 176,500				Special Appropriation Requests – Full Funding										
Organization	FY25 Request	Notes	Council Appropriation	Nil	is less a number	Exceeds Request	is less a number	Exceeds Vtd	is less a number	Amended Budget	is less a number	Full Budget	is less a number	Category
Henderson County Economic Development Fund	20,000	Provide for the purchase of materials for economic development programs.	20,000		is less	20,000	is less	20,000	is less	20,000	is less	20,000	is less	Full Funding
Henderson County Partnership for Econ. Dev.	25,000	Provide for the purchase of materials for economic development programs.	25,000		is less	25,000	is less	25,000	is less	25,000	is less	25,000	is less	Full Funding
Henderson County Rescue Squad	15,000	Provide for the purchase of materials for rescue squad programs.	15,000		is less	15,000	is less	15,000	is less	15,000	is less	15,000	is less	Full Funding
Historically Black College Student	14,000	Provide for the purchase of materials for historically black college student programs.	14,000		is less	14,000	is less	14,000	is less	14,000	is less	14,000	is less	Full Funding
Merchant's and Business Association	2,500	Provide for the purchase of materials for merchant and business association programs.	2,500		is less	2,500	is less	2,500	is less	2,500	is less	2,500	is less	Full Funding
Mills River Partnership	70,000	Provide for the purchase of materials for Mills River Partnership programs.	70,000		is less	70,000	is less	70,000	is less	70,000	is less	70,000	is less	Full Funding
Total	176,500		176,500			\$ 176,500		\$ 176,500		\$ 176,500		\$ 176,500		

J. September 2024 Budget Amendments – Jenny Floyd, Budget & Management Analyst

TO MAYOR & COUNCIL						FISCAL YEAR 2025	
APPROVAL: September 05, 2024						FORM: 09052024-01	
BUDGET AMENDMENT							
FUND 010 199							
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET		
010-0000-470900	Fund Balance Appropriated (ARP, FY25)	2,304,552	320,000	-	2,624,552		
010-0000-598901	Transfer out (to 410, #00100)	915,365	320,000	-	1,235,365		
FUND 010	TOTAL REVENUES	2,304,552	320,000	-	2,624,552		
General Fund	TOTAL EXPENDITURES	915,365	320,000	-	1,235,365		
199-0000-470100-00100	Transfer In (from 010)	-	320,000	-	320,000		
199-0000-540001-00100	Special Appropriations (ARP - Pisgah Legal)	-	320,000	-	320,000		
FUND 199	TOTAL REVENUES	-	320,000	-	320,000		
Gov. Spc. Revenue	TOTAL EXPENDITURES	-	320,000	-	320,000		
An amendment transferring \$330,000 former ARP funding from the General Fund's fund balance to the Governmental Special Revenue Fund, ARP project for the City's contract with Pisgah Legal Services to assist vulnerable, at-risk, and/or un-housed community members.							

The City Manager and City Clerk certify budget ordinance amendment 09052024-01 was approved by City Council on September 05, 2024.

TO MAYOR & COUNCIL						FISCAL YEAR 2025	
APPROVAL: September 05, 2024						FORM: 09052024-02	
BUDGET AMENDMENT							
FUND 301 459 460							
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET		
301-0000-420050-G2204	Grant Revenue (NCDEQ 2022)	5,000,000	-	-	5,000,000		
301-1002-598901-G2204	Transfer Out (to 460, #16023)	3,510,288	111,496	-	3,621,784		
301-1002-598901-G2204	Transfer Out (to 460, #21045)	1,489,712	-	111,496	1,378,216		
FUND 301, #G2204	TOTAL REVENUES	5,000,000	-	-	5,000,000		
2022 NCDEQ Grant	TOTAL EXPENDITURES	5,000,000	111,496	111,496	5,000,000		
459-0000-470900	Fund Balance Appropriated	133,780	-	133,780	-		
459-0000-598901	Transfer Out (to 460, #21045)	133,780	-	133,780	-		
FUND 459	TOTAL REVENUES	133,780	-	133,780	-		
WS Capital Reserve Fund	TOTAL EXPENDITURES	133,780	-	133,780	-		
460-0000-470100-21045	Transfer In (from 459)	133,780	-	133,780	-		
460-0000-470100-21045	Transfer In (from #G2204)	1,489,712	-	111,496	1,378,216		
460-1014-550103-21045	Capital Outlay CIP	1,623,492	-	245,276	1,378,216		
FUND 460	TOTAL REVENUES	1,623,492	-	245,276	1,378,216		
WWTP Aeration, #21045	TOTAL EXPENDITURES	1,623,492	-	245,276	1,378,216		
460-0000-470100-16023	Transfer In (from '22 NCDEQ, #G2204)	3,510,288	111,496	-	3,621,784		
460-0000-470100-16023	Transfer In (from 459)	400,000	-	-	400,000		
460-1014-550103-16023	Capital Outlay CIP	3,510,288	111,496	-	3,621,784		
460-1014-550102-16023	Capital Outlay Services and Fees	400,000	-	-	400,000		
FUND 460	TOTAL REVENUES	3,910,288	111,496	-	4,021,784		
WWTP UV Project, #16023	TOTAL EXPENDITURES	3,910,288	111,496	-	4,021,784		

A budget amendment for the 2022 NCDEQ Grant Project (#G2204), the WWTP Aeration Basin Repair Project (#21045), the WWTP UV Improvement Project (#16023), and the Water and Sewer Capital Reserve Fund (fund 459). The amendment prepares for the close out of the WWTP Aeration Basin Project, #21045 by moving \$111,496 available 2022 NCDEQ Grant, #G2204 budget to the WWTP UV Project, #16023. The amendment also transfers back \$133,780 from the WWTP Aeration Basin Project to the

The City Manager and City Clerk certify budget ordinance amendment 09052024-02 was approved by City Council on September 05, 2024.

TO MAYOR & COUNCIL						FISCAL YEAR 2025	
APPROVAL: September 05, 2024						FORM: 09052024-03	
BUDGET AMENDMENT							
FUND 060							
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET		
060-0000-470900	Fund Balance Appropriated	1,809,190	106,407	-	1,915,597		
060-7055-519200	Transfer Out (to 460, #21045)	51,000	106,407	-	157,407		
FUND 060	TOTAL REVENUES	1,809,190	106,407	-	1,915,597		
W&S Operating Fund	TOTAL EXPENDITURES	51,000	106,407	-	157,407		
An FY25 amendment appropriating W&S Fund Balance for the Water Distribution Master Plan Project completion, which carried over from FY24.							

The City Manager and City Clerk certify budget ordinance amendment 09052024-03 was approved by City Council on September 05, 2024.

TO MAYOR & COUNCIL						FISCAL YEAR 2025	
APPROVAL: September 05, 2024						FORM: 09052024-04	
BUDGET AMENDMENT							
FUND 020							
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET		
020-0000-470900	Fund Balance Appropriated	157,401	25,318	-	182,719		
020-2102-534000	Non-Capital Equipment	-	25,318	-	25,318		
FUND 010	TOTAL REVENUES	157,401	25,318	-	182,719		
General Fund	TOTAL EXPENDITURES	-	25,318	-	25,318		
An FY25 amendment appropriating Downtown Fund Balance for the payment of Wayfair Signage.							

The City Manager and City Clerk certify budget ordinance amendment 09052024-04 was approved by City Council on September 05, 2024.

TO MAYOR & COUNCIL
 APPROVAL: September 05, 2024

FISCAL YEAR 2025
 FORM: 09052024-05

BUDGET AMENDMENT

FUND 199

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
199-0000-460090-C2501	Contribution/Donation (Community Challenge)	15,000	5,000	-	20,000
199-1502-521001-C2501	Supplies & Materials	15,000	5,000	-	20,000
FUND 199 (#C2501)	TOTAL REVENUES	15,000	5,000	-	20,000
Community Challenge	TOTAL EXPENDITURES	15,000	5,000	-	20,000
Total Project Revenues (#C2501)					20,000
Total Project Expenditures (#C2501)					20,000

An amendment to the FY25 budget reflecting an anticipated \$5,000 contribution to undertake activities to promote the safer movement of people and older adults within the City including, but not limited to improving infrastructure, providing new facilities, and engaging with local residents through the Henderson County Aging Coalition.
 The City Manager and City Clerk certify budget ordinance amendment 09052024-05 was approved by City Council on September 05, 2024.

TO MAYOR & COUNCIL
 APPROVAL: September 5, 2024

FISCAL YEAR 2025
 FORM: 09052024-06

BUDGET AMENDMENT

FUND 460

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
460-0000-470010-17141	Debt Proceeds ('23 Revenue Bond)	3,134,054	-	-	3,134,054
460-0000-450001-17141	Interest Income ('23 Revenue Bond Interest)	181,725	11,817	-	193,542
460-7150-550103-17141	Capital Outlay - CIP	3,134,054	13,066	-	3,147,120
460-7055-560900-17141	Cost of Issuance	95,167	26,083	-	121,250
460-0000-598901-17141	Transfer Out (to 460, #23019)	51,558	-	27,332	24,226
460-0000-598901-17141	Transfer Out (to 460, #21012)	35,000	-	-	35,000
FUND 460	TOTAL REVENUES	3,315,779	11,817	-	3,327,596
NCDOT I-26, #17141	TOTAL EXPENDITURES	3,315,779	39,149	27,332	3,327,596
459-0000-470900	Fund Balance Appropriation	-	27,332	-	27,332
459-0000-598901	Transfer Out (to 460, #23019)	-	27,332	-	27,332
FUND 459	TOTAL REVENUES	-	27,332	-	27,332
	TOTAL EXPENDITURES	-	27,332	-	27,332
460-0000-470100-23019	Transfer In (from 459)	13,560	27,332	-	40,892
460-0000-470100-23019	Transfer In (from 460, #19010)	44,882	-	-	44,882
460-0000-470100-23019	Transfer In (from 460, #17141)	51,558	-	27,332	24,226
460-7055-550103-23019	Capital Outlay - CIP	110,000	-	-	110,000
FUND 460	TOTAL REVENUES	110,000	27,332	27,332	110,000
WTP Thickener, #23019	TOTAL EXPENDITURES	110,000	-	-	110,000

An amendment changing the transfers related to the I-26 water and sewer project to more accurately reflect project closeout need. The amendment includes an increase in fund balance appropriation in Fund 459 and a transfer into project #23019.

6. PRESENTATIONS

A. Proclamation – National Recovery Month – Lyndsey Simpson, Mayor Pro Tem

Mayor Pro Tem Simpson read the proclamation aloud and presented it to Jodi Grabowski, Director, Department of Strategic Behavioral Health who leads the Substance Misuse Action Team.

**Proclamation
 National Recovery Month – September, 2024**

WHEREAS according to Kaiser Family Foundation, two thirds of Americans report their lives have been impacted by substance use disorders and addiction, regardless of race, gender, age, or socioeconomic status; and

WHEREAS Henderson County Emergency Medical Services received more than 500 calls in 2023 for suspected overdose, with the Opioid Crisis transitioning to a Poly-substance Crisis in Henderson County; and

WHEREAS substance use disorders are preventable and treatable conditions; recovery is a process that transforms individuals and the communities in which they live by creating hope, health, and a sense of purpose; and

WHEREAS the focus of Recovery Month in September is to celebrate all people that make the journey of recovery; to increase awareness and understanding of substance use disorders; to show respect and support for those in recovery, as well as those who have helped them obtain treatment; to highlight the importance of evidence-based treatment and recovery practices; and

WHEREAS North Carolina is receiving \$1.5 billion in opioid settlement funds over 16 years, of which Henderson County is receiving \$16 million to bring resources to our community harmed by the opioid epidemic and to increase options for recovery treatment and support services; and

NOW, THEREFORE, BE IT PROCLAIMED we, Hendersonville City Council, do hereby proclaim September, 2024 as Recovery Month. As the governing body for the City of Hendersonville, North Carolina, we call upon the citizens, government agencies, public and private institutions, businesses, and schools to commit our community to work together to end the stigma of substance use disorders and addiction with increased awareness and understanding, and support those in their journey of recovery.

Henderson County Substance Misuse Action Team will have a community event dedicated to challenging substance use stigma and celebrate the journey of recovery on Tuesday, September 17th, 2024, from 5:30pm to 7:30pm at Grace Lutheran Church.

PROCLAIMED this 5th day of September, 2024.

B. Proclamation – World Suicide Prevention Day/National Suicide Prevention Month
– Lyndsey Simpson, Mayor Pro Tem

Mayor Pro Tem Simpson read the proclamation aloud and presented it to Stacy Nash, Community Health Director for the Henderson County Department of Public Health.

Proclamation
World Suicide Prevention Day - September 10, 2024
National Suicide Prevention Month – September, 2024

WHEREAS, suicide is a significant public health problem, claiming the lives of 26 individuals in Henderson County in 2023 according to NC DETECT, the highest number since 2015, and contributing to a tragic national toll expected to surpass 50,000 deaths for the first time in 2023; and

WHEREAS, one person dies by suicide every 10.6 minutes in the United States, making it the 11th leading cause of death in the country and one of the most preventable causes; and

WHEREAS, men are four times more likely to die by suicide, with 22 out of the 26 suicide deaths in Henderson County in 2023 being men; and

WHEREAS, Henderson County is creating a Suicide Postvention Response Team to offer support to families and the community as they navigate the challenges of prolonged grief and loss, demonstrating our commitment to comprehensive suicide prevention and response efforts; and

WHEREAS, the Henderson County Department of Public Health, in collaboration with the Hope Coalition, is committed to implementing evidence-based suicide prevention strategies, including the launch of "Safe September," which promotes awareness that suicide is preventable and provides community members with life-saving resources such as gun locks and medicine lock pouches; and

WHEREAS, the public is invited to attend a Question, Persuade, Refer suicide prevention training event hosted by the Henderson County Department of Public Health on September 13, 2024, to further empower our community with the knowledge and tools necessary to prevent suicide and save lives; and

WHEREAS, World Suicide Prevention Day on September 10 and National Suicide Prevention Month in September provide an opportunity for Henderson County to join the global and national movements to raise awareness about suicide, honor those who have been affected by suicide, and promote the message that suicide is preventable.

NOW, THEREFORE, BE IT PROCLAIMED, we, the City of Hendersonville City Council, do hereby proclaim September 10, 2024, as World Suicide Prevention Day and September 2024 as National Suicide Prevention Month in the City of Hendersonville. We call upon all citizens, government agencies, public and private institutions, businesses, and schools in the City of Hendersonville to work together to prevent suicide, offer support to those who have lost loved ones, and promote hope, health, and safety for all.

PROCLAIMED this 5th day of September, 2024.

C. Above the Mud Greenway Feasibility Study Presentation and Adoption – Kristy Carter, Senior Project Manager and Christy Staudt, Regional Manager, Traffic Planning and Design, Inc.

Brent Detwiler introduced Kristy and Christy and they each presented the following PowerPoint presentation to Council.



CITY OF HENDERSONVILLE ABOVE THE MUD GREENWAY
FEASIBILITY STUDY



AGENDA

- Plan document summary
- Comments
- What does adoption look like?
- Next steps

CITY OF HENDERSONVILLE ABOVE THE MUD GREENWAY
FEASIBILITY STUDY

PROJECT SCHEDULE

we are here



CITY OF HENDERSONVILLE ABOVE THE MUD GREENWAY
FEASIBILITY STUDY

PROJECT GOALS



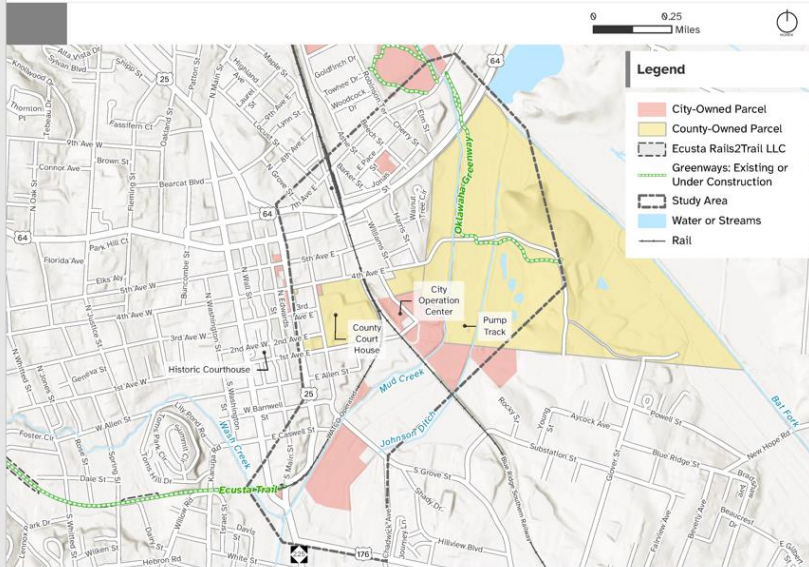
CITY OF HENDERSONVILLE ABOVE THE MUD GREENWAY
FEASIBILITY STUDY



PLAN DOCUMENT SUMMARY

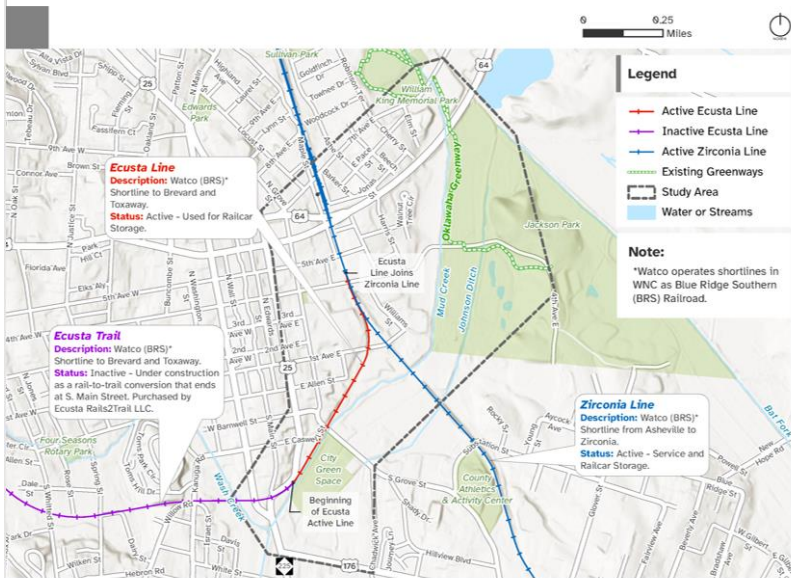
1. Study area overview
2. Alternatives development
3. Preferred alternative
4. Early action implementation

CITY OF HENDERSONVILLE ABOVE THE MUD GREENWAY
FEASIBILITY STUDY



STUDY AREA OVERVIEW

CITY OF HENDERSONVILLE ABOVE THE MUD GREENWAY
FEASIBILITY STUDY



POSSIBLE RAIL OUTCOMES

1. Rail-to-Trail Option Allowed
2. Rail-with-Trail Option Allowed
3. No Encroachment Allowed

CITY OF HENDERSONVILLE ABOVE THE MUD GREENWAY
FEASIBILITY STUDY

ALTERNATIVE DEVELOPMENT

1. Review study area conditions
2. Greenway segment analysis
3. Alternatives development and evaluation
4. Community engagement
5. Implementation plan



Alternative A



Alternative B



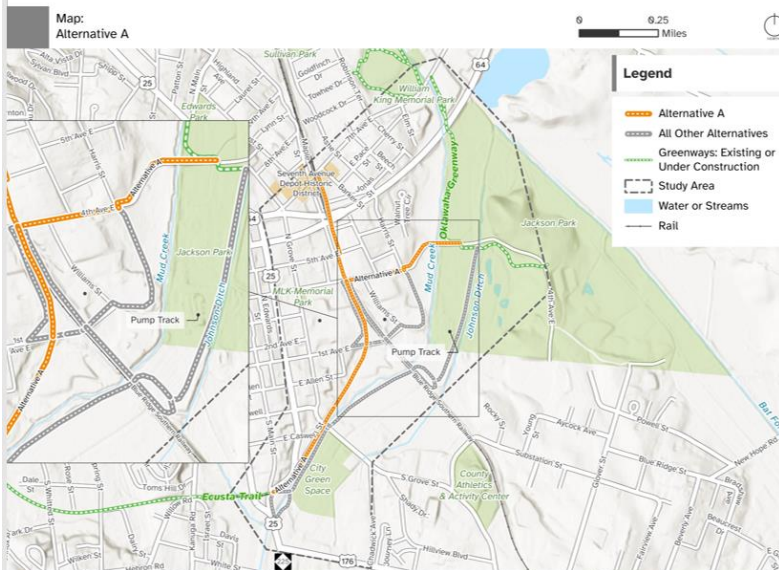
CITY OF HENDERSONVILLE ABOVE THE MUD GREENWAY
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CRITERIA	ALTERNATIVE/ SCORE	
	ALT A	ALT B
Directness of connection to Jackson Park, Oklawaha Greenway (Hellbender Trail system), downtown and 7th Avenue Historic District	4	4
Ability to acquire environmental permits	4	3
Quality of user experience	4	4
Availability of right-of-way (anticipated property owner cooperation)	2	4
Secondary benefits	4	4
Separation from motorized vehicle conflicts	4	4
Ability to construct	4	4
Alignment with community goals	4	4
Cost effectiveness	4	3
Potential for funding	4	4
Potential for timely implementation	3	4
TOTAL	41	42

EVALUATION

Both alternatives are recommended for advancement to implementation.

