



CITY OF HENDERSONVILLE CITY COUNCIL REGULAR MEETING

Operations Center - Assembly Room | 305 Williams St. | Hendersonville NC 28792
Thursday, August 04, 2022 – 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 – *Angela L. Reece, City Clerk*
 - B. Resolution to Accept an Offer of American Rescue Plan Funding – *Adam Steurer, Utilities Engineer*
 - C. Sole Source Purchase of a Standby Generator for the Fire Station 1 Project- *Adam Murr, Budget Manager*
 - D. Sole Source Purchase of Ortho Phosphate - *Ricky Levi, Water Treatment Facilities Manager*
 - E. Utility Easement Contract Resolution with AT&T – *John Connet, City Manager*
 - F. Sole Source Purchase of Bicarbonate - *Ricky Levi, Water Treatment Facilities Manager*
 - G. Sole Source Purchase of Coagulant - *Ricky Levi, Water Treatment Facilities Manager*
 - H. 7th Ave. Streetscape Construction Manager at Risk Selection – *Adela Gutierrez Ramirez, Civil Engineer I*
 - I. Engineering Services for the WWTF Aeration Basin No. 2 Repairs and Rehabilitation Project– *Adam Steurer, Utilities Engineer*
 - J. Authorization to Purchase Patrol Vehicles – *Blair Myhand, Chief of Police*
6. **PRESENTATIONS**
 - A. Quarterly MVP Recipients – *John Connet, City Manager*
7. **PUBLIC HEARINGS**

- [A.](#) Annexation: Public Hearing- Crest Road (Army Corps. of Engineers) (C22-43-ANX) – *Tyler Morrow, Planner II*
- [B.](#) Rezoning: Standard Rezoning – Crest Rd – US Army (P22-47-RZO) – *Matthew Manley, AICP – Planning Manager*
- [C.](#) Zoning Text Amendment: Animal Hospitals & Clinics in MIC (P22-58-ZTA) – *Matthew Manley, AICP – Planning Manager*
- [D.](#) Rezoning: Standard Rezoning – 1027 Fleming St-Riddle (P22-57-RZO) – *Matthew Manley, AICP – Planning Manager*
- [E.](#) Installment Financing Contract (IFC) 2022- *Adam Murr, Budget Manager*

8. UNFINISHED BUSINESS

- [A.](#) Board & Commission Vacant Seat Appointments – *Angela L. Reece, City Clerk*

9. NEW BUSINESS

- [A.](#) Proposal to Adjust Second Monthly Meeting Agenda Rules – *John Connet, City Manager*
- [B.](#) Update Regarding Remote Meetings – *Angie Beeker, City Attorney*
- [C.](#) Pickleball Court Discussion – *Tom Wooten, Public Works Director and Mark Stierwalt, Public Works Superintendent*
- [D.](#) Resolution Authorizing the Exchange of Approximately Sixteen Acres of Berkeley Park for Edwards Park – *John Connet, City Manager*
- [E.](#) Resolution Authorizing the Installation of a Stop Sign at the Intersection of Maple Street and 8th Avenue East – *John Connet, City Manager*
- [