CITY OF HENDERSONVILLE ABOVE THE MUD GREENWAY
FEASIBILITY STUDY



ALTERNATIVE A

Assumes the City of Hendersonville *can* acquire the remaining active Ecusta Line (owned by Watco) that extends from the Ecusta Trail (under construction) north to 4th Avenue East.

CITY OF HENDERSONVILLE ABOVE THE MUD GREENWAY
FEASIBILITY STUDY

ALTERNATIVE A

ECUSTA LINE EXTENSION

ALIGNMENT:

1. A 12' greenway as a rail-to-trail conversion from South King Street to the Seventh Avenue Depot Historic District.
2. Along 4th Avenue East, the treatment is a 10' paved sidepath (12' where feasible) that parallels the roadway.
3. From 4th Avenue East to 7th Avenue East, the recommended treatment is a 10' rail-with-trail (12' where feasible).

PROJECT SNAPSHOT

Location: Extends the Ecusta Trail from the terminus at South Main Street up to 4th Avenue East and connects to Jackson Park along 4th Avenue East. Optional spur (pending Watco approval): Extension north to 7th Avenue East.

Facility Type(s): Conversion of rail line to paved greenway; Paved sidepath along 4th Avenue East; Optional spur (pending Watco approval): Paved greenway extension to 7th Avenue East.

Total Length: ~6,240 linear feet

Structures: One (1) greenway bridge over Mud Creek at 4th Avenue East

At-Grade Road Crossings: Five (5)

Greenway Connections: Oklawaha Greenway (Hellbender Trail system); Ecusta Trail

Destinations Served:

- Jackson Park
- City Operations Center
- 7th Avenue Historic Depot and commercial district

POTENTIAL REAL ESTATE ACQUISITION NEEDS

- Railroad right-of-way

POTENTIAL PERMITTING NEEDS

- Erosion and sedimentation control permit
- NCDOT encroachment agreement
- Optional 7th Avenue East extension requires Watco encroachment permit
- Floodway permits for Mud Creek crossings

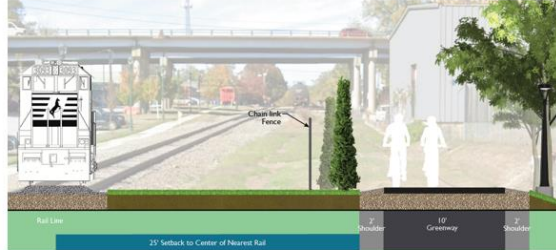
COST ESTIMATE

Baseline Construction	\$3,000,000
Engineering Design & Inspection	\$1,010,000
Utilities	\$110,000
Right-of-Way	\$600,000 *
Additional Contingency (20%)	\$950,000
Total Estimated Budget	\$5,670,000

See Cost Estimate Summary in Appendix for breakdown, assumptions, and exclusions.

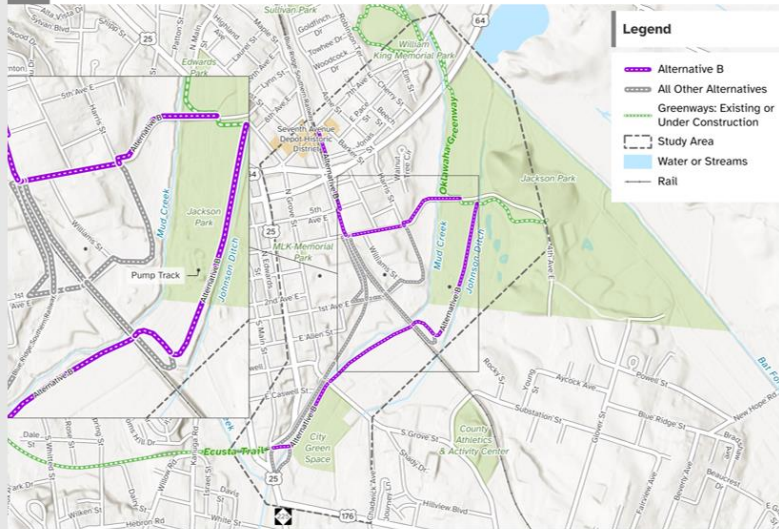
* Value is estimated pending negotiations with the rail corridor owner. Based on recent rail line acquisitions in the region, the purchase of the remaining 3,300 linear feet of the Ecusta line could range from \$325,000 - \$625,000.

NOTE: The segment from 4th Avenue East to 7th Avenue East is included in the cost estimate (approximately \$1.4 million).



CITY OF HENDERSONVILLE ABOVE THE MUD GREENWAY
FEASIBILITY STUDY

Map:
Alternative B



ALTERNATIVE B

Assumes that it is *not* feasible to convert the remaining active Ecusta Line to a greenway.

CITY OF HENDERSONVILLE ABOVE THE MUD GREENWAY
FEASIBILITY STUDY

ALTERNATIVE B

FLOODPLAIN RESTORATION

PROJECTS ALIGNMENT:

1. A 12' greenway connecting from South King Street to Jackson Park, traversing City-owned land and a proposed sewer easement.
2. Along 4th Avenue, the treatment is a 10' paved sidepath (12' where feasible) that parallels the roadway.
3. From 4th to 7th Avenue, the recommended treatment is a 10' rail-with-trail (12' where feasible).

PROJECT SNAPSHOT

Location: Connects to the Ecusta Trail terminus at South Main Street and crosses Mud Creek to south side to Jackson Park. Also includes sidepath on 4th Avenue East to downtown. Optional spur (pending Watco approval): Extension north to 7th Avenue East.

Facility Type(s): Paved off road greenway from Ecusta Trail to Jackson Park; Paved sidepath on 4th Avenue East; Optional spur (pending Watco approval): Paved greenway adjacent to rail line between 4th Avenue and 7th Avenue.

Total Length: ~8,045 linear feet

Structures: Two (2) greenway bridges over Mud Creek (one near South Main Street and one near 4th Avenue East)

At-Grade Road Crossings: Six (6)

Greenway Connections: Oklawaha Greenway (Hellbender Trail system); Ecusta Trail

Destinations Served:

- Downtown via 4th Avenue East
- Jackson Park
- City Operations Center
- 7th Avenue Historic Depot and commercial district

POTENTIAL REAL ESTATE ACQUISITION NEEDS

- Easements will be needed along 4th Avenue East
- NOTE: The majority of this alternative is on current or planned City or County land as well as a planned sewer easement.

POTENTIAL PERMITTING NEEDS

- Erosion and sedimentation control permit
- NCDOT encroachment agreement
- Optional 7th Avenue East extension requires Watco encroachment permit
- Floodway permit

Cost Estimate: Saved to T: Drive

Baseline Construction	\$3,720,000
Engineering Design & Inspection	\$1,250,000
Utilities	\$110,000
Right-of-Way	\$200,000
Additional Contingency (20%)	\$1,060,000
Total Estimated Budget	\$6,340,000

See Cost Estimate Summary in the Appendix for breakdown, assumptions, and exclusions.

NOTE: The segment from 4th Avenue East to 7th Avenue East is included in the cost estimate (approximately \$1.4 million).



CITY OF HENDERSONVILLE ABOVE THE MUD GREENWAY
FEASIBILITY STUDY



EARLY ACTION IMPLEMENTATION IDEAS

1. Begin coordination with [Watco](#).
2. Work with County: unified approach.
3. Seek grants for design and construction funding. Prioritize:
 1. Mud Creek Bridge.
 2. Alternative B segments that overlap with other City projects.
 3. Phase remaining segments as stand-alone.

CITY OF HENDERSONVILLE ABOVE THE MUD GREENWAY
FEASIBILITY STUDY

Your COMMENTS



TABLE OF CONTENTS

- 00 Executive Summary | 1
- 01 Introduction | 9
- 02 Study Considerations + Alternatives Development | 25
- 03 Community Engagement | 93
- 04 Evaluation + Recommendations | 105
- 05 Implementation | 129

CITY OF HENDERSONVILLE ABOVE THE MUD GREENWAY
FEASIBILITY STUDY



NEXT STEPS

- Adoption
- Begin with Early Action Items

QUESTIONS?

Christy Staudt, PE
Regional Manager
cstaudt@tpdinc.com



Teresa Buckwalter, PLA
Multimodal Transportation Planner
tbuckwalter@tpdinc.com



Kristy Carter, AICP
Senior Project Manager
kcarter@tpdinc.com

Council Member Jennifer Hensley moved that City Council adopt a Resolution by the City of Hendersonville City Council Above the Mud Greenway Feasibility Study as presented. A unanimous vote of the Council followed. Motion carried.

It was not on the agenda, however, Police Chief Blair Myhand asked if he could introduce the new social worker intern for the Police Department. Her name is Tori Doyle and she is Western Carolina graduate student in her second year and she is going to build the program for the Police Department. We are very excited to have her here.

Tori introduced herself and her daughter Eloise and said she is finishing her master's in social work at WCU. She has already met a ton resources and community stakeholders due to the buzz around this position.

7. PUBLIC HEARINGS

A. Rezoning: Conditional Zoning District – First Avenue Villas (P24-26-CZD) – *Matthew Manley, AICP Lone Range Planning Manager*

The City of Hendersonville received an application for a Conditional Zoning District from ARY Development LLC for the property located at 0 1st Ave W (PIN: 9568-77-1057). The current zoning of the property is CMU-CZD (Commercial Mixed Use Conditional Zoning District). The applicant is currently requesting to amend the current Conditional Zoning District for the construction of two three-story buildings comprised of 16 residential units on a .57 acre parcel. The current site plan depicts 18 parking spaces. There will be open space located at the front of the property. The parking is located at the center and rear of the property, and the entrance and exit to the units is located in the center of the property. There will be a landscape buffer on three sides of the property that border adjacent properties and street trees located along the frontage.

The project was initially reviewed by the Planning Board on July 11, 2024. The project was recommended for denial. The applicant has since adjusted their site plan to remove any portions that exceeded 3-stories with a max height of 38'. They adjusted the parking arrangement, the building materials and the roofline of the buildings.

Planning Board took up this item at their meeting on August 8th voting 5-0 to recommend approval with conditions.

The public hearing opened at 7:02 p.m.

Public Comments:

Ken Fitch spoke against the conditional rezoning.

Ed King spoke against the conditional rezoning, mainly because of one parking space per unit. Doesn't make any sense. If Hendersonville wants to grow, grow responsibly and get the parking off the street.

Lynne Williams spoke against the conditional rezoning for many reasons including displacement and gentrification, one ADA spot, one parking spot per home, artificial grass are replacing real flowers and grass.

Penny Gash Pearson spoke against the conditional rezoning due to gentrification to our historical neighborhood and these apartments they want to put are not historical. We already have issues with sinkholes so the infrastructure is already failing us.

Digital Comments:

Miia Alize wrote: I strongly believe that the proposed First Avenue Villas should be denied for several reasons. I live directly in the area where they are considering building these condos. The space they plan to use is where my children play, and where we host family gatherings and cookouts. It provides plenty of room for outdoor activities, and this development would take that away from us. Honestly, putting brand new condos dead in the center of old historical buildings and homes just does not look right. On top of that, you will be taking someone's parking spot because we don't have enough parking for everyone who lives in these apartments. And on top of that, you're taking all of our beautiful trees nobody wants to look out their back window and condos that I'm sure we can't even afford so that's just like rubbing it in our face! Additionally, I believe the area they want to use is far too small for luxury condos. Building them will make the space feel cluttered and overcrowded. The street they plan to build on is not meant for high traffic-it's mainly used by residents to access their homes. Adding a condo complex will significantly increase traffic, posing a safety risk to children, especially with drivers already speeding down the road. More traffic will only make the situation worse. For these reasons, I urge the committee to reconsider and deny the development of First Avenue Villas.

Joan Pack wrote: PLEASE DENY THIS.. 3 stories...NO.. out of sync with Historical district.. I understand building there but not something like this.

Jean-Jacques Benoist wrote: As a new permanent resident of 1st Ave West I can appreciate the project but am not happy with the size of the buildings and amount of units proposed. A smaller scale project would seem much more conducive to the avenue and surroundings. Vote no for the current size of the project.

The public hearing closed at 7:40 p.m.

After some back and forth discussion with Council, Mayor Pro Tem asked for a brief recess.

~Mayor Pro Tem Lyndsey Simpson briefly recessed the meeting for a short break at 7:49 p.m. and reconvened at 7:56 p.m.~

City Manager Connet asked Mike Huffman to comment on the condition of the stormwater infrastructure in the neighborhood. Mr. Huffman explained that the city does own and operate a stormwater system within our public right-of-ways and dedicated easements. Particularly in the historic district, there is a lot of private stormwater infrastructure that connects to the City's stormwater system. The majority of the issues that have been brought to the city have been related to the condition of the private infrastructure that was installed by homeowners and the people developing the private parcels and were piping creeks and ditches through their property 100 years ago when they built those homes. So that has been the majority of the issues that have been brought to the city.

Council Member Melinda Lowrance recommended that this hearing be continued to Council's October 3, 2024 meeting. Council Member Miller agreed that he needs clarification on some things. A unanimous vote of the Council followed. Motion carried.

B. Public Hearing to Consider the Submission of a Community Development Block Grant Application, Neighborhood Revitalization, for the FY24-25 Funding Cycle – Angela Beeker, City Attorney

The purpose of the public hearing is to consider the submission of a Community Development Block Grant Application for the FY 2024-25 funding cycle. The grant, a Neighborhood Revitalization Grant (CDBG-NR), is offered through the North Carolina Rural Economic Development Division of the Department of Commerce (REDD), and would be for the rehabilitation of up four (4) homes owned by low-to-moderate income households. Low to moderate households are those having a household income equal to or less than 80% of the area median income. The maximum application amount for the grant is \$950,000, and has no local matching requirement. The application would be submitted in partnership with the Housing Assistance Corporation, who would serve as the subrecipient of the grant funds. HAC would manage the rehabilitation projects on the homes. The grant would be administered by Land of Sky Regional Council. A maximum of 10% of the grant amount would be used to cover the administrative costs of the grant. The public is invited to the September 5, 2024 to comment on the possible submission of a grant application, and to address generally the community, housing and economic development needs.

After this initial public hearing, the City and HAC will work to identify potential homes that would qualify for this grant program, and to determine feasibility of applying for and administering the grant for the FY 2024-25 funding cycle. If successful, HAC and the City in partnership with Land of Sky would put together the application for submittal to the REDD. Prior to submittal of the final application, a second public hearing would be held to allow the public to comment on the proposed application.

City Staff Attorney Daniel Heyman presented the following PowerPoint.





2020 CDBG-NR Application

- \$750,000 - Application submitted August 25, 2020
 - Construct Sidewalks
 - Renovate Four Homes in the Seventh Street neighborhood (one complete, one underway)
- Was part of the larger 7th Avenue Revitalization Project
 - Public Water Upgrades
 - Public Sewer Upgrades
 - HAC Home Construction
 - 664 Beech
 - 674 Beech



Additional Project Components

- Public Water Upgrades
- Public Sewer Upgrades
- HAC Home Construction
 - 664 Beech
 - 674 Beech



620 Jonas Street - Before





620 Jonas Street - After



HOUSING ASSISTANCE 



620 Jonas Street - After



HOUSING ASSISTANCE 



620 Jonas Street Summary of Improvements

- New siding and insulation
- New roof
- New engineered support structure
- New back deck and front porch
- New central heat and air
- New flooring
- Kitchen and bathroom improvements

Total Cost: \$122,024

HOUSING ASSISTANCE 



647 Cherry - Before



HOUSING ASSISTANCE 



647 Cherry - Before



HOUSING ASSISTANCE 




647 Cherry Street Summary of Improvements

- New roof
- New back porch
- Drainage improvements
- Interior Painting
- Bathroom and kitchen improvements
- New insulation
- New HVAC


**Total Cost (Est):
\$197,000**

HOUSING ASSISTANCE 



FY 24-25 CDBG-NR Grant Application

- Public is invited to comment on:
 - Possible submission of a CDBG-NR grant application for the FY 24-25 funding cycle.
 - Address generally: community, housing, and economic development needs.
- After this initial public hearing:
 - City and HAC will work to identify homes for rehabilitation that would qualify
 - If feasible, the City, HAC, and LOS will draft an application for submittal to REDD.
 - Prior to submission, a second public hearing would be held to invite public comment on the proposed application.



City Manager Connet added that this is just one program that we are doing in addition to the work that we're doing with affordable housing that will allow homeowners and residents in our community to continue to live in our community, continue to keep their homes safe and affordable housing using the Community Development Block Grant funds. I appreciate the partnership that we have with the Housing Assistance Corporation and what they're doing so I just wanted to say that because a lot of things get said when people are emotional and I just wanted to say that the city cares and that's why we're looking at these Community Development Block Grant programs so that we can support existing residents.

The public hearing opened at 8:05 p.m.

Public comments:

Alice Knafllich spoke in favor of the Community Development Block Grant.

The public hearing closed at 8:05 p.m.

Council Member Hensley spoke and said that she knows of other homes behind the hospital over on Oak and I wonder if the grant could also cover some of the other neighborhoods in the area that need some help.

Council Member Lowrance mentioned homes on 3rd Avenue that are basically not livable that need help too. So that was my question. Do we want to consider other areas in the future?

No motion was necessary for this public hearing.

8. UNFINISHED BUSINESS

A. Rezoning: Conditional Zoning District – Felicia Reeves Home (P24-24-CZD) –
Tyler Morrow, Current Planning Manager

City Manager Connet said this hearing is for a conditional rezoning and we know that there are issues associated with the floodplain. That is an administrative issue. The decisions tonight regarding conditional use center around whether this is the proper use for this location.

Public Comments Cont'd

Alice Knafllich spoke in favor of the conditional rezoning and I hope the project goes through as it would be a great place for homeless female veterans.

Patricia Gearity spoke in favor of the conditional rezoning. I've known Alice for 10-15 years now and when the military talks about a mission its different than how us civilians thinks about a mission. There is a commitment to that mission. They don't give up and don't leave people in the field, they don't turn and run. They keep pushing and Alice will not give up. You have the opportunity to raise up our veterans and our neighborhood which deserves a beautiful building. We will stand behind her all the way.

The public hearing closed at 8:13 p.m.

Council Member Hensley explained that the people Alice talked to, all worked for the county, not the city.

City Manager said if council moves forward, we need to make sure that we have strong support for Alice and her team and make sure that we're talking to our building inspections department, code enforcement, floodplain administrators, zoning etc., Just want to set expectations that it won't be an easy process and not a cheap process and we need to know that you're prepared to move forward on this. Alice said that she is ready to move forward if Council approves this.

Council Member Melinda Lowrance moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PIN: 9569-44-7296) from R-10, Medium Density Residential to R-10-CZD, Medium Density Residential Conditional Zoning District, for the adaptive reuse of an existing structure for the use of a residential care facility based on the master site plan and list of conditions submitted by and agreed to by the applicant, [revision dated 6-3-24] and presented at this meeting and subject to the following:

1. The development shall be consistent with the site plan, including the list of applicable conditions contained therein, and the following permitted uses

Permitted Uses:

1. Adaptive Reuse

- **Residential Care Facility**

2. Permitted uses and applicable conditions presented on the site plan shall be amended to include:

3. The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and because:

The petition supports the City's 2030 Comprehensive Plan goals by adhering to the Preservation/Enhancement Area designation for the subject property. The proposal enhances and renovates a long-vacant and decaying structure without expanding it, promoting compatibility with the surrounding area.

4. Furthermore, we find this petition to be reasonable and in the public interest based on the information from the staff analysis, public hearing and because:

- 1. The petition addresses a critical need for housing and services for local female veterans.**
- 2. The petition proposes to renovate and repurpose an existing structure that has contributed to urban blight for the past decade.**
- 3. The petition proposes to reduce the residential intensity of the previous use on the site (rest home).**
- 4. Given the building's size and scale in the R-10 zoning district, there is no reasonable likelihood that the property will revert to a use permitted in the R-10 zoning district.**

9. NEW BUSINESS

A. Annexation: Analysis and Advisement – Old Sunset Hill Road (Taylor & Albea) (C24-56-ANX) – Tyler Morrow, Current Planning Manager

Mr. Morrow explained that the City of Hendersonville received a petition from Gregory Albea, Julianne Albea, Joseph Taylor, and Laura Taylor for contiguous annexation of PINs 9579-98-0375, 9579-98-3527, 9579-99-4115, and 9579-99-8724 and located on Old Sunset Hill Road that is approximately 21.32 acres.

Old Sunset Hill Road (C24-56-ANX)

Annexation Analysis and Advisement

City of Hendersonville City Council September 5th, 2024

Community Development | Planning Division
Tyler Morrow | Current Planning Manager



Background

PINs:

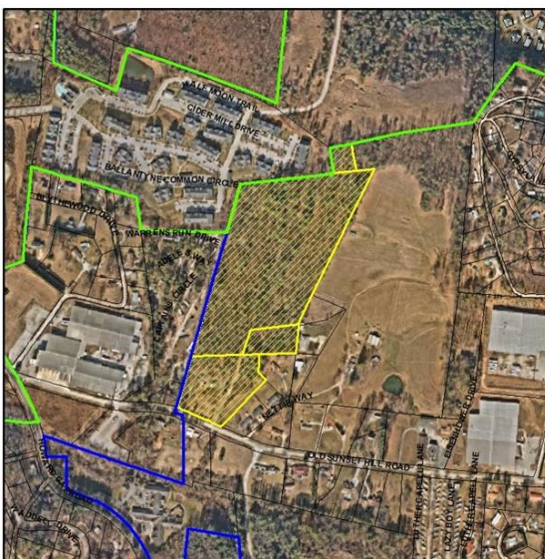
- 9579-98-0375
- 9579-98-3527
- 9579-99-4115
- 9579-99-8724

Acreage:

- 21.32 Acres


Request:

- 58 Detached Single-Family Homes
- 2.7 units per acre.



Old Sunset Hill Road
C24-56-ANX
PINs: 9579-98-0375, -3527, 9579-99-4115, -8724
Acreage: 21.32
Contiguous Annexation Map

■ Hendersonville City Limits
■ Hendersonville ETJ
■ Subject Property




Community Development Department





Comprehensive Plan Analysis



Infill Area

Multi Generational Living

-  Encourages a mix of housing types including single family detached residential.
-  Calls out a maximum allowable density range of four to eight units per acre.
-  States infill areas to be served by utilities.
-  Infill areas should have an improved transportation network and accommodate a variety of home options.

-  Encourages a mix of housing types including single family detached residential.
-  Does not specify specific densities, but the proposed density aligns with the vision portrayed. Likely could be denser.
-  Improving the framework for providing water and sewer service is crucial to efficiency and quality of service to residents.
-  Creating an interconnected street network isn't just about convenience; it's about relieving congestion, reducing travel times, and enhancing the provision of essential services.

Housing Type Examples



Zoning Analysis



- Residential Two Rural (R2R)**
- + With or without utilities-21 residential lots
 - + A single-family dwelling or a duplex is permitted on each lot by right.
 - + 21 to 42 dwelling units depending on mix of permitted types
 - + An increase in density would require a Conditional Zoning District.

- PRD-CZD (Proposed by Applicant)**
- + Density is dependent on the base zoning district. However, 51 or more units automatically trigger a Conditional Zoning District.
 - + PRD-CZD
 - + 10 units per acre.
 - + This density can be further increased to 18 units per acre if the applicant follows the additional requirements and is granted a density bonus by City Council.
 - + The subject property is adjacent to R-15, Medium Density Residential. R-15 allows minor PRD as a permitted use with a density of 3.75 units per acre.

Staff Analysis

The project appears to be in general alignment with both the City of Hendersonville's Gen H Comprehensive Plan and Henderson County's 2045 Comprehensive Plan vision for the area.

At the proposed density of 2.7 units per acre, the project aligns with the county and city future land use designations.

The project would require a conditional rezoning in both jurisdictions. (58 single family detached units)

In both jurisdictions if the proposed unit count were decreased then a by right development could be an option.

Annexation Options



Annexation Required and Sewer Provided

- Project proceeds as presented and triggers a Conditional Zoning District.
- Project requests a different zoning district (likely R-15) and proceeds with a by right design (under 51 units).

No Annexation Required but City Sewer Provided:

- Project proceeds as presented and triggers a Henderson County Conditional Zoning District.
- Project proceeds with a by right development of 21 residential lots.

No Annexation with No City Sewer Provided:

- Project proceeds as presented and triggers Henderson County Conditional Zoning District.
- Project proceeds with a by right development of 21 residential lots.

Council Member Jennifer Hensley moved that Council direct staff to move forward in reviewing the annexation petition submitted by Gregory Albea, Julianne Albea, Joseph Taylor, and Laura Taylor. A unanimous vote of the Council followed. Motion carried.

B. Establishment of the Brooklyn Bird Sanctuary – John Connet, City Manager

City Manager Connet explained that several groups have inquired about establishing a memorial honoring the contributions of Crystal Cauley. The Environmental Sustainability Board and staff would like to propose the dedication of the Brooklyn Bird Sanctuary in Sullivan Park in memory of Crystal.

Council Member Melinda Lowrance moved that the City Council authorize the dedication of the Brooklyn Bird Sanctuary in memory of Crystal Cauley. A unanimous vote of the Council followed. Motion carried.

C. Dogwood Grant Proposal – John Connet, City Manager

City Manager Connet asked that due to time, the Dogwood Grant Proposal be moved to the Workshop Meeting on September 25, 2024.

10. CITY MANAGER REPORT

A. August 2024 Contingency and Adjustment Report – John Connet, City Manager

City Manager Connet explained to Council that the August, 2024 Contingency and Adjustment Report was in their packet for review. He also congratulated staff on another successful Apple Festival this year.

In accordance with North Carolina General Statute (NCGS) 159-13(b) it is required that all expenditures resulting from a contingency appropriation budget be reported to the governing board at its next regular meeting and recorded in the minutes.

NCGS 159-15 permits the Budget Officer (City Manager), to transfer budget from one appropriation to another within the same fund, provided any such transfers are reported to the Governing Board. The City of Hendersonville refers to transfers of budget from one appropriation to another within the same fund as a “budget adjustment”. City Council authorizes budget adjustments each year with the adoption of the annual budget ordinance (SECTION 4).

This agenda item serves to fulfill the reporting requirements of both NCGS 159-13(b) and 159-15 by providing City Council a summary of all amendments and adjustments occurring thus far in the fiscal year.

FISCAL YEAR 2023 - 2024 (FY24) BUDGET AMENDMENTS						Completed Proposed	Corrected Denied			
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET	DESCRIPTION	APPROVED	TYPE	AMENDMENT NUMBER	
060-7002-540001	Special Appropriations	50,000	-	35,000	15,000	Adjustment for AMI Drive By System- AS	yes	Adjustment	8/13/2024	
060-7050-554001	Capital Outlay- Equip Other Than	-	35,000	-	35,000	Adjustment for AMI Drive By System- AS	yes	Adjustment	8/13/2024	
060-7002-540001	Special Appropriations	15,000	-	10,000	5,000	Mills River Partnership Increase	yes	Adjustment	8/13/2024	
060-1001-540001	Special Appropriations	149,000	10,000	-	159,000	Mills River Partnership Increase	yes	Adjustment	8/13/2024	
010-1010-524020	R&M Equipment	5,000	-	2,300	2,700	CH Click Share	yes	Adjustment	8/14/2024	
010-1010-534000	Non-Capital Equipment	85,000	2,300	-	87,300	CH Click Share	yes	Adjustment	8/14/2024	
010-0000-534999	Contingency	167,750	-	17,345	150,405	Toro Mower Lease	yes	Adjustment	8/22/2024	
010-1525-534000	Non-Capital Equipment	13,600	17,345	-	30,945	Toro Mower Lease	yes	Adjustment	8/22/2024	

11. CITY COUNCIL COMMENTS - None

12. ADJOURN

There being no further business, the meeting adjourned at 8:38 p.m. upon unanimous assent of the Council.

Lyndsey Simpson, Mayor Pro Tem

ATTEST: _____
Jill Murray, City Clerk



MINUTES

September 20, 2024

SPECIAL CALL MEETING OF THE CITY COUNCIL FIRE STATION ONE | 851 N. MAIN ST. | 1:15 p.m.

Present: Mayor Barbara G. Volk, Mayor Pro Tem Lyndsey Simpson and Council Members: Dr. Jennifer Hensley, Jeff Miller and Melinda Lowrance

Staff Present: City Manager John F. Connet, Assistant City Manager Brian Pahle, City Clerk Jill Murray, City Attorney Angela Beeker, Budget & Evaluation Director, Communications Manager Allison Justus and others

1. CALL TO ORDER

Mayor Volk called the meeting to order at 1:15 p.m. and welcomed those in attendance. A quorum was established with all members in attendance.

2. RESOLUTIONS

Mayor Volk presented the following six Resolutions of Sincere Appreciation by Hendersonville City Council for assisting the Hendersonville Fire Department in various areas while Fire Station 1 was being built.

Resolution #R-24-80

**RESOLUTION OF SINCERE APPRECIATION
BY THE CITY OF HENDERSONVILLE CITY COUNCIL
FOR ASSISTING THE HENDERSONVILLE FIRE DEPARTMENT**

WHEREAS, in 2019 the City of Hendersonville determined that the existing Fire Station 1 could no longer support the needs of our growing community; and

WHEREAS, after careful evaluation and consideration it was determined that the existing Fire Station 1 should be demolished and replaced with a new state of the art facility; and

WHEREAS, this would necessitate the temporary relocation of Battalion 9, Tower 9, Engine 9 and Engine 903; and

WHEREAS, the Hendersonville City Council demanded that this temporary relocation not impact the Fire Department's ability to provide exceptional emergency services to our community; and

WHEREAS, Fire Department leadership reached out to numerous community partners for assistance and without hesitation these partners came to the assistance of the City of Hendersonville.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. Our sincere appreciation be expressed to the Henderson County Board of Commissioners and Henderson County Emergency Management for allowing the Hendersonville Fire Department to utilize space at the Emergency Services Center.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 20th day of September, 2024,

Resolution #R-24-81

**RESOLUTION OF SINCERE APPRECIATION
BY THE CITY OF HENDERSONVILLE CITY COUNCIL
FOR ASSISTING THE HENDERSONVILLE FIRE DEPARTMENT**

WHEREAS, in 2019 the City of Hendersonville determine that the existing Fire Station 1 could no longer support the needs of our growing community; and

WHEREAS, after careful evaluation and consideration it was determined that the existing Fire Station 1 should be demolished and replaced with a new state of the art facility; and

WHEREAS, this would necessitate the temporary relocation of Battalion 9, Tower 9, Engine 9 and Engine 903; and

WHEREAS, the Hendersonville City Council demanded that this temporary relocation not impact the Fire Department's ability to provide emergency services to our community; and
/WHEREAS, Fire Department leadership reached out to numerous community partners for assistance and without hesitation these partners came to the assistance of the City of Hendersonville.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. Our sincere appreciation be expressed to the Henderson County Rescue Squad for allowing the Hendersonville Fire Department to utilize space in their headquarters facility.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 20th day of September, 2024.

Resolution #R-24-82

**RESOLUTION OF SINCERE APPRECIATION
 BY THE CITY OF HENDERSONVILLE CITY COUNCIL
 FOR ASSISTING THE HENDERSONVILLE FIRE DEPARTMENT**

WHEREAS, in 2019 the City of Hendersonville determine that the existing Fire Station 1 could no longer support the needs of our growing community; and

WHEREAS, after careful evaluation and consideration it was determined that the existing Fire Station 1 should be demolished and replaced with a new state of the art facility; and

WHEREAS, this would necessitate the temporary relocation of Battalion 9, Tower 9, Engine 9 and Engine 903; and

WHEREAS, the Hendersonville City Council demanded that this temporary relocation not impact the Fire Department's ability to provide emergency services to our community; and

WHEREAS, Fire Department leadership reached out to numerous community partners for assistance and without hesitation these partners came to the assistance of the City of Hendersonville.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. Our sincere appreciation be expressed to Carolina Village for allowing the Hendersonville Fire Department to utilize office space in their residential community.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 20th day of September, 2024.

Resolution #R-24-83

**RESOLUTION OF SINCERE APPRECIATION
 BY THE CITY OF HENDERSONVILLE CITY COUNCIL
 FOR ASSISTING THE HENDERSONVILLE FIRE DEPARTMENT**

WHEREAS, in 2019 the City of Hendersonville determine that the existing Fire Station 1 could no longer support the needs of our growing community; and

WHEREAS, after careful evaluation and consideration it was determined that the existing Fire Station 1 should be demolished and replaced with a new state of the art facility; and

WHEREAS, this would necessitate the temporary relocation of Battalion 9, Tower 9, Engine 9 and Engine 903; and

WHEREAS, the Hendersonville City Council demanded that this temporary relocation not impact the Fire Department's ability to provide emergency services to our community; and

WHEREAS, Fire Department leadership reached out to numerous community partners for assistance and without hesitation these partners came to the assistance of the City of Hendersonville.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. Our sincere appreciation be expressed to Dana Fire and Rescue Department for allowing the Hendersonville Fire Department to store reserve apparatus and equipment at their fire station.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 20th day of September, 2024.

Resolution #R-24-84

**RESOLUTION OF SINCERE APPRECIATION
BY THE CITY OF HENDERSONVILLE CITY COUNCIL
FOR ASSISTING THE HENDERSONVILLE FIRE DEPARTMENT**

WHEREAS, in 2019 the City of Hendersonville determine that the existing Fire Station 1 could no longer support the needs of our growing community; and

WHEREAS, after careful evaluation and consideration it was determined that the existing Fire Station 1 should be demolished and replaced with a new state of the art facility; and

WHEREAS, this would necessitate the temporary relocation of Battalion 9, Tower 9, Engine 9 and Engine 903; and

WHEREAS, the Hendersonville City Council demanded that this temporary relocation not impact the Fire Department's ability to provide emergency services to our community; and

WHEREAS, Fire Department leadership reached out to numerous community partners for assistance and without hesitation these partners came to the assistance of the City of Hendersonville.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. Our sincere appreciation be expressed to the Valley Hill Fire and Rescue Department for allowing the Hendersonville Fire Department to station Engine 903 at their headquarters station during peak response hours.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 20th day of September, 2024.

Resolution #R-24-85

**RESOLUTION OF SINCERE APPRECIATION
BY THE CITY OF HENDERSONVILLE CITY COUNCIL
FOR ASSISTING THE HENDERSONVILLE FIRE DEPARTMENT**

WHEREAS, in 2019 the City of Hendersonville determine that the existing Fire Station 1 could no longer support the needs of our growing community; and

WHEREAS, after careful evaluation and consideration it was determined that the existing Fire Station 1 should be demolished and replaced with a new state of the art facility; and

WHEREAS, this would necessitate the temporary relocation of Battalion 9, Tower 9, Engine 9 and Engine 903; and

WHEREAS, the Hendersonville City Council demanded that this temporary relocation not impact the Fire Department's ability to provide emergency services to our community; and

WHEREAS, Fire Department leadership reached out to numerous community partners for assistance and without hesitation these partners came to the assistance of the City of Hendersonville.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. Our sincere appreciation be expressed to the Green River Fire and Rescue Department for allowing the Hendersonville Fire Department to store reserve apparatus and equipment at their fire station.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 20th day of September, 2024.

3. ADJOURN

There being no further business, the meeting adjourned at 1:18 p.m.

Barbara Volk, Mayor

ATTEST: _____
Jill Murray, City Clerk



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Adam Steurer **MEETING DATE:** October 3, 2024
AGENDA SECTION: Consent Agenda **DEPARTMENT:** Utilities
TITLE OF ITEM: Amendment 1 - Engineering Services to Support the WTF 15-MGD Filter Expansion Project– *Adam Steurer, Utilities Director*

SUGGESTED MOTION(S):

I move City Council to adopt the Resolution By the City Council to Authorize Amendment 1 of the Contract for Engineering Services to Support the WTF Filter Expansion Project.

SUMMARY:

The City’s Water Treatment Facility (WTF) located at 4139 Haywood Road, Mills River, NC has a current permitted capacity of 12 million gallons per day (MGD). The project generally consists of installation of one additional dual-media filter and associated piping, instrumentation, and appurtenances, which will increase the WTF’s capacity to 15 MGD. Construction will begin late 2024 and will take approximately one year to complete.

The engineering services included in this Amendment 1 generally include construction administration, construction observation, and materials testing.

Staff previously completed a qualifications-based selection for engineering services and selected engineering firm Hazen and Sawyer as most qualified to provide the services. These services are consistent with the previous professional services.

BUDGET IMPACT: \$ 299,033

Is this expenditure approved in the current fiscal year budget? YES

If no, describe how it will be funded. Funds are allocated through a CPO. Project 19027.

ATTACHMENTS:

1. Amendment 1 - Scope of Services
2. Resolution

SCHEDULE A

SCOPE OF SERVICES

City of Hendersonville, North Carolina

Engineering Services to Support the Hendersonville Water Treatment Facility Filter Expansion Project

AMENDMENT 1 - Engineering Services During Construction

The amended scope of work provided by Hazen and Sawyer (hereinafter, the “ENGINEER”) for the City of Hendersonville, North Carolina (hereinafter, the “OWNER”) shall include professional services for Work items listed and detailed below.

Background

ENGINEER shall provide services during construction including construction administration, construction observation, and third-party materials testing services for the City of Hendersonville, NC Water Treatment Facility (WTF) Filter Expansion Project. The Hendersonville WTF is located at 4139 Haywood Rd, Mills River, NC 28759 and the Filter Expansion Project includes the Work detailed in the Drawings and Project Manuals including Specifications and any subsequently issued Addenda. For a summary of construction Work included in the Project, refer to Section 01 11 00 - Summary of Work in the Project Manual.

Construction Administration Services

General Administration of Construction Contracts. ENGINEER shall consult with OWNER and act as OWNER’s representative as provided in the Project Manual, General Conditions, EJCDC C-700 2018 Edition, Article 10, as modified by EJCDC C-800, Supplementary Conditions. The extent and limitations of the duties, responsibilities, and authority of ENGINEER as assigned in the Construction General Conditions and Supplementary Conditions shall not be modified, except as ENGINEER and OWNER have modified in this Amendment or may otherwise agree in writing. All of OWNER’s instructions to Contractor will be issued through ENGINEER, which shall have authority to act on behalf of OWNER in dealings with Contractor to the extent provided in this Agreement and the Construction General Conditions and Supplementary Conditions except as otherwise provided in writing. Detailed descriptions of specific construction administration service provided by the ENGINEER shall be as follows:

1. *Shop Drawings/Submittal/Vendor O&M Review:* Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques,

- sequences, or procedures of construction or to safety precautions and programs incident thereto. ENGINEER shall meet the submittal schedule required by the Agreement between the OWNER and the Contractor.
2. *Substitutes and “or-equal”*: If Contractor submit substitutes or “or-equals”, ENGINEER shall evaluate and determine the acceptability of substitute or “or-equal” materials and equipment proposed by Contractor per Article 7.05 of the Construction General Conditions.
 3. ENGINEER shall provide CM software such as Procore or equal to facilitate the submittal process and capture and document key project documents such as schedule of submittals, submittals, monthly meeting agendas and minutes, daily reports including weather conditions, project photos and aerials, shop drawing and vendor O&M review, requests for information, and progress schedule updates.
 4. *Schedule Reviews*:
 - a. ENGINEER shall receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to ENGINEER, including the Progress Schedule, Schedule of Submittals, and Schedule of Values in accordance with the Construction General Conditions and Supplemental Conditions. In addition, ENGINEER shall ensure Contractor establishes baseline schedule and benchmarks as appropriate for locating the Work which in ENGINEER’s judgment are necessary to enable Contractor to proceed.
 5. *Request for Information (RFI) Review*: In accordance with Article 10 of the Construction General Conditions and Supplemental Conditions ENGINEER will issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor’s work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Construction Documents. ENGINEER may issue Field Orders authorizing minor variations in the Work from the requirements of the Contract Documents but shall promptly send all such Field Orders to the OWNER’s representative.
 6. *Request for Change (RFC)/Claims Review and Processing*: ENGINEER will review and issue recommendations, actions and decisions per Articles 11 and 12 of the Construction General Conditions and Supplemental Conditions. ENGINEER will issue Work Change Directives to OWNER, as appropriate, and prepare Change Orders and Work Change Directives as required. ENGINEER will render formal written decisions on all duly submitted issues relating to the acceptability of Contractor’s work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance, or progress of Contractor’s Work; review each duly submitted Claim by OWNER or Contractor, and in writing either deny such Claim in whole or in part, approve such Claim, or decline to resolve such Claim if ENGINEER in its discretion

concludes that to do so would be inappropriate. In rendering such decisions, ENGINEER shall be fair and not show partiality to OWNER or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

7. *Project Meetings*: ENGINEER will schedule, prepare agendas, conduct, and prepare minutes as appropriate for all construction project meetings including the following:
 - a. An in-person Pre-Construction Conference prior to commencement of Work at the Site
 - b. Virtual monthly progress meetings, and
 - c. In-person shutdown coordination meetings (3 anticipated – in place of virtual progress meetings)

8. *Payment Applications*: Based on ENGINEER's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
 - a. Determine the amounts that ENGINEER recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute ENGINEER's representation to OWNER, based on such observations and review, that, to the best of ENGINEER's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the quality of such Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe Contractor's Work. In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents). The responsibilities of ENGINEER as to payment are expressly subject to the limitations set forth in the Construction General Conditions.

 - b. By recommending any payment, ENGINEER shall not thereby be deemed to have represented that observations made by ENGINEER to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. Neither ENGINEER's review of Contractor's Work for the purposes of recommending payments nor ENGINEER's recommendation of any payment including final payment will impose on ENGINEER responsibility to supervise, direct, or control Contractor's Work in progress or for the means, methods,

techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes Contractor has used the monies paid on account of the Contract Price, or to determine that title to any portion of the Work in progress, materials, or equipment has passed to OWNER free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.

9. *Punchlist, Closeout Documentation:* Receive, review, and transmit to OWNER maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, Shop Drawings, and the annotated record documents which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment. The extent of such review by ENGINEER will be limited as provided in Construction General Conditions.
10. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with OWNER and Contractor, ENGINEER will conduct an inspection to determine if the Work is substantially complete. If after considering any objections of OWNER, ENGINEER considers the Work substantially complete, ENGINEER shall deliver a certificate of Substantial Completion including any associated punchlists to OWNER and Contractor in accordance with the Construction General Conditions.
11. *Final Notice of Acceptability of the Work:* ENGINEER will conduct a final inspection to determine if the completed Work of Contractor including any Substantial Completion punchlist items are complete and acceptable so that ENGINEER may recommend, in writing, any final completion punchlist items, and final payment to Contractor. Accompanying the recommendation for final payment, ENGINEER will indicate that the Work is acceptable, subject to the Construction General Conditions and Supplemental Conditions, to the best of ENGINEER's knowledge, information, and belief and based on the extent of the services provided by ENGINEER under this Amendment.
12. *Record Drawings:* Based on Contractor's markups, provide as-built record drawings, one full size paper set and one electronic (CAD/Revit and PDF) copy. These drawings shall be updated during project construction to ensure that all changes have been included and are reflected in the drawings.
13. *Special Inspections:* ENGINEER shall prepare a statement of special inspections (SoSI) as required for Contractors to obtain building permits, shall perform special inspections

or coordinate special inspections by third party testing subconsultant, and prepare documentation of special inspections through the Project.

14. *Standards for Certain Construction-Phase Decisions:* ENGINEER will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, ENGINEER will not show partiality to OWNER or Contractor, and will not be liable to OWNER, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.
15. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the construction Contract for the Project and will terminate upon written recommendation by ENGINEER for final payment to the Contractor. ENGINEER shall be entitled to an equitable increase in compensation if Construction Phase services are required after the original date for final completion of the Work as set forth in the construction Contract.
16. *Limitation of Responsibilities:* ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any subcontractors, suppliers, or other individuals or entities performing or furnishing any of the Work. ENGINEER shall not be responsible for the failure of any Contractor to perform or furnish the Work in accordance with the Construction Documents.

Construction Observation Services

Onsite Construction Phase Services: ENGINEER will provide the services of one (1) subcontracted and part time (average 12 hours per week, Monday through Friday) Resident Project Representative (RPR), to assist the ENGINEER and to provide more extensive observation of Contractor Work in the field for the Construction Durations indicated in the Project Manual Section C-520 - Agreement, Article 4 – Contract Times.

1. Duties, responsibilities, and authority of the RPR are as set forth below. The furnishing of such RPR's services will not limit, extend, or modify ENGINEER's responsibilities or authority except as expressly set forth in Construction General Conditions. In addition to the RPR, ENGINEER may provide field staff on a part time intermittent basis to increase observation capacity as necessary to assist the RPR when specialty construction activities occur, or the volume of general construction activities merits additional observation capacity.
2. ENGINEER, RPR, or any other ENGINEER personnel shall not, during such visits or as a result of such observations of Contractor's Work in progress, supervise, direct, or have control over Contractor's Work, nor shall ENGINEER have authority over or

responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety on the Site, for safety precautions and programs incident to Contractor's Work, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

3. ENGINEER will make visits to the Site at intervals appropriate to the various stages of construction, as ENGINEER deems necessary based on ENGINEER's exercise of professional judgement, to observe as an experienced and qualified design professional the progress and quality of Contractor's executed Work. Such visits and observations by ENGINEER, and the RPR, if any, are not intended to be exhaustive or to extend to every aspect of Contractor's Work in progress or to involve detailed inspections of Contractor's Work in progress beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on ENGINEER's exercise of professional judgment as assisted by the RPR, if any. Based on information obtained during such visits and observations, ENGINEER will determine in general if the Work is proceeding in accordance with the Contract Documents, and ENGINEER shall keep OWNER informed of the progress of the Work.
4. *Onsite Commissioning Services:* ENGINEER will facilitate vendor startup and training, overall startup services, and performance testing. Verification of vendor startup consists of meeting with vendor startup reps, witnessing their startup, collecting and reviewing vendor startup reports, and addressing any issues that may arise during startup. ENGINEER will schedule Contractor provided vendor training sessions with OWNER staff, ensuring vendor training is provided with proper notice, qualified personnel, and sufficient quantities of vendor training materials. Where appropriate, vendor training will occur within 1 to 2 days of startup. Process training provided by the ENGINEER is not included in this scope of work.

Third Party Materials Testing Services

ENGINEER will provide the services of qualified independent testing services for materials testing including concrete, grout, reinforcing steel, and coatings. ENGINEER will coordinate with a Third-Party Materials Testing firm and will require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. ENGINEER's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. ENGINEER shall be entitled to rely on the results of such tests.

ENGINEER's budget for third party testing services is estimated at \$10,000 based on preliminary discussions with a local Third-Party Materials Testing firm. The final budget is contingent upon the construction schedule to be furnished by the Contractor.

SCHEDULE B

COMPENSATION

City of Hendersonville, North Carolina

Engineering Services to Support the Hendersonville Water Treatment Facility Filter Expansion Project

AMENDMENT 1 - Engineering Services During Construction

OWNER shall pay ENGINEER as full compensation for the services identified under Schedule A in the amount of \$309,000. Compensation shall be on a not-to-exceed basis. The Project will be invoiced on a monthly basis based on the time (hours) that ENGINEER works on the project, and the hourly rate (see rate sheet below). See the attached Task and Fee Schedule.

Billing Rates

Title	Average of Billing Rate (\$/hr)
Associate Vice President	\$290
Senior Associate	\$280
Associate	\$240
Senior Principal Engineer	\$205
Principal Engineer	\$170
Assistant Engineer	\$145
Designer	\$130
Senior Field Coordinator*	\$120

**Performed by subcontracted RPR*

The basis of the proposed fee is summarized in the table below.

Assumptions

Estimated CM Duration	14 months
Estimated Number of Submittals	87

Estimated Number of RFIs	20
Estimated Number of RFCs	10
Estimated Number of Pay Applications	14
Estimated Number of Meetings	15
Estimated CMT Services Fee*	\$10,000

**Budgetary estimate, contingent upon the construction schedule to be furnished by the Contactor*

Estimate of Construction Related Services Agreement

9/12/2024

Labor Projections (hours)	Type	Assoc VP \$290	Sr Assoc \$280	Assoc \$240	Sr PE \$205	Principal Engr \$170	Assist Engr \$145	Designer \$130	Sr Field Coord* \$120	Total Hours	Expenses	Fee Per Task
Construction Admin (CA) Services												
Project Management	CA	7	42							49	\$5,000	\$18,790
Shop Drawing Review	CA		44	40			261			345		\$59,625
Vendor O&Ms	CA		22				44			65		\$12,398
Schedule Reviews	CA		14				14			28		\$5,950
Requests for Information	CA		20	20			40			80		\$16,200
Requests for Change	CA	5	20				40			65		\$12,850
Project Meetings	CA		76	16					32	124	\$1,500	\$30,460
Payment Application Review	CA		14						42	56		\$8,960
Punchlist, Closeout Documentation	CA		16	4						20		\$5,440
Record Drawings	CA		8	8				40		56		\$9,360
Training, Startup & Testing	CA			16		40				56	\$800	\$11,440
Sub-Total	CA	12	275	104	0	40	399	40	74	944	\$7,300	\$191,473
Construction Observation (CO) Services												
Specialty Inspections (not materials testing)	CO				24	24	48			96	\$1,800	\$17,760
Onsite Construction Phase Services*	CO								720	720	\$3,400	\$89,800
Sub-Total	CO	0	0	0	24	24	48	0	720	816	\$5,200	\$107,560
Total	CA & CO	12	275	104	24	64	447	40	794	1,760	\$12,500	\$299,033

*Performed by Ellum Engineering

Resolution # - _____

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO APPROVE AMENDMENT 1 OF THE CONTRACT FOR ENGINEERING SERVICES TO SUPPORT THE WTF 15-MGD FILTER EXPANSION PROJECT

WHEREAS, the City owns and operates a water treatment facility (WTF) that has a current permitted capacity of 12 million gallons per day (mgd); and

WHEREAS, the City intends to install one additional dual-media filter and associated piping, instrumentation, and appurtenances, which will increase the WTF’s permitted capacity to 15 mgd; and

WHEREAS, the engineering services included in this Amendment 1 generally include construction administration, construction observation, and materials testing; and

WHEREAS, Hazen and Sawyer, D.P.C. was previous selected as most qualified to provide professional engineering services for the project, as recommended by Staff. The services in Amendment 1 are consistent with these professional services.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. Amendment 1 of the Contract for Engineering Services to Support the WTF Filter Expansion Project from Hazen and Sawyer, D.P.C is approved in the amount of \$299,033.
2. The City Manager is authorized to execute Amendment 1 of the Contract with Hazen and Sawyer, D.P.C. consistent with the terms of this Resolution.

Adopted by the City Council of the City of Hendersonville, North Carolina on this _____ day of _____, 20____.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Brian Pahle, Assistant City Manager

MEETING DATE: October 3rd, 2024

AGENDA SECTION: Consent

DEPARTMENT: Administration

TITLE OF ITEM: VC3 Contract Renewal – *Brian Pahle, Assistant City Manager*

SUGGESTED MOTION(S):

I move that City Council approve the Resolution by the City of Hendersonville City Council to authorize the City Manager to negotiate and execute a contract for technology services with VC3.

SUMMARY:

A resolution to consider a contract for the provision of technology services.

BUDGET IMPACT: \$

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS:

Resolution

Proposed Contract

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO EXECUTE AGREEMENT WITH VC3 FOR THE TECHNOLOGY MASTER SERVICES CONTRACT

WHEREAS, the City Council entered into a contract with VC3 for technology services in 2014 and 2018, and;

WHEREAS, the City Manager’s Office has negotiated a new Contract for an additional three years of services with updated terms and conditions; and

WHEREAS, it is in the best interest of the City’s customers and citizens to have technology support services; and

WHEREAS, the City has the opportunity to extend these support services through this renewal; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The Contract is to be executed with VC3 effective upon execution by the City Manager.
2. The City Manager is authorized to negotiate and enter into an agreement with VC3 on behalf of the City in such form and with such provisions as he may deem appropriate, after consultation with the City Attorney, provided that the price may not be changed without approval from the City Council.
3. The City Manager, City Attorney, and City Staff are authorized to take such other actions as may be necessary to carry out the terms and provisions of the agreement as entered and signed by the City Manager.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 3rd day of October, 2024.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form: _____ Angela S. Beeker, City Attorney

City of Hendersonville, NC

VC3 Managed Services Order



Table of Contents

Order Governed by the Master Agreement 3

Summary of Scope of Services & Fees 3

Deliverables & Services 7

Invoicing 14

Addendum A – Service Desk Priorities 15

Addendum B – Maintenance Windows 17



Order Governed by the Master Agreement

This Order is subject to and governed by Company’s Master Agreement in effect on the date this Order is entered into between Company and Client. The Master Agreement is incorporated in full into and made a part of this Order by this reference. Company’s entering into this Order is conditioned on Client’s agreement to the Master Agreement, and by entering into this Order with Company, Client accepts and agrees to the Master Agreement.

Summary of Scope of Services & Fees

Company will provide the following services listed in Tables A - C. Recurring services, if included, shall be provided for 36 Months, starting from the date of the first recurring invoice (Effective Services Start Date), unless terminated in accordance with the terms of this Order or the Master Agreement.

Company will audit the Client’s usage of units on a monthly basis; for each unit found in excess of the amount listed in Table A, Company will increase the monthly fee by the corresponding amount indicated in Table A. Reductions in Units above the minimum threshold will be reflected on the invoice within 30 days of service removal. Additional services may be added at any time during the life of this contract at the unit rates listed below.

(See tables on next page)



Table A: Services & Fees

Description	Quantity	Unit Price	Price
VC3 Manage - Full User 24x7x365 Remote & Onsite Support: Users, Servers, Network Foundational Protection Components: EDR Including 24x7x365 SOC, M365 Protection & Backups Proactive Monitoring, Maintenance & Patching: Workstations, Servers, Network Strategic IT Planning: Alignment with IT Best Practices, IT Budgeting, Technology Roadmap M365 License Management Vendor Co-Ordination Hardware, Software, Domain and License Procurement / Renewals	198	\$105.00 / month	\$20,790 / month for 3 years
VC3 Manage - Email Only User Support for email only users includes troubleshooting send/ receive issues and access issue to email platform. M365 & Email Protection & Backups Included	203	\$7.50 / month	\$1,522.50 / month for 3 years
VC3 Manage - Shared User 24x7x365 Remote & Onsite Support: Users using a shared workstation. Foundational Protection Components: EDR Including 24x7x365 SOC, M365 Protection & Backups Proactive Monitoring, Maintenance & Patching: Shared Workstations.	10	\$35.00 / month	\$350 / month for 3 years
VC3 Datacenter - Base Infrastructure	1	\$650.79 / month	\$650.79 / month for 3 years
VC3 Datacenter - Application Hosting Users access line of business applications via VC3 Datacenter	80	\$21.17 / month	\$1,693.60 / month for 3 years
VC3 Datacenter - Virtual Desktop Files & Applications hosted in VC3 Datacenter Access to data facilitated by Virtual Desktop	80	\$10.73 / month	\$858.40 / month for 3 years
Additional Virtual Server Memory (per GB)	46	\$9.00 / month	\$414.00 / month for 3 years
Additional Data Protection (per GB)	0	\$0.30 / month	\$0 / month for 3 years
SQL Standard 2 Core License Pack (Min 4 cores/server)	2	\$181.27 / month	\$362.54 / month for 3 years
VC3 Cloud Mapping Solution - ZeeDrive	220	\$0.00 / month	\$0 / month for 1 year
Microsoft Defender for Office 365 (Plan 1)	420	\$2.00 / month	\$840 / month for 1 year



Order

City of Hendersonville, NC

Project Plan 3	1	\$30.00 / month	\$30.00 / month for 1 year
Power BI Pro	11	\$10.00 / month	\$110.00 / month for 1 year
Visio Plan 2	3	\$15.00 / month	\$45.00 / month for 1 year
Exchange Online (Plan 1) NCE Annual Subscription	203	\$4.00 / month	\$ 812 / month for 1 year
Office 365 E3 NCE Annual Subscription	217	\$23.00 / month	\$4,991.00 / month for 1 year
HaaS - Desktop-Standard (36Mo) TFF, R5 Processor, 16GB RAM, 512GB Storage Includes 1x Monitor, Keyboard & Mouse Includes setup and replacement costs.	53	\$54.85 / month	\$2,907.05 / month for 3 years
HaaS - Laptop-Desk-Standard (36Mo) 16" Screen, R5 Processor, 16GB RAM, 512GB Storage Includes 1x Dock, Monitor, Keyboard & Mouse Includes setup and replacement costs.	64	\$74.03 / month	\$4,737.92 / month for 3 years
HaaS - Laptop-Desk-Performance (36Mo) 16" Screen, R7 Processor, 16GB RAM, 512GB Storage Includes 1x Dock, Monitor, Keyboard & Mouse Includes setup and replacement costs.	1	\$78.67.03 / month	\$78.67 / month for 3 years
VC3 Manage – Vendor Seat 24x7x365 Remote & Onsite Support: Users, Servers, Network Foundational Protection Components: EDR Including 24x7x365 SOC, Proactive Monitoring, Maintenance & Patching:	0	\$30.00 / month	\$0.0 / month for 3 years
HaaS - On Premise Server	1	\$158.75 / month	\$158.75 / month for 3 years
Cyber Aware Complete (KnowB4) Employee Cyber Security Awareness Training - Advanced Training Catalog Simulated Phishing Tests - Increased Variation of Tests	420	\$2.50 / month	\$1,050 / month for 3 years
Setup KnowB4	1	\$5,000.00	\$5,000.00 / onetime fee
Virtual Fax 500 Pages Included	5	\$20.60 / month	\$103.00 / month
Faxing Overage Per Page	0	\$0.05 / month	\$0.00 / month
RMM Access Shared Access to VC3 RMM Platform for Internal IT Users for remote support / access purposes only.	1	\$99.99 / month	\$99.99 / month for 3 years



Order

City of Hendersonville, NC

Microsoft Entra ID P2 For Government	1	\$9.00 / month	\$9.00 / month for 1 year
Splashtop Remote Control	17	\$2.00 / month	\$34.00 / month for 1 year
O365 Extra File Storage - SharePoint	250	\$0.20 / month	\$50.00 / month for 1 year
Sonian Email Archiving	420	\$3.61 / month	\$1,516.20 / month for 3 years
Automate	1	\$15.00 / month	\$15.00 / month for 1 year
Co-Managed Workstation Monitoring & Maintenance	2	\$23.99 / month	\$47.98 / month for 3 years
Co-Managed Network	0	\$202.02 / month	\$0 / month for 3 years
Co-Managed Server	0	\$202.02 / month	\$0 / month for 3 years
SUMMARY			
Monthly Subtotal			\$44,277.39
One-time subtotal			\$5,000.00

Notes:

- Items denoted with an asterisk (*) are new to the renewal solution.
- The following percentages are VCIO approximations to help determine GASB 96 & 87 amounts
- Approximately %19 of the Cloud Performance Seat price is comprised of Hardware components
- Approximately %28 of the Cloud Performance Seat price is comprised of Software components
- Approximately %32 of the Cloud Collaboration Seat price is comprised of Hardware components
- Approximately %28 of the Cloud Performance Seat price is comprised of Software components

Table B: Summary of Fees

One-Time Fees*	Monthly Fees	Annual Fees
\$5,000.00	\$44,277.39	\$0.00

* One-Time fees may include implementation if required.

It is understood that the amounts listed in Tables A and B represent the actual fees for Services performed under this agreement, and such Services shall not be billed on a time and materials basis. The fees stated herein supersede any provision as to fees in the Master Agreement.



Deliverables & Services

VC3 Manage - Cloud Performance

Company will supply the necessary qualified resources to manage the IT Services of the client as defined below.

Included Devices: 'Included Devices' will be defined as applicable devices associated with the unit quantities stated in Table A.

Company will provide the following functions and services as part of this Order:

A. Discovery & Deployment

1. Setup the Client System for management and provide training to help the Client get the most out of the services. This includes:
 - i. Deployment of the Company monitoring and management platform.
 - ii. Deployment of the Company endpoint protection and spam filtering.
 - iii. Full documentation and inventory of your network
 - iv. Best-practice configuration of the network for monitoring and management
 - v. Orientation and training for your staff
 - vi. MacOS Note: If Client is utilizing Mac OS, Company will provide documentation to end users on how to install Company's monitoring and management platform. MacOS does not allow a remote deployment of standard Company tools.
 1. Should Mac OS users require onsite assistance to install VC3's monitoring and management platform, support will be provided on a Time and Materials basis at the rates detailed within Client Master Agreement.
2. Implement performance monitoring of client's network prior to and during implementation.

B. Cloud Deployment

Company will provide the client with migration services for their data into the new environment:

1. For each supported seat, Company will provide the client with a Desktop environment that includes a Microsoft Office 365 license.
2. Configure a Microsoft AD domain and synchronize users.
3. Migrate all file shares currently accessed by PC clients.
4. Migrate up to 2GB of Exchange data per user for existing Exchange server mailbox accounts. Exchange Public Folders are not supported and will not be migrated.
5. Work with the client's vendor to migrate the primary data repository for the supported third-party applications listed in Table A.
6. Provide individual and shared file storage for all Cloud Performance users.

- i. 10 TB Total storage allocated for the hosted environment. Additional storage requirements will be provided at the rate specified in Table A.
- 7. Provide 5 Mb/s of bandwidth for each 25 supported Cloud Performance seats for Internet browsing and other Internet based traffic sourced from the Cloud Performance hosted desktop. Additional bandwidth usage charges may apply as listed in Table A. The minimum bandwidth allocation for this purpose is 5 Mb/s. This bandwidth usage is calculated separately from the traffic needed to connect your local devices to the Cloud Performance hosted desktop.
- 8. Provide a repository folder on each PC for end-users to place local files and application settings.
- 9. Provide instructions for end-users on how to export mail, contact lists, and bookmarks from common e-mail applications and browsers and how to import them into the cloud environment.
- 10. Setup the client's printers and file shares within the new cloud environment. Client is responsible for testing and confirming appropriate permissions to files and applications have been set.
- 11. Provide end-user training documentation on the cloud environment, and how to obtain support.
- 12. Provide Day 1 onsite support.
- 13. Optional services include onsite client training, full-service migration of PC settings by Company staff and migration of additional third-party application data sets that are available upon request via a Change Order.
- 14. Backup Monitoring & Restoration Services
 - i. Monitor and maintain backups for the applicable devices and accounts protected.
 - ii. Perform periodic updates to the backup software such as patches, and updates.
 - iii. Perform data recovery actions at the request of Client.
- 15. VC3 Cloud Mapping Solution – ZeeDrive will be provided at no cost to the client.

C. Microsoft Office 365

- 1. Activate Microsoft Office 365 license for each seat (managed device), unless otherwise stated in Table A.
- 2. Provision Microsoft Office 365 Cloud-based services.
- 3. Migrate existing environment to Microsoft Office 365.
- 4. Upgrade Microsoft Office to current version if applicable for user primary devices.
- 5. Provide end-user training documentation on Microsoft Office, and how to obtain support.
- 6. Backup Monitoring & Restoration Services
 - i. Configure 365 backups for all accounts licensed with appropriate Microsoft 365 license.



Order

City of Hendersonville, NC

- ii. Monitor and maintain backups for the applicable devices and accounts protected.
- iii. Perform periodic updates to the backup software such as patches, and updates.
- iv. Perform data recovery actions at the request of Client.

D. 24x7 Monitoring and Incident Response Services

- 1. Provide 24X7 Incident response services for all included user, server, and network devices.
- 2. Provide phone, remote and onsite support to authorized users for all included devices.
- 3. Track all incidents through an ITIL (Information Technology Infrastructure Library) based Service Desk system. All requests will be prioritized and processed per the ‘Priority’ guidelines listed in Addendum A.
- 4. Provide 24x7 collection of performance data for the client’s included server and network devices per Company’s best practices.
- 5. Utilize industry best practices for remote access, control, and management of all devices.
- 6. Patching: Deploy, manage, and monitor the installation of approved service packs, security updates and firmware updates as deemed necessary on all applicable devices. Some devices such as tablets and cell phones may not be compatible with included patching methodologies.
- 7. Resolution of monitoring alerts.
- 8. Resolution of performance issues.
- 9. Resolution of availability issues.
- 10. Resolution of end-user reported problems.
- 11. Routine additions, deletions, and changes to included devices and users.

E. Application Support

- 1. Provide support for client licensed 3rd party applications. If it is determined from the initial discovery and/or from third-party application vendors that an application requires additional servers, licensing or support resources, additional monthly costs may be required before the application can be supported.
- 2. Microsoft Applications
 - i. Includes Microsoft Office and Office 365 core applications. This is limited to Microsoft Access, Excel, OneDrive for Business, OneNote, Outlook, PowerPoint, SharePoint, Teams and Word.
 - ii. Application installs, synchronization issues, permission management and general troubleshooting are all within scope for these applications.

F. Strategic IT Planning

Provide the client with a named Strategic resource to assist Client with the following:

- 1. **Budgeting:** Work with the client to develop an annual technology budget for recurring expense items and new capital requirements in alignment with organizational goals.
- 2. **Strategic Planning:** Recommend technology solutions as well as provide roadmaps that support key business processes in order to help the client leverage technology



Order City of Hendersonville, NC
appropriately. The Company will work with the client as part of the annual planning process to understand the current business drivers and goals and make recommendations targeted toward maximizing the effectiveness of the client's technology investment.

3. **Analyze IT Health data:** Perform a periodic analysis of the data collected by Company's monitoring systems to proactively resolve issues and assess potential risks within the environment. The Company will make this analysis available to key stakeholders and provide direction on business decisions regarding the level of investment.

G. Endpoint Detection and Response

1. Deployment of Company Endpoint Detection and Response (EDR) agents to all applicable included devices.
2. Monitoring of EDR agents by 24x7x365 Partner Security Operations Center (SOC).
3. Provide 24x7 Incident response services for all security events and incidents generated by the EDR tool for applicable devices. All events and incidents will be prioritized and processed per the 'Priority' guidelines listed in Addendum A.

H. Cloud Protect

1. Provision Cloud Protect – Cloud Platform Security Event and Incident Reporting platform.
2. Authentication with Client Microsoft 365 and/or G Suite tenant.
3. Alerting threshold tuned to meet industry best practices.

I. IT Asset Administration

1. Hardware and software asset and warranty expiration tracking
2. Domain name expiration tracking
3. Hardware and software purchase specification
4. Web portal access for ticket creation and management
5. Maintaining network documentation and secure password storage
6. Interfacing with vendors such as internet service providers (ISPs)

J. Procurement

1. Server, Networking, and Power equipment.
2. Desktops, laptops, tablets.
3. Peripherals, including Printers.
4. Software, including subscription-based services.
5. Domain names and security certificates.

J. Hardware as a Service

1. Provide complete thin client packages or support of one Laptop/Desktop device per Seat (Thin client package includes: thin client, keyboard, monitor and mouse). Support and replacement of thin client hardware is included within pricing. Company will make arrangements to repair or replace the failed component in the event of a failure. Once the hardware has been replaced, client is responsible for returning the replaced device to

- Order City of Hendersonville, NC
- Company within 7 business days. Failure to return said device within 7 business days will result in a replacement charge for the item.
2. Seats can be increased or decreased to reflect staff headcount changes. If a seat is dropped within the first twelve months of activation one-time a drop fee of three times unit cost will be assessed.
 3. Packages can be upgraded, and unit counts will be updated accordingly.
 4. Devices will be replaced based on the refresh cycle selected for that device and when the device was put into service. Company is responsible for tracking device age.
 5. Company will provide replacement components with substantially same or better performance as the original for failures on Hardware-as-a-Service equipment that occur because of internal equipment defects or end of life failure. The model and manufacturer of replacement devices may vary depending on device availability and lifecycle.
 6. For mobile computers ie. Laptops, accidental replacement coverage is included with a limit of one replacement per refresh cycle at no additional cost to Client. For all other devices client is responsible for cost of replacement or repair where damage is due to any factors other than internal defects or end of life failure – including abuse, accident, or environmental factors (for example, fire or flood damage).
 7. Device set-up for new seats and at every refresh cycle is provided at no additional cost.
 8. The Current Specifications for Hardware As A Service PCs are noted below:
 - a. Desktop Standard: Lenovo M75q, TFF R5 16GB RAM, 512GB HD, 3yr Onsite Warranty
 - b. Laptop-Desk Standard/Laptop-Desk-B: Lenovo T16, 16" R7 16GB RAM, 512GB HD, 3 yr onsite warranty

K. VC3 Hardware Replacements

2. VC3 will replace all existing Lenovo "Thin Client" PCs, monitors, keyboards, and mice with a target date of December 31, 2024. This work to be completed at no additional cost.
3. VC3 will replace all VC3 owned Laptops, docking stations, monitors, keyboards, and mice which are greater than 3 years old.
 - a. These devices will be replaced at no additional expense
 - b. These devices with a target date of December 31, 2024.
 - c. Existing VOA/MOA laptops will be replaced after their 3yr anniversary. Company is responsible for tracking device age.
4. CyberAware Complete - KnowBe4 requested to be installed prior to within 3 months of contract signing

L. Cybersecurity preparedness and response



Order

City of Hendersonville, NC

1. In the event of a cybersecurity event or incident, VC3's assigned Strategic Advisor or agreed upon backup advisors will be physically on-site at City of Hendersonville's offices within 24 hours.
2. VC3 shall adopt and keep current policies for multi-factor authentication access of City of Hendersonville data, whether stored by VC3 or the City, and regular password changing.
3. VC3 shall maintain and access City of Hendersonville data in compliance with the then current CJIS standards. The City will be granted reasonable access audit VC3's compliance.
4. Access to City owned data, or City owned or maintained servers, domains, or similar devices shall be permitted only with prior approval by the City of Hendersonville IT Manager.

EXCLUSIONS

Items other than those included above are expressly excluded from the Services provided within this Order. The following exclusions and clarifications are intended to clarify the scope of services for this order:

- A. End-user support, and responding to requests from end users that are not directly related to troubleshooting server or network issues.
- B. When client requests services by Company not explicitly included in this agreement, they are agreeing to invoicing of said services per the terms outlined in the Master Agreement. For all services which incur additional hourly fees, Company will notify the client that these services are outside the scope of this work order and will receive approval from client prior to rendering these additional services.
- C. Services allowing public internet access, such as websites and payment gateways, are not included within the Virtual Office Advantage product but may be provided via a separate hosting Order.
- D. Cybersecurity event or incident response activities or remediation efforts exceeding eighty (80) hours of technician, engineer or project management time.

CLIENT RESPONSIBILITIES



- A. Client will provide a primary point of contact for Company to work with on all services provided in this Order.
- B. Third party tool licensing may be required for additional cost.
- C. Client will be financially responsible for any remaining or ongoing charges from Microsoft. Microsoft subscriptions can each have their own terms and renewal dates. It is the client's responsibility to engage Company to adjust Microsoft subscription counts and terminations prior to 12 months from the original work order or subsequent change order purchase date.

ASSUMPTIONS

- A. The Order will not become effective unless and until it is agreed upon and signed by the Client and Company.
- B. If Company is providing or managing Client 's Microsoft Licenses, then Client agrees to the Microsoft terms and conditions as stated in the Microsoft Customer Agreement found here: <https://www.microsoft.com/licensing/docs/customeragreement>
- C. Company reserves the right, at its discretion, to pass onto the client any changes to obligations, such as terms or pricing (at Company's actual cost) imposed on Company by a given vendor, for an offering that is currently resold to the client at any time during the current agreement term.
- D. Microsoft NCE licenses and subscriptions run on an annual basis and cannot be terminated nor altered mid-term.
- E. If client Microsoft licenses are under a current annual NCE subscription, Company assumes they will migrate to become under Company's management at the point of renewal.
- F. The items defined in this Order are designed to enhance the security of the customer environment. There is no guarantee that any security measure will prevent a data breach, infection, or other cyber security incident.
- G. Replacement hardware refers to only Company issued and owned equipment.
- H. Client owned equipment will be installed and setup at T&M rates.



Invoicing

Company will invoice Client per Table C. Company will invoice the Client a pro-rated monthly fee based on any partial month of service plus the first full month of service on the effective services start date. All subsequent service months will be invoiced at the start of the month in which services are to be rendered. Services activated after the first of month may be invoiced on a pro rata basis the following month. Any taxes related to services purchased or licensed pursuant to this Order shall be paid by Client or Client shall present an exemption certificate acceptable to the taxing authorities. Applicable taxes and freight charges shall be billed as a separate item on the invoice.

The terms of this Order will automatically renew for a single additional term of 12 months, unless notice of termination is provided to Company no fewer than 90 calendar days prior to expiration of the current active term.

Table C

Milestone Billing	Milestone Description / Date	Invoice Amount
One-Time Fees	Invoiced at signing of the Order.	\$5,000.00
Monthly Fees (36 Months)	Invoicing to begin when recurring services begin.	\$44,277.39
Annual Fees (36 Months)	Invoiced at signing of the Order.	\$0.00

**Refer to Table C for implementation fee and monthly fee amounts.*

VC3, Inc

TexCity of Hendersonville, NC

Signature: 

Signature: _____

Name: Hunter Lindsay

Name: _____

Title: Chief Sales Officer

Title: _____

Date: 9/9/24

Date: _____

Addendum A – Service Desk Priorities

Incidents and Service Requests are triaged and prioritized to effectively resolve the most important issues in a timely manner. Company utilizes the following priorities, criteria and response metrics:

A. Priority 1:

- System/device/service down causing work to cease and critical impact to the organization or a whole department; no workaround available; Client is in danger of or is experiencing a financial loss or the ability to make strategic business decisions is impaired; begin resolution activities immediately.
- **24x7 Support:** Priority 1 incidents will be addressed on a 24 hours a day, 7 days a week basis including holidays.

B. Priority 2:

- System/device/service down causing work to cease and potential business impact for an individual user; no workaround available.
- Level of service degraded causing impact to the organization or a whole department; no workaround available.
- **24x7 Support:** Priority 2 incidents will be addressed on a 24 hours a day, 7 days a week basis including holidays.

C. Priority 3:

- Level of service degraded causing impact to an individual user; no work around available.
- Operational impact to the organization or a whole department though work continues as a result of implementing a workaround or use of other system/device/service.
- A request to enable or configure a system/device/service within 2 business days.
- Incidents related to Backup system failures.
- **Business Hours Support:** Priority 3 incidents will be addressed during normal business hours Monday-Friday, 8:00am to 5:00pm excluding holidays.

D. Priority 4:

- Operational impact to the organization, department or user exists though work continues as a result of implementing a workaround or use of another system/device/service.
- A request to enable or configure a system/device/service within 5 business days.
- **Business Hours Support:** Priority 4 incidents will be addressed during normal business hours Monday-Friday, 8:00am to 5:00pm excluding holidays.

E. Priority 5:

- Operational impact to the organization, department or user is minimal or is mitigated by a reliable workaround.
- A request to enable or configure a system/device/service beyond 5 business days from the date of the request.
- Requests that have longer lead times to implement than possible within 5 business days.
- **Business Hours Support:** Priority 5 incidents will be addressed during normal business hours Monday-Friday, 8:00am to 5:00pm excluding holidays.

(See tables on next page)



Call Priority	Initial Client Contact Guidelines	Initial Client Contact Percentages
1	60 Min	95%
2	2 business hours	95%
3	4 business hours	95%
4	8 business hours	95%
5	N/A	95%



Addendum B – Maintenance Windows

All work performed within Company’s Hosting or Client Infrastructure is a form of maintenance. Such work may or may not result in a disruption of service depending on the scope of the activity.

1. **Scheduled Maintenance:** All planned work performed on Company’s Hosting or Client Infrastructure by Company engineers or staff is defined as “Scheduled Maintenance”.
During Scheduled Maintenance, some or all of Company’s Hosting or Client Infrastructure may be out of service and therefore may not be accessible to users. Regularly Scheduled Maintenance will occur on Mondays between 2 AM and 5 AM. A 15-minute downtime is expected during this window. If Client has a business need to avoid said outage, they must provide their request via the Company Service Desk ten business days in advance.
 - a. **Notification:** If Company decides to perform Scheduled Maintenance beyond the standard 15-minute downtime, Client will be notified via email ten business days before the Scheduled Maintenance window.
2. **Emergency Maintenance:** All work performed in response to a disruption or a threat to the availability of a component of Company’s Hosting or Client Infrastructure within the control of Company is defined as “Emergency Maintenance”.
Emergency Maintenance will be conducted based upon the timeframe that the emergency exists. Normal business hours will see an immediate response. For issues that occur during non-business hours, the impact of the event will be evaluated as soon as possible, and appropriate measures taken to return the system to normal availability.
 - a. **Notification:** Client will be notified via email should Emergency Maintenance be necessary.
3. The Company Hosting or Client Infrastructure includes, but is not limited to, the following areas: E-mail hosting, server hosting, website hosting, Content Management System, Hosted Applications, Internet Service Provider, Hosted Voice, and custom application hosting.



Order

City of Hendersonville, NC



October 12, 2023

Dear City of Hendersonville, NC,

As an important client to VC3, Inc., we would like to invite you to participate in our payment plan using the Automated Clearing House (ACH). In lieu of cutting a check or processing a credit card transaction for goods and/or services, your company's payment will be drafted via electronic transfer and automatically debited from your account at your financial institution. ACH will be used for all invoices, including new and previous agreements, and time and material invoices with VC3. The ACH Payment program has proven to be an efficient and cost-effective mechanism for making payments, increasing payment security, and for eliminating the time lag caused by standard mail. In addition, outstanding invoices are paid without any manual hassles.

You will still receive an invoice as usual. Upon receipt of your invoice, your company will have 15 calendar days to review the outstanding payable. If no changes are needed, an ACH bank draft will be initiated on the next scheduled bank draft day after the 15th calendar day review period (typically the following Thursday).

If there is a dispute on a charge, please email the invoice number and issue at hand to finance@vc3.com. This will freeze your automated ACH payment until the dispute is settled.

For your convenience we have enclosed an ACH Payment Authorization Form. Please use this agreement as consent for VC3 to directly withdraw funds from your financial institution.

Sincerely,

VC3, Inc.



Order

City of Hendersonville, NC



ACH Payment Authorization Agreement

Company Name: City of Hendersonville, NC

We hereby authorize VC3, Inc., to initiate debit entries out of our checking account indicated below at the depository financial institution named below, hereafter called Depository. COMPANY, Inc. acknowledges that the origination of ACH transactions out of the account must comply with the provisions of U.S. law.

Bank Name: _____

City: _____ State: _____ Zip: _____

Routing Number: _____ Account Number: _____

Account Type: _____

This authorization is to remain in full force and effect until COMPANY, Inc. has received written notification of its termination, in such time and in such manner as to afford VC3, Inc. a reasonable opportunity to act on it.

Name: _____ Title: _____

Signature: _____ Date: _____

Remittance Contact: _____

Contact Email: _____

Terms of Service

MASTER TERMS AND CONDITIONS FOR SERVICES AND THIRD PARTY PRODUCTS

1. Definitions; Services; Third Party Products; and Orders.

1.1 Definitions. For purposes of this Master Agreement, the following terms have the following meanings:

“Agreement” means an Order and the documents incorporated into the Order including without limitation this Master Agreement.

“Company” means VC3, Inc., a Delaware corporation having its principal place of business at 1301 Gervais Street, Suite 1800, Columbia, SC 29201;

“Client” means the client of Company as identified in the applicable Order;

“Master Agreement” means these VC3 Master Terms and Conditions for Services and Third Party Products; and

“Order” means a written executed order between Company and Client that references this Master Agreement.

1.2 Services. Company will provide to Client computer system and network maintenance services, managed services, software services, hardware as a service (“HaaS”), consulting services and/or professional services (the “Services”) in each case as described in an Order provided however that the parties recognize that Company may from time to time provide Services to Client at Client’s request not covered by an Order, and in such cases, these Services shall be subject to and governed by the terms and conditions of this Master Agreement and performed by Company on a time and materials basis and invoiced at the hourly billing rates specified in Exhibit A to this Master Agreement.

1.3 Third Party Products. Company may sell or license or provide Third Party Products (as defined in Section 5.2) to Client as set forth in and on terms and conditions set forth in an Order.

1.4 Change Orders. Client may request a change in the scope or nature of the Services in an Order at any time. However, changes to the scope of the Services in an Order can be made only in writing executed by both parties.

1.5 Non-Exclusive. Client understands and agrees that the Services provided under the Agreement are not exclusive to Client, and Company may provide the same or similar services to Company's other customers.

2. Charges for Services and Third Party Products.

2.1 Fees. Client agrees to pay Company the fees for Services and Third Party Products as indicated in an Order, or as hourly work defined below in Exhibit A (collectively referred to as the "Fees"). Company reserves the right to increase the Fees once per calendar year as expressly stated in an Order. Unless otherwise expressly stated in an Order, Company's compensation for Services will be based on direct labor hours charged at fixed labor rates. The Order may call for a budget of expected charges as a way for both parties to monitor performance. Except as otherwise expressly set forth in an Order, all Services that are identified to be rendered on a time and materials basis will be invoiced at the hourly billing rates specified in Exhibit A.

2.2 Payment. Unless otherwise stated in an Order, all undisputed Fees for Services shall be due and payable by Client in advance of the calendar month in which the Services are to be provided to Client. Unless otherwise stated in an Order, Fees for Third Party Products shall be due and payable in advance of delivery. For prepaid Fees or Fees paid pursuant to a service plan, payment must be made in advance of providing Services or delivery of Third Party Products, unless other arrangements are agreed upon in the Order. Fees invoiced to Client shall be paid on a net thirty (30) day basis. Late payment for undisputed Fees (or any other amounts owing from Client to Company) shall be subject to interest on the unpaid amount(s) until and including the date payment is received, at the lower of either 0.5% per month or the maximum allowable rate of interest permitted by applicable law. Company reserves the right, but not the obligation, to suspend part or all of the Services in the event that any portion of undisputed Fees are not timely received by Company within thirty (30) days following the date on which such Fees are due. All disputes initiated by Client related to Fees must be received by Company within sixty (60) days after the applicable Service is rendered or the date on which Client receives an invoice, whichever is later, otherwise Client waives its right to dispute the applicable Fees thereafter. A re-connect fee may be charged to Client in the event that Company suspends the Services due to Client's nonpayment. In the event of a fee dispute, the

prevailing party's reasonable attorney's fees and costs shall be paid by the non-prevailing party. TIME IS OF THE ESSENCE IN THE PERFORMANCE OF ALL PAYMENT OBLIGATIONS BY CLIENT.

2.3 Expenses. Client shall pay Company for all reasonable expenses incurred by Company in the performance of the Services at Company's actual cost, including without limitation travel, living, and out-of-pocket expenses incurred pursuant to the Agreement.

2.4 Taxes. Client shall pay directly, or reimburse Company for, and indemnify and hold Company harmless from, all taxes and tariffs assessed or levied by any governmental entity that are now or may become applicable to the Services or Third Party Products or measured by payments made by Client to Company hereunder, or are required to be collected by Company or paid by Company to tax authorities including interest assessment thereon if such assessments are due to Client's actions or inactions. This includes, but is not limited to, sales, use, excise, gross receipt and personal property taxes, or any other form of tax based on services performed, Third Party Products, equipment used by Company to perform services solely for Client, and the communication or storage of data, but does not include taxes based upon Company's net income.

3. Term; Termination.

3.1 Term. The term of the Agreement shall continue from the effective date of the Order until the earlier of (a) expiration of the term of the Order or (b) termination of the Agreement as provided in the Agreement.

3.2 Termination for Breach. Either party may terminate the Agreement for material breach by the other party of the Agreement which is not cured within 30 days from the receipt by the party in breach of a written notice from the other party specifying the breach in detail. Client shall be liable for payment to Company for all Services rendered prior to the effective date of any such termination.

3.3 Early Termination. The Parties acknowledge that early termination of the Agreement (i) by Company pursuant to Section 3.2 (Termination for Breach) or (ii) termination of the Agreement by Client for any reason other than pursuant to Section 3.2 will result in Company incurring damages difficult or impossible to ascertain. In the event of such occurrence, Company will be entitled to, and Client agrees to pay (not as a penalty), all fees due for the

remaining term of the Agreement, in addition to any other amounts owed to Company under the Agreement.

3.4 Equipment / Software Removal. Upon termination of the Agreement for any reason, Client shall provide Company with access, during normal business hours, to Client's premises (or any other locations at which Company-owned hardware, equipment or software is located) to enable Company to remove all Company-owned hardware (including HaaS Hardware), equipment and software from the premises (if any). If Client fails to grant Company access as described herein, or if any of the Company-owned hardware or equipment is broken or damaged (normal wear and tear excepted) or any of the software is missing, Company shall have the right to invoice Client for, and Client hereby agrees to pay immediately, the fair market value of hardware, equipment, or software of similar age and in working condition..

3.5 Survival. Expiration or termination of the Agreement for any reason will not release either party from any liabilities or obligations set forth in the Agreement which (a) the parties have expressly agreed will survive any such expiration or termination or (b) remain to be performed or by their nature would be intended to be applicable following any such expiration or termination.

4. Proprietary Protections.

4.1 Ownership Rights

(a) General. Each party will retain all rights to any software, ideas, concepts, know-how, development tools, techniques or any other proprietary material or information that it owned or developed prior to the effective date of the Agreement or acquired or developed after the effective date of the Agreement without reference to or use of the intellectual property of the other party. All software that is licensed by a party from a third party vendor will be and remain the property of such vendor. No licenses will be deemed to have been granted by either party to any of its patents, trade secrets, trademarks, or copyrights, except as otherwise expressly provided in the Agreement. Nothing in the Agreement will require Company or Client to violate the proprietary rights of any third party in any software or otherwise. Notwithstanding anything to the contrary in the Agreement, Company (i) will retain all right, title and interest in and to all software development tools, know-how, methodologies, processes, technologies or algorithms used in performing the Services which are based on trade secrets

or proprietary information of Company or are otherwise owned or licensed by Company (collectively, “tools”), (ii) will be free to use the ideas, concepts, methodologies, processes and know-how which are developed or created in the course of performing the Services and may be retained by Company’s employees in intangible form, all of which constitute substantial rights on the part of Company in the technology developed as a result of the Services performed under the Agreement.

(b) Materials Developed for or Delivered to Client. Client agrees that all software and other materials (including, but not limited to customizations, modifications, specifications, documentation and training materials) developed for or delivered to Client pursuant to the Agreement, including without limitation all related copyrights, patent rights, trade secrets, ideas, designs, concepts, techniques, inventions, discoveries or other intellectual property rights (collectively, the “Materials”), shall be the exclusive property of Company and the Company shall own all right, title and interest therein. In this connection, Client acknowledges that all Materials which are or may be developed pursuant to the Agreement are and shall be the intellectual property and confidential proprietary information and products of Company, and Client hereby transfers and assigns any and all rights in and to the Materials to Company, its successors and assigns, including without limitation all intellectual property rights relating thereto. From time to time upon Company’s request, Client shall confirm such assignment by execution and delivery of such assignments, confirmations of assignment, or other written instruments as Company may request. Company agrees that Client shall have a limited nonexclusive license to use the Materials internally to the extent necessary to carry out and fulfill the terms and conditions of the Order for which the Materials were developed and shall have the right to grant a limited nonexclusive license to the third parties specifically identified in an Order to use the Materials solely for the purposes contemplated by such Order, provided that such third parties shall first agree in a signed writing to be bound by the terms of the Agreement or such terms as may be acceptable to Company.

(c) Specific Deliverables Owned by Client. Notwithstanding the foregoing provisions of Section 4.1(b) but subject to any third party rights or restrictions and the provisions of Section 4.1(a) and the other provisions of this Section 4.1(c), Client will own the copyright in and to Materials that (i) are developed for and delivered by Company to Client, (ii) are paid for by Client, and (iii) are clearly and specifically identified in an Order as governed by the provisions of this Section 4.1(c) (the “Specific Client Owned

Deliverables”). Notwithstanding the foregoing, Company will retain ownership of any Company-owned software or development tools that are used in producing the Specific Client Owned Deliverables and become embedded in the Specific Client Owned Deliverables. Company hereby grants to Client a perpetual (subject to compliance with this sentence), royalty-free, non-transferable, nonexclusive license to use such embedded software and tools (if any) solely in connection with Client’s internal use and exploitation of the Specific Client Owned Deliverables and only so long as such software and tools (if any) remain embedded in the Specific Client Owned Deliverables and are not separated therefrom. Company will own all intellectual property rights in or related to the Specific Client Owned Deliverables other than the copyright ownership rights granted to Client pursuant to this Section 4.1(c).

4.2 Client Information. Company recognizes and agrees that, except as specified in Section 4.1, it has no claim of ownership to any data, materials or information submitted by Client to Company or the Services (“Client Information”), which Client Information is being provided to Company solely for the purposes of enabling Company to render the Services, and that title and all ownership rights in and to such Client Information shall at all times remain with Client. Client shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use all Client Information.

- (a) All Client Information stored, processed, accessed, or used by Company, or company’s subcontractors, on Client’s behalf shall be transferred, stored, and processed in the United States, and shall be stored, processed, accessed, or used only by properly licensed and qualified personnel who are lawfully present and eligible to work in the United States.
- (b) Company shall utilize commercially reasonable efforts to maintain the integrity of Client Information, including but not limited to: authentication via passwords, two-factor authentication, encryption of data in transit and at rest, and redundant access logs accessible to Client upon request. Client Information shall be accessible and manageable only by properly authorized staff.
- (c) Client will have the ability to access and extract Client Information stored by Company at all times during the term this Agreement. Company will retain Client Information in a limited function account for 180 days after expiration or termination of this Agreement so that Client may extract the same. Upon request by Client, and at any termination or expiration of this Agreement, Company shall, within 30 days, provide

Client access to Client Information in a non-proprietary, commercially available format that is reasonably usable by Client and at no cost to Client.

4.3 Confidentiality.

(a) Confidential Information. This Section 4.3 shall apply to all confidential and proprietary information disclosed by either party (“Disclosing Party”) to the other party (“Receiving Party”) in connection with the Agreement, including without limitation, all Client Information, Materials of Company, and information related to the Disclosing Party’s technology, software, know-how, products, potential products, services, potential services, financial information, employees, customers, markets and/or business information (collectively, “Confidential Information”). Confidential Information shall not include any information which (i) was known to the Receiving Party prior to being disclosed by the Disclosing Party, (ii) becomes publicly known through no wrongful act of the Receiving Party, (iii) is approved for release by written authorization of the Disclosing Party, (iv) is received from a third party not in breach of any separate confidentiality obligation known to the Receiving Party, or (v) is independently developed without reference to the Disclosing Party’s Confidential Information.

(b) Scope of Obligation. The Receiving Party agrees to use the Confidential Information of the Disclosing Party only as provided for in the Agreement. Each party agrees to hold the other party’s Confidential Information in strict confidence and not to disclose such Confidential Information to any third parties. Notwithstanding the foregoing, each party may disclose the other party’s Confidential Information only to those employees, agents, representatives and/or consultants who require such information only in connection with the Agreement. Each party agrees to instruct all such employees, agents, representatives and consultants regarding the foregoing obligations and ensure that such employees, agents, representatives and consultants are bound by obligations of confidentiality to the Receiving Party that are at least as restrictive as those contained herein. Each party agrees that it will take all reasonable measures to protect the confidentiality of, and avoid the unauthorized disclosure or use of, the other party’s Confidential Information in order to prevent it from being made public or in the possession of persons other than those persons authorized hereunder to have any such Confidential Information, which measures shall include at least the same degree of care that the Receiving Party utilizes to protect its own confidential information of a similar nature but in any event shall include commercially reasonable precautions designed to protect the

Disclosing Party's Confidential Information from unauthorized disclosure and/or use.

(c) Limited Disclosure Right. Confidential Information may be disclosed to the extent required by court order or as otherwise required by law, provided that the Receiving Party, to the extent legally permissible, notifies the Disclosing Party promptly upon learning of the possibility of any such requirement and, to the extent legally permissible, has given the Disclosing Party a reasonable opportunity to contest or limit the scope of such required disclosure.

(d) Return of Confidential Information. Promptly upon termination of the Agreement, or at any other time upon the request by a party, the other party shall (i) return to the Disclosing Party or, at the Disclosing Party's request, destroy all Confidential Information of such Disclosing Party, whether in paper or electronic form, provided, however that the foregoing shall not apply to Confidential Information that is stored in the Receiving Party's electronic archives, which Confidential Information will be destroyed in the ordinary course of the Receiving Party's business in accordance with its document destruction policies or to Confidential Information that Receiving Party is required by law to retain; and (ii) certify to the Disclosing Party in writing that it has complied with the provisions of this Section 4.3.

5. Limited Warranty and Disclaimers.

5.1 Limited Services Warranty. Company warrants to Client that the Services, as and when delivered or rendered hereunder, will substantially conform to the description of services or specifications set forth in the applicable Order. Company's sole liability under the foregoing warranty shall be to provide the services described in Section 5.6 hereof.

5.2 No Third Party Products Warranty. Unless otherwise expressly stated in an order, any third party products or services sold to, provided to or procured for client, including but not limited to third party hardware, software, peripherals and accessories (collectively, "third party products") are provided to client "as is" and company expressly disclaims all warranties of any kind, express, implied, arising from course of dealing or usage of trade or statutory with respect to such third party products, including but not limited to warranties of performance, security, integration, non-infringement, merchantability or fitness for a particular purpose. Company shall use reasonable efforts to assign, transfer and facilitate all warranties (if any) and

service level commitments (if any) from the applicable third party manufacturer or vendor for the third party products to client, but will have no liability whatsoever for such third party products. Company shall not be held liable as an insurer or guarantor of the performance, uptime, usefulness, or quality of any third party products.

5.3 No Compliance Warranty. Company does not warrant that the provision of the services, or client's use of the services, will satisfy any particular industry-specific or regulatory requirements or bring client into compliance with any such requirements.

5.4 Warranty of Ownership / Authorization. Company warrants that it owns and/or is authorized to provide the services and software described in this agreement and in any order between the parties, and that any third-party software is properly licensed.

5.5 DISCLAIMER OF WARRANTIES. Except for the warranties expressly set forth in this agreement, the services are provided strictly "as is" and company makes no additional warranties, express, implied, arising from course of dealing or usage of trade, or statutory, as to the services or any matter whatsoever. In particular, any and all warranties of performance, security, integration, merchantability, or fitness for a particular purpose are expressly excluded. Company does not warrant, and specifically disclaims that the services being provided will result in cost savings, profit improvement, or that the services will be error-free. This is a limited warranty and is the only warranty made by company.

5.6 Notice Obligation; Remedy Regarding Services. Client shall notify Company in writing within forty-five days after completion of the Services in question when any of the Services fail to substantially conform to the description of services or specifications set forth in the applicable Order. Such notification shall include the detailed information necessary for Company to verify such nonconformity. Upon actual receipt of such notification and verification of the nonconformity, Company shall correct the nonconformity so that the Services shall substantially conform with the agreed description of services or specifications in the applicable Order. Client agrees to pay Company for all personnel time and expenses incurred in investigating reported nonconformities when the alleged nonconformities are determined to be invalid. The passage of forty-five (45) days after completion of any Service without the notification described herein shall constitute final acceptance of the Service.

6. Limitation of Liability.

6.1 if for any reason company is unable or fails to correct nonconformities as provided in section 5.6, company's liability for damages arising out of such failure shall not exceed the amounts paid by client for that portion of the services which fail to conform. Except as set forth in section 7.1, in no event shall company's maximum aggregate liability arising out of or relating to the agreement (including for any claim and/or series of claims whether related or unrelated), whether in contract or tort (including negligence), law, equity or otherwise, exceed the greater of \$200,000 or the amounts paid by client to company in the ninety (90) day period preceding the event(s) giving rise to the claim (or to the first claim in a series of claims). It is understood and agreed that the fees for third party products (if any) provided to client shall not be included in the calculation of the limitation of damages described in this paragraph and amounts paid by client to company.

6.2 unless caused by company's gross negligence, willful default or fraud, company shall not be liable to client for any loss of use, interruption of business, loss or corruption of data, lost profits, lost revenue, or any indirect, special, incidental, exemplary punitive or consequential damages of any kind regardless of the form of action whether in contract, tort (including negligence), law, equity or otherwise, even if company has been advised of the possibility of such damages, or for any claim or damages asserted by any third party or for any damages caused by any delay in furnishing services hereunder.

6.3 client acknowledges that company has set its fees, and entered into the agreement in reliance upon the limitations of liability and the disclaimers of warranties and damages set forth in the agreement, and that the same form an essential basis of the bargain between the parties. The foregoing limitation of liability is independent of any exclusive remedies for breach of warranty set forth in the agreement.

6.4 Unless otherwise expressly stated in an Order, Company assumes no liability for failure of hardware or equipment or software or any losses resulting from such failure.

6.5 Client is responsible for adopting reasonable measures to limit Client's exposure with respect to such potential losses and damages, including without limitation examination and confirmation of results of the Services prior to use thereof, provision for identification and correction of errors and omissions, and preparation and storage of backup or duplicate data. Client is

also responsible for complying with, and shall comply with, all local, state, provincial, federal, national and international laws, rules and regulations (“Laws”) pertaining to the use of the Services and use and disclosure of any Client Information.

7. Indemnity

7.1 Infringement Claims.

(a) General. Subject to the limitations set forth below in this Section 7.1 and the procedures set forth below in Section 7.3 Company and Client (each an “indemnitor”) each agrees to defend the other party (each an “indemnitee”) against any action to the extent that such action is based upon a claim that the Confidential Information (other than third party hardware, software, products, materials or services) provided by the indemnitor, or any part thereof, (i) infringes a copyright perfected under United States statute, or (ii) constitutes an unlawful disclosure, use or misappropriation of another party’s trade secret, and the indemnitor will bear the expense of such defense and pay any damages, costs and expenses, including reasonable attorneys’ fees and expenses (collectively “Damages”) that are attributable to such claim finally awarded by a court of competent jurisdiction. The indemnification provided by this Section 7.1 shall not be subject to the limitations contained in Section 6.1.

(b) Exclusions. The indemnitor will have no liability to the indemnitee hereunder if (i) the claim of infringement is based upon the use of Confidential Information provided by the indemnitor hereunder in connection or in combination with equipment, devices or software not supplied by the indemnitor or used in a manner for which the Confidential Information was not designed, (ii) the indemnitee modifies any Confidential Information provided by the indemnitor hereunder and such infringement would not have occurred but for such modification, or (iii) the claim of infringement arises out of the indemnitor’s compliance with specifications or requirements provided by the indemnitee and such infringement would not have occurred but for such compliance.

(c) Additional Remedy. If Confidential Information becomes the subject of an infringement claim under this Section 7.1, or in the indemnitor’s opinion is likely to become the subject of such a claim, then, in addition to defending the claim and paying any damages and attorneys’ fees as required above in this Section 7.1, the indemnitor may, at its option and in its sole discretion, (A) replace or modify the Confidential Information to make it

noninfringing or cure any claimed misuse of another's trade secret or (B) procure for the indemnitee the right to continue using the Confidential Information pursuant to the Agreement. Any costs associated with implementing either of the above alternatives will be borne by the indemnitor and will not be subject to Section 6.1 of this Master Agreement. If neither alternative is pursued by, or (if pursued) available to, the indemnitor, (x) the indemnitee will return such Confidential Information to the indemnitor and (y) if requested by the indemnitee in good faith, the parties will negotiate, but subject to Section 6 of this Master Agreement, to reach a written agreement on what, if any, monetary damages (in addition to the indemnitor's obligation to defend the claim and pay any damages and attorneys' fees as required above in this Section 7.1) are reasonably owed by the indemnitor to the indemnitee as a result of the indemnitee no longer having use of such Confidential Information. The payment of any such monetary damages will be the indemnitee's sole and exclusive remedy for the inability of the indemnitor to implement either of the above alternatives.

7.2 Third Party Indemnification of Company. To the extent allowed by law, and without limiting Company's liability to Client under the Agreement, each of the parties acknowledge that Company would not enter into the Agreement, and by Company entering into and performing its obligations under the Agreement, Company will not assume and should not be exposed to the business and operational risks associated with Client's business, and Client therefore agrees, subject to Section 7.3 below, to indemnify and defend Company and hold Company harmless from any and all third party claims and Damages arising out of the conduct of Client's business, including without limitation the use by Client of the Services or any Third Party Products.

7.3 Procedures. The indemnification obligations set forth in this Section 7 will not apply unless the party claiming indemnification: (a) notifies the other in writing of any matters in respect of which the indemnity may apply and of which the notifying party has knowledge, in order to allow the indemnitor the opportunity to investigate and defend the matter in consultation with Indemnitee; provided, however, that the failure to so notify will only relieve the indemnitor of its obligations under this Section 7 if and to the extent that the indemnitor is prejudiced thereby; and (b) gives the other party full opportunity to control the response thereto and the defense thereof, including without limitation any agreement relating to the settlement thereof; provided, however, that the indemnitee will have the right to participate in any legal proceeding to contest and defend a claim for indemnification involving a third party and to be represented by legal counsel of its choosing, all at the indemnitee's cost and

expense. However, if the indemnitor fails to promptly assume the defense of the claim, the party entitled to indemnification may assume the defense at the indemnitor's cost and expense. The indemnitor will not be responsible for any settlement or compromise made without its consent, unless the indemnitee has tendered notice and the indemnitor has then refused to assume and defend the claim and it is later determined that the indemnitor was liable to assume and defend the claim. The indemnitee agrees to cooperate in good faith with the indemnitor at the request and expense of the indemnitor.

8. Additional Terms.

8.1 Hardware as a Service (HaaS).

(a) All hardware provided by Company as a part of Company providing HaaS under an Order ("HaaS Hardware") shall at all times remain the property of Company and Client shall not have any right, title or interest in or to the HaaS Hardware other than the right to possession and use of the HaaS Hardware in accordance with the Agreement.

(b) Client shall, during the term of the Agreement and until redelivered to Company:

- ensure that the HaaS Hardware is kept and operated in a suitable environment, which shall as a minimum meet any requirements set out in the Order, use only for the purposes for which it is designed, and operate it in a proper manner by trained competent staff in accordance with any operating instructions;
- keep the HaaS Hardware in good and operating condition (fair wear and tear excepted).
- make no alteration to the HaaS Hardware and not remove any existing component(s) from the HaaS Hardware without the prior written consent of Company;
- at all times keep the HaaS Hardware in its possession or control at the location(s) specified in the Order or such other locations as may be agreed with the Company in writing;
- permit Company or its duly authorized representative to inspect the HaaS Hardware at all reasonable times and for such purpose to enter upon the premises at which the HaaS Hardware is located, and shall grant reasonable access and facilities for such inspection;
- not, without the prior written consent of Company, part with control of (including for the purposes of repair or maintenance), sell or offer for

sale, underlet or lend the HaaS Hardware or allow the creation of any mortgage, charge, lien or other security interest in respect of it;

- give immediate written notice to Company in the event of any loss, accident or damage to the HaaS Hardware arising out of or in connection with the Client's possession or use of the HaaS Hardware; and
- deliver up the HaaS Hardware at the end of the term of the Agreement at such address as Company requires, or if necessary allow Company or its representatives access to the premises where the HaaS Hardware is located for the purpose of removing the HaaS Hardware.

(c) Client acknowledges that Company shall not be responsible for any loss of or damage to the HaaS Hardware arising out of or in connection with any negligence, misuse, mishandling of the HaaS Hardware or otherwise caused by Client or any of its officers, employees, agents or contractors;

(d) The risk of loss, theft, damage or destruction of the HaaS Hardware shall pass to the Client on delivery by Company to Client. The HaaS Hardware shall remain at the sole risk of the Client during the term of the Agreement and until such time as the HaaS Hardware is redelivered to Company.

(e) During the term of the Agreement and until redelivered to Company, the Client shall, at its own expense, obtain and maintain the following insurances:

- insurance of the HaaS Hardware to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as Company may from time to time nominate in writing;
- insurance for such amounts as a prudent owner or operator of the HaaS Hardware would insure for, or such amount as Company may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the HaaS Hardware; and
- insurance against such other or further risks relating to the HaaS Hardware as may be required by law, together with such other insurance as Company may from time to time consider reasonably necessary and advice to the Client.

The Client shall, on demand, supply copies of the relevant insurance policies or other insurance confirmation acceptable to Company and proof of premium

payment to Company to confirm the insurance arrangements. If the Client fails to effect or maintain any of the insurances required under these conditions, Company shall be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same as a debt due from the Client.

(f) Client permits Company to:

- charge Client for repairs to, or replacement of, any HaaS Hardware that is lost, damaged or destroyed until it has been returned to Company; and
- at any time swap the HaaS Hardware for alternative equipment offering in Company's reasonable judgment the same functionality.

8.2 EULAs. Portions of the Services may require Client to accept the terms of one or more third party end user license agreements ("EULAs"). EULAs may contain service levels, warranties and/or liability limitations that are different than those contained in the Agreement. Client agrees to be bound by the terms of such EULAs and shall look only to the applicable third party provider for the enforcement of the terms of such EULAs. Client will defend, indemnify, and hold Company harmless from any claims and Damages resulting from any breach of a EULA by Client or any of its directors, officers, employees, or agents.

8.3 Data Backup. Client is strongly advised to maintain a local and offsite backup of all mission-critical or customer-critical data, and to periodically verify the integrity and availability of all backed up data.

8.4 Bring Your Own Device (BYOD). Client hereby represents and warrants that Company is authorized to provide the Services to all devices, peripherals and/or computer processing units, including without limitation mobile devices (such as personal digital assistants, notebook computers, and tablet computers) that (i) are connected to Client's systems related to the Services, and (ii) have been designated by Client to receive the Services, regardless of whether such device(s) are owned, leased or otherwise controlled by Client. Unless otherwise stated in an Order, devices will not receive or benefit from the Services while the devices are detached from or unconnected to such systems.

8.5 Hosted Solutions. Hosted solutions, including but not limited to hosted email and document-related applications, may require Client to accept the terms of a third party EULA, which may contain service levels, warranties

and/or liability limitations that are different than those contained in the Agreement. Client agrees to be bound by the terms of such EULAs and shall look only to the applicable third party provider for the enforcement of the terms of such EULAs. Client will defend, indemnify, and hold Company harmless from any claims and Damages resulting from any breach of such a EULA by Client or any of its directors, officers, employees, or agents. Company reserves the right to suspend or terminate Client's access to hosted solutions in the event that Company has reason to believe that the hosted solutions are being accessed, used or otherwise manipulated in a manner that violates any Law, or poses a threat to the integrity or security of Company's computer servers or any third party server.

8.6 Disposal of Equipment. Client agrees that any Client assets, equipment, hardware, or software deemed to be replaced, retired, faulty, non-functional, dead-on arrival, returned, unrecoverable, or otherwise unusable may be disposed of by Company unless Client provides a written request to keep the asset at the time of removal.

8.7 Recording.

(a) Some Services provided may involve recording and/or monitoring. For such Services, information uploaded to or in any way passing through computer systems used to provide the Services, including without limitation written, visual, or oral communications or other electronic means, may be recorded or monitored for quality assurance and diagnostic purposes. By accessing or using the Services, Client consents to such recording and monitoring. Client is also solely responsible for informing anyone with whom Client interacts or otherwise communicates via the Services that information uploaded to or in any way passing through the Services, including without limitation written, visual, or oral communications or other electronic means, may be recorded or monitored for quality assurance and diagnostic purposes. Recordings and other records created under this Section 8.7(a) are Confidential Information subject to the protections of Section 4.3 herein.

(b) If phone conferences/conference bridges are applicable to the Services being provided to Client, Client acknowledges that the laws of certain jurisdictions may require that if a conference is recorded, all participants in the conference must be informed in advance of any such recording, so they may consent to being recorded (if required by applicable Laws). Client acknowledges and agrees that Client shall be solely responsible for complying with all applicable Laws and third party rights when using recording features (which includes Client's obligation to obtain the consent, if required by

applicable Laws, of all participants before the commencement of the recording). Company shall have no liability to Client or any participant in Client's recorded conference with respect to Client's obligations under this Section 8.7.

8.8 Cybersecurity.

- (a) Breach: Where a security breach or unauthorized release, as defined in N.C.G.S. § 75-61(14), or in any other state or federal regulation, is attributed to Company during the term of this Agreement, Company shall promptly notify Client, whether the breach relates Services provided under to this Agreement or not. In the event a security breach relates to Services provided under this Agreement, Company shall be responsible for complying with the requirements of the North Carolina Identity Theft Protection Act, N.C.G.S. §75-60 et. seq., including the requirement to provide notice to every affected person that there has been a security breach following discovery or notification of the breach. Where a security breach or unauthorized release is attributed to Company, Company shall pay for or promptly reimburse Client for the full cost of compliance with the North Carolina Identity Theft Protection Act.
- (b) Cyber Insurance: Company shall maintain cyber liability insurance in the minimum amount of \$1,000,000 per occurrence, \$3,000,000 aggregate for each policy year, including third-party coverage for incidents or associated impacts caused directly or indirectly by the third-party. A policy maintained to satisfy the requirement of this paragraph shall not exclude coverage for ransomware, malware, intellectual property, or data breach.
- (c) CJIS Compliance: This Agreement incorporates by reference the requirements of the Criminal Justice Information Services (CJIS) Security Policy, and as referenced in Title 28 CFR 20.33.(a)(7), issued by the Federal Bureau of Investigation, Criminal Justice Information Services Division, as in force as of the date of this Agreement and as may, from time to time hereafter, be amended. Company covenants that it has the technological capability to handle Criminal Justice Information (CJI), as that term is defined by the FBI CJIS Security Policy, in the manner required by the CJIS Security Policy. Contractor expressly acknowledges that the CJIS Security Policy places restrictions and limitations on the

access to, use of, and dissemination of CJI and hereby covenants that its system will abide by those restrictions and limitations.

(d) **Cybersecurity Audit:** Client may perform cybersecurity audits, including, but not limited, to penetration testing, vulnerability scanning, and general auditing of Company's privacy and security safeguards. Client may utilize third-party contractors to perform said cybersecurity audits. Company shall provide reasonable access to its policies, procedures, data, and data stored by Company on behalf of Client for the purposes of cybersecurity audits. Client shall share the results of any such cybersecurity audit with Company and Company shall use reasonable efforts to implement recommendations of the same.

9. General Provisions.

9.1 Non-Hire Provision. Each party to the Agreement agrees that it will not hire, employ or contract with, or solicit to hire, employ or contract with, any person who is, or within the immediately preceding one year was, an employee or subcontractor of the other party to the Agreement for any purposes during the term of the Agreement, or for a period of one year after the Agreement terminates without the consent of the other party.

9.2 Conflict. Any purchase order or other document issued by Client is for administrative convenience only and does not govern, control or amend the terms of the Agreement. In the event of any conflict between this Master Agreement and an Order, the Order shall prevail..

9.3 Survival. In the event of any expiration or termination of the Agreement, Sections 2, 3, 4, 5, 6, 7, 8 and 9 of this Master Agreement shall survive and shall continue to bind the parties.

9.4 Governing Law. The Agreement shall be governed in all respects by the laws of the United States of America and the State of North Carolina without regard to conflicts of law principles. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to the Agreement.

9.5 Forum. All disputes arising under the Agreement shall be brought in the state or federal courts located in Henderson County, North Carolina, as permitted by law. The state and federal courts located in Henderson County, North Carolina shall each have exclusive jurisdiction over disputes under the Agreement. Client consents to the personal jurisdiction of the above courts.

9.6 Injunctive Relief. It is understood and agreed that, notwithstanding any other provisions of the Agreement, breach of the provisions of the Agreement will cause the nonbreaching party irreparable damage for which recovery of money damages would be inadequate, and that the nonbreaching party shall therefore be entitled to obtain timely injunctive relief to protect said party's rights under the Agreement in addition to any and all remedies available at law.

9.7 Notices. All notices or reports permitted or required under the Agreement shall be in writing and shall be delivered by: (i) personal delivery, (ii) FedEx, signature required, or other reliable commercial delivery service, or (iii) certified or registered mail, return receipt requested, and shall be deemed given upon personal delivery or signed receipt. Notices shall be sent to Company at the addresses described on the first page of this Master Agreement in the definition of Company and to Client at the address set forth in the applicable Order or such other address as either party may designate for itself in writing. All notices to Company must be to its President to be effective. All notices to Client must be to its City Manager to be effective.

9.8 No Agency. Nothing contained herein shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties.

9.9 Force Majeure. Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, power failure, communications delays/outages, material shortages or any other cause which is beyond the reasonable control of such party.

9.10 Waiver. The failure of either party to require performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.

9.11 Severability. In the event that any provision of the Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render the Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the

objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.

9.12 Reserved.

9.13 Headings. The section headings appearing in this Master Agreement are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or extent of such section or in any way affect this Master Agreement.

9.14 Entire Agreement. The Agreement completely and exclusively states the agreement of the parties regarding its subject matter. It supersedes, and its terms govern, all prior proposals, agreements, or other communications between the parties, oral or written, regarding such subject matter. The Agreement shall not be modified except by a subsequently dated written amendment signed on behalf of Company and Client by their duly authorized representatives.

Exhibit A Hourly Rates

Service Area	Hourly Bill Rate	Description of Service Area
Consulting & Project Management	\$ 225.00	Consulting (Design, Architecture, Planning); Technology Assessments; Security Audits. Project Management. CIO Consulting Services including without limitation product evaluations and application/infrastructure planning services.
Application Development	\$ 225.00	Application Software development, design, testing, and code revisions. Systems Programming (System Level Scripting/Automation). All SharePoint services.
Web Design Services	\$ 195.00	Web site design and implementation services which are NOT built on a Microsoft SharePoint platform.

Infrastructure Deployment Services	\$	200.00	Installation and Setup of the following: Networks, Electronic Messaging Systems, Servers, SANs, VMWare, Citrix, Network Domains, and Desktop Deployments.
Infrastructure Maintenance Services	\$	190.00	Maintenance Services for the following: Networks, Electronic Messaging Systems, Servers, SANs, VMWare, Domains, Microsoft Server, and Desktop support.
Travel Time	\$	120.00	Travel time to and from the Client. This rate includes the mileage expense at the current IRS approved mileage rate.
After Hours Support Services	\$	249.00	All reactive support services provided to Client outside of the hours of 8am to 5pm Monday through Friday and all services provided on National Holidays



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Adam Murr **MEETING DATE:** 10/03/2024
AGENDA SECTION: CONSENT **DEPARTMENT:** Administration
TITLE OF ITEM: October 2024 Budget Amendments – *Adam Murr, Budget & Eval. Director*

SUGGESTED MOTION(S):

I move City Council adopt budget amendments 10032024-01, 10032024-02, 10032024-03, and 10032024-04 as presented.

SUMMARY:

10032024-01: An amendment increasing the Water Treatment Plant 15 MGD Expansion Project by \$332,900 to a total of \$2,464,400 following the project bid opening. The project will be funded by a 2025 Series Water and Sewer Revenue Bond.

10032024-02: An amendment to the Environmental Services Fund (068) for retiree payments.

10032024-03: An amendment transferring \$130,000 from ARP Funds and \$75,025 from the Grey Mill Project (fund 301, #18007) to the Governmental Capital Project Fund (410) for the completion of the Ashe St. CDBG Project (#G2201). The amendment increases the total appropriation for the Ashe St. Project to \$955,025.

10032024-04: An amendment reflecting a project ordinance and reimbursement resolution for the Above the Mud Greenway and Streetscape Project, #24011.

BUDGET IMPACT: Summarized above.

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS: Budget amendments 10032024-01 through 10032024-04.

TO MAYOR & COUNCIL
APPROVAL: October 3, 2024

FISCAL YEAR 2025
FORM: 10032024-01

BUDGET AMENDMENT

FUND 460

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
460-0000-470100-19207	Debt Proceeds ('25 Rev. Bond)	2,131,500	332,900	-	2,464,400
460-7055-550103-19207	Capital Outlay - CIP	2,131,500	332,900	-	2,464,400
FUND 460 (#19207)	TOTAL REVENUES	-	332,900	-	2,464,400
15 MGD Expansion	TOTAL EXPENDITURES	-	332,900	-	2,464,400

An amendment increasing the capital project ordinance (CPO) for the 15 MGD Expansion Project (#19207) project.

The City Manager and City Clerk certify budget ordinance amendment 10032024-01 was approved by City Council on October 3, 2024.

 City Manager

 Date

 City Clerk

 Date

TO MAYOR & COUNCIL
APPROVAL: October 3, 2024

FISCAL YEAR 2025
FORM: 10032024-02

BUDGET AMENDMENT

FUND 068					
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
068-7855-501001	Salaries Regular	587,088	-	9,500	577,588
068-7855-502055	Retiree Insurance	-	9,500	-	9,500
FUND 068	TOTAL REVENUES	-	-	-	-
Env. Services Fund	TOTAL EXPENDITURES	587,088	9,500	9,500	587,088

An amendment increasing Retiree Insurance to cover the cost of a recently retired Environmental Services Employee.

The City Manager and City Clerk certify budget ordinance amendment 10032024-02 was approved by City Council on October 3, 2024.

 City Manager

 Date

 City Clerk

 Date

TO MAYOR & COUNCIL
APPROVAL: October 03, 2024

FISCAL YEAR 2025
FORM: 10032024-03

BUDGET AMENDMENT

FUND 010 301 410					
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
301-0000-470100-18007	Transfer in (from 010)	514,272	-	-	514,272
301-0000-470100-18007	Transfer in (from 032)	50,915	-	-	50,915
301-0000-_____ -18007	Note Receivable	729,594	-	-	729,594
301-0000-420050-18007	Grant (NC Commerce)	500,000	-	-	500,000
301-0000-460110-18007	Reimbursements	40,000	-	-	40,000
301-0000-550103-18007	Capital Outlay CIP	799,166	-	-	799,166
301-0000-598600-18007	Loan to Outside Org (Developer)	500,000	-	-	500,000
301-0000-598901-18007	Transfer out (to 010)	535,615	-	75,025	460,590
301-0000-598901-18007	Transfer out (to 301, #18007)	-	75,025	-	75,025
FUND 301	TOTAL REVENUES	1,834,781	-	-	1,834,781
Grey Mill Project #18007	TOTAL EXPENDITURES	1,834,781	75,025	75,025	1,834,781
010-0000-470900	Fund Balance Appropriated (ARP)	130,000	-	-	130,000
010-0000-598901	Transfer out (to 410, #G2201)	130,000	-	-	130,000
FUND 010	TOTAL REVENUES	130,000	-	-	130,000
General Fund	TOTAL EXPENDITURES	130,000	-	-	130,000
410-0000-420050-G2201	Grant Revenue	750,000	-	-	750,000
410-0000-420050-G2201	Transfer in (from 010, ARP Funds)	-	130,000	-	130,000
410-0000-420050-G2201	Transfer in (from 301, #18007)	-	75,025	-	75,025
410-1014-550102-G2201	Capital Outlay- Fees and Services	750,000	205,025	-	955,025
FUND 410	TOTAL REVENUES	750,000	205,025	-	955,025
Ashe St. CDBG #G2201	TOTAL EXPENDITURES	750,000	205,025	-	955,025

An amendment transferring \$130,000 from ARP Funds and \$75,025 from the Grey Mill Project (fund 301, #18007) to the Governmental Capital Project Fund (410) for the completion of the Ashe St. CDBG Project (#G2201). The amendment increases the total appropriation for the Ashe St. Project to \$955,025.

The City Manager and City Clerk certify budget ordinance amendment 10032024-03 was approved by City Council on October 03, 2024.

 City Manager

 Date

 City Clerk

 Date

TO MAYOR & COUNCIL
APPROVAL: October 03, 2024

FISCAL YEAR 2025
FORM: 10032024-04

BUDGET AMENDMENT

FUND 410					
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
410-0000-420050-24011	Grant Revenue (RAISE Grant)	-	75,000	-	75,000
410-1014-519200-24011	Contracted Services	-	75,000	-	75,000
FUND 410	TOTAL REVENUES	-	75,000	-	75,000
Above the Mud, #24011	TOTAL EXPENDITURES	-	75,000	-	75,000

An amendment reflecting the adoption of a project ordinance for the Above the Mud Greenway and Streetscape Project, #24011. The City intends to submit for a RAISE grant to fund the project.

The City Manager and City Clerk certify budget ordinance amendment 10032024-04 was approved by City Council on October 03, 2024.

 City Manager

 Date

 City Clerk

 Date



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Adam Murr **MEETING DATE:** 10/03/2024

AGENDA SECTION: CONSENT **DEPARTMENT:** Administration

TITLE OF ITEM: Above the Mud Greenway and Streetscape Project Capital Project Ordinance and Reimbursement Resolution – *Adam Murr, Budget & Eval. Director*

SUGGESTED MOTION(S):

I move City Council adopt the Capital Project Ordinance and Reimbursement Resolution for the Above the Mud Greenway and Streetscape Project, #24011 as presented.

SUMMARY:

General Statute 159-13.2 provides North Carolina local governments the power to grant and maintain capital and grant project ordinances (CPOs and GPOs).

Above the Mud Greenway and Streetscape Project, #24011. A Capital Project Ordinance for the Above the Mud Greenway and Streetscape Project, #24011. The proposed appropriation amount is \$75,000, reflective of an anticipated RAISE grant. A future budget amendment is anticipated for the construction phase of the project, estimated at the current time to be \$19,147,701.

BUDGET IMPACT: Attached CPO and Reimbursement Resolution.

Is this expenditure approved in the current fiscal year budget? N/A

If no, describe how it will be funded. N/A

ATTACHMENTS:

1. Grant Project Ordinance #24011.
2. Reimbursement Resolution #24011.

Ordinance # _____

**CAPITAL PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE
ABOVE THE MUD GREENWAY AND STREETScape PROJECT, #24011**

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the Above the Mud Greenway and Streetscape Project, #24011.

Section 2: The following amounts are appropriated for the project(s):

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
410	1014	519200	24011	Contracted Services	\$75,000
Total Project Appropriation					\$75,000

Section 3: The following revenues are anticipated to be available:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
410	0000	420050	24011	Grant Revenue (RAISE Grant)	(\$75,000)
Total Project Appropriation					(\$75,000)

Section 4: The Finance Director is hereby directed to maintain within the General Fund and Governmental Capital Project Fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the General Fund and Governmental Capital Project Fund, as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this capital project shall be furnished to the City Clerk, Finance Director, and City Manager for direction in carrying out this project.

Section 9: The City Manager, or designee, is authorized to declare the project completed, close the project ordinance, and distribute remaining project funds to the appropriate operating fund or reserve fund.

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this 3rd day of October 2024.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

Resolution # _____

**HENDERSONVILLE, NORTH CAROLINA
DECLARATION OF OFFICIAL INTENT TO REIMBURSE**

BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina, this declaration (the "Declaration") is made pursuant to the requirements of the United States Treasury Regulations Section 1.150-2 and is intended to constitute a Declaration of Official Intent to Reimburse under such Treasury Regulations Section.

The undersigned is authorized to declare the official intent of HENDERSONVILLE, North Carolina (the "Issuer") with respect to the matters contained herein.

Expenditures to be Incurred. The Issuer anticipates incurring expenditures (the "Expenditures") for EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE Above the Mud Greenway and Streetscape Project (#24011), ORDINANCE # _____ (the "Projects").

Plan of Finance. The Issuer intends to finance the costs of the Project(s) with the debt proceeds to be issued by the Issuer (the "Borrowing"), the interest on which is to be excluded from gross income for Federal income tax purposes.

Maximum Principal Amount of Debt to be Issued. The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is \$19,147,001.

Declaration of Official Intent to Reimburse. The Issuer hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for any of the Expenditures incurred by it prior to the issuance of the Borrowing.

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this 3rd day of October 2024.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

Proclamation

American Pharmacists Month

WHEREAS, Pharmacy is one of the oldest of the health professions concerned with the health and well-being of all people; and

WHEREAS, Today there are more than 300,000 pharmacists licensed in the United States providing services to ensure the safe and effective use of all medications; and

WHEREAS, The safe and effective use of medications, as a cost-effective alternative and a mechanism to avoid more expensive medical procedures, is a major force in moderating overall healthcare costs; and

WHEREAS, Today’s powerful and complex medications require greater attention to the manner in which they are used by different population groups – both clinically and demographically; and

WHEREAS, It is important that all users of prescription and nonprescription medications, their families or their caregivers, be knowledgeable about and share responsibility for their own drug therapy; and

WHEREAS, Pharmacists have extensive education and expertise on drugs and medication therapy, making them ideally suited to work with patients and their health care team members to improve medication use and outcomes; and

WHEREAS, Pharmacists provide patients with expertise, knowledge and accessibility, all crucial factors to support improvement in our nation’s public health and have helped to combat the COVID-19 pandemic over the past 4 years; and

WHEREAS, Pharmacists are utilized to the full capacity of their license with recent expansions in practice to include prescribing and providing oral contraceptives, long acting injectables, nicotine replacement products and continue to have a broadening role in improving access to high quality healthcare; and

WHEREAS, Pharmacists are best positioned to be the health care professionals to help patients improve their adherence to their medication and provide patient care services that ensure optimal medication therapy outcomes; and

WHEREAS, The City of Hendersonville is honored to have the students of the Wingate University School of Pharmacy as they enjoy the state of the art facility to further their education in Hendersonville, a place they can call home, and to express our appreciation for fulfilling their mission to give back and serve this community with both student pharmacists and pharmacy graduates.

NOW, THEREFORE, I, Barbara Volk, Mayor of the City of Hendersonville do hereby proclaim the month of October to be

“American Pharmacist Month”

in the City of Hendersonville and ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787.

PROCLAIMED this 3rd day of October, 2024.

Barbara G. Volk, Mayor
City of Hendersonville

Attest:

Jill Murray, City Clerk

PROCLAMATION

City of Hendersonville,

Fire Prevention Proclamation 2024

WHEREAS, the city of Hendersonville, North Carolina is committed to ensuring the safety and security of all those living in and visiting Hendersonville; and

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and

WHEREAS, home fires caused 2,840 civilian deaths in the United States in 2021, according to the National Fire Protection Association® (NFPA®), and fire departments in the United States responded to 353,500 home fires; and

WHEREAS, smoke alarms sense smoke well before you can, alerting you to danger in the event of fire in which you may have as little as 2 minutes to escape safely; and

WHEREAS, working smoke alarms cut the risk of dying in reported home fires in half; and

WHEREAS, the city of Hendersonville residents should be sure everyone in the home understands the sounds of the smoke alarms and knows how to respond; and

WHEREAS, the city of Hendersonville residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire; and

WHEREAS, the city of Hendersonville residents will make sure their smoke and carbon monoxide (CO) alarms meet the needs of all their family members, including those with sensory or physical disabilities; and

WHEREAS, the city of Hendersonville first responders are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and

WHEREAS, the city of Hendersonville residents that are responsive to public education measures are better able to take personal steps to increase their safety from fire, especially in their homes; and

WHEREAS, the 2024 Fire Prevention Week™ theme, “Smoke Alarms: Make Them Work For You!™” effectively serves to remind the city of Hendersonville it is important to have a home fire escape plan.

THEREFORE, I Barbara G. Volk, Mayor of Hendersonville, NC, do hereby proclaim October 6-12, 2024, as Fire Prevention Week throughout this city, and I urge all the people of Hendersonville to plan and practice a home fire escape for Fire Prevention Week 2024 and to support the many public safety activities and efforts of the city of Hendersonville’s fire and emergency services.

PROCLAIMED this 3rd day of October, 2024.

Seal

Barbara G. Volk, Mayor
City of Hendersonville

Attest: _____

Jill Murray, City Clerk

MAYORAL PROCLAMATION

Section 6, Item C.

GreaseBusters Day 2024

Fighting Hendersonville's Most Wanted-
Fats, Oils, Grease, and Wipes!



October 24, 2024



WHEREAS, clean water is our most valuable natural resource; and

WHEREAS, Fats, oils, and grease (FOG) pollution discharge poses a serious risk to the integrity of our water systems, interferes with the ability to properly clean polluted waters; and

WHEREAS, proper treatment of polluted waters is essential for public health and welfare as well as a healthy natural environment; and

WHEREAS, the hard work performed by the entire water sector, surveying and repairing buried pipes, operators ensuring the safety and protection of the natural environment in which we all live, and ensuring compliance with pollution control requirements; and

WHEREAS, FOG buildup along with wipes in a collection system is a significant cause of sanitary sewer overflows; and

WHEREAS, we are all stewards of the water infrastructure upon which current and future generations depend; and

WHEREAS, the citizens of our city are called upon to help protect our critical water infrastructure by limiting the amount of FOG discharged into our water systems

NOW, THEREFORE, I, Barbara Volk, Mayor of the City of Hendersonville, do hereby proclaim October 24, 2024 to be GreaseBusters Day within the City of Hendersonville.

PROCLAIMED this 3rd day of October, 2024.

Barbara G. Volk, Mayor
City of Hendersonville

Attest:

Jill Murray, City Clerk

Proclamation

Duchenne Muscular Dystrophy Awareness

WHEREAS, Duchenne muscular dystrophy (DMD) is a genetic disorder characterized by progressive muscle degeneration and weakness, predominantly affecting young boys and rare girls, with an estimated incidence of 1 in every 3,500 male births worldwide; and

WHEREAS, Duchenne muscular dystrophy, though a rare disease, significantly impacts the lives of individuals and families, placing physical, emotional, and financial burdens on those affected and their communities; and

WHEREAS, significant advancements have been made in the research, treatment, and understanding of Duchenne muscular dystrophy, thanks to the efforts of medical professionals, scientists, and patient advocacy groups, yet there remains no cure for this devastating condition; and

WHEREAS, raising public awareness about Duchenne muscular dystrophy is essential in fostering understanding, generating support for research initiatives, and promoting policies that assist individuals and families living with this disease; and

WHEREAS, the strength, resilience, and determination of those living with Duchenne muscular dystrophy, their families, and caregivers deserve our recognition and support, as their efforts to raise awareness continue to inspire hope for a future where DMD is treatable and curable; and

WHEREAS, during Duchenne Muscular Dystrophy Awareness Month, we stand united in our commitment to bring attention to this disorder and advocate for the well-being of all individuals impacted by DMD, ensuring that they have access to the resources, care, and opportunities they need to thrive; and

WHEREAS, the Jett Foundation, a leading nonprofit organization, has been dedicated to increasing awareness, raising critical funds, and providing essential programs for individuals and families affected by Duchenne muscular dystrophy since its founding in 2001, working tirelessly to empower communities and improve the quality of life for those living with DMD through advocacy, research, and educational initiatives.

NOW, THEREFORE, I, Barbara Volk, Mayor of the City of Hendersonville, do hereby proclaim September, 2024 as

“Duchenne Muscular Dystrophy Awareness Month”

in the City of Hendersonville and call upon all citizens, community agencies, faith groups, medical facilities, elected leaders and businesses to increase their participation in our efforts to support families, thereby supporting early childhood programs and preventing child abuse and strengthening the communities in which we live.

PROCLAIMED this 3rd day of October, 2024.

Seal

Barbara G. Volk, Mayor
City of Hendersonville

Attest: _____
Jill Murray, City Clerk



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Angela Beeker, City Attorney **MEETING DATE:** October 3, 2024
AGENDA SECTION: NEW BUSINESS **DEPARTMENT:** Legal Department
TITLE OF ITEM: New Grant Opportunity, Our State, Our Homes – *Angela S. Beeker, City Attorney*

SUGGESTED MOTION(S):

I move City Council to authorize staff to proceed with the preparation of an application for the Our State, Our Homes, grant being offered by UNC-Chapel Hill, through their Carolina Across 100 Program.

SUMMARY:

Staff has been made aware of a grant opportunity to potentially provide technical assistance to the City in the formation of a Community Land Trust. Carolina Across 100 has a grant that is part of their Our State, Our Homes program that provides funds and technical and educational assistance for a project in communities interested in working across sectors to improve access to and availability of affordable housing options. An information session is being held October 9, 2024, which staff will attend, and grant applications are due by October 18, 2024.

ATTACHMENTS:

none

**FISCAL YEAR 2023 - 2024 (FY24)
BUDGET AMENDMENTS**

Completed	Corrected
Proposed	Denied

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-1002-539005	Health and Welfare	97,744	-	10,170	87,574
010-1523-534000	Non-Capital Equipment	13,600	17,345	-	30,945

010-1523-519200	Contracted Services	200,000	-	32,040	167,960
010-1002-519200	Contracted Services	36,000	32,040	-	68,040
060-7002-519200	Contracted Services	117,600	-	30,056	87,544
060-1002-519200	Contracted Services	-	30,056	-	30,056
020-2102-519200	Contracted Services	195,566	-	9,068	186,498
020-1002-519200	Contracted Services	-	9,068	-	9,068

010-1523-519200	Contract Services	167,960	-	12,960	155,000
010-1010-531210	Permits, License, Fees	179,016	12,960	-	191,976
020-2102-519200	Contract Services	186,498	-	432	186,066
020-1010-531210	Permits, License, Fees	2,232	432	-	2,664
021-2202-521001	Supplies and Materials	15,000	-	432	14,568
021-1010-531210	Permits, License, Fees	0	432	-	432
060-7002-519200	Contract Services	87,544	-	1,944	85,600
060-1010-531210	Permits, License, Fees	172,655	1,944	-	174,599
064-7455-521001	Supplies and Materials	2,000	-	1,944	56
064-1010-531210	Permits, License, Fees	0	1,944	-	1,944
067-7555-531210	Permits, License, Fees	9,000	-	1,944	7,056
067-1010-531210	Permits, License, Fees	6,700	1,944	-	8,644
068-7855-534999	Contingency	3,772	-	1,944	1,828
068-1010-531210	Permits, License, Fees	6,697	1,944	-	8,641

010-1008-531255	Bank Services Charges	30,000	-	5,000	25,000
010-1008-521010	Office Supplies	3,500	5,000	-	8,500
060-1008-531255	Bank Services Charges	100,000	-	5,000	95,000
060-1008-521010	Office Supplies	8,000	5,000	-	13,000

064-7455-531260	Credit Card Processing Fees	58,242	-	1,230	57,012
060-1010-519200	Office Supplies	8,000	1,230	-	9,230

DESCRIPTION	APPROVED	TYPE	AMENDMENT NUMBER
Edwards Park Fence	yes	Adjustment	8/28/2024
Edwards Park Fence	yes	Adjustment	8/28/2024

Cleaning contract correction - move to admin b	yes	adjustment	8/28/2024
Cleaning contract correction - move to admin b	yes	adjustment	8/28/2024
Cleaning contract correction - move to admin b	yes	adjustment	8/28/2024
Cleaning contract correction - move to admin b	yes	adjustment	8/28/2024
Cleaning contract correction - move to admin b	yes	adjustment	8/28/2024
Cleaning contract correction - move to admin b	yes	adjustment	8/28/2024

Achieve It - BP	yes	Adjustment	8/29/2024
Achieve It - BP	yes	Adjustment	8/29/2024
Achieve It - BP	yes	Adjustment	8/29/2024
Achieve It - BP	yes	Adjustment	8/29/2024
Achieve It - BP	yes	Adjustment	8/29/2024
Achieve It - BP	yes	Adjustment	8/29/2024
Achieve It - BP	yes	Adjustment	8/29/2024
Achieve It - BP	yes	Adjustment	8/29/2024
Achieve It - BP	yes	Adjustment	8/29/2024
Achieve It - BP	yes	Adjustment	8/29/2024
Achieve It - BP	yes	Adjustment	8/29/2024
Achieve It - BP	yes	Adjustment	8/29/2024
Achieve It - BP	yes	Adjustment	8/29/2024
Achieve It - BP	yes	Adjustment	8/29/2024

Office Furniture- JB	yes	adjustment	9/9/2024
Office Furniture- JB	yes	adjustment	9/9/2024
Office Furniture- JB	yes	adjustment	9/9/2024
Office Furniture- JB	yes	adjustment	9/9/2024

Fourth Square	yes	adjustment	9/9/2024
Fourth Square	yes	adjustment	9/9/2024



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Jill Murray **MEETING DATE:** 10/03/2024
AGENDA SECTION: CLOSED SESSION **DEPARTMENT:** Administration

TITLE OF ITEM: Closed Session – *Jill Murray, City Clerk*

SUGGESTED MOTION(S):

I move that City Council enter closed session pursuant to N.C.G.S. § 143-318.11(a)(6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

SUMMARY:

City staff is requesting a closed session pursuant to N.C.G.S. § 143-318.11(a)(6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

BUDGET IMPACT: n/a

Is this expenditure approved in the current fiscal year budget? NA

If no, describe how it will be funded. NA

ATTACHMENTS:

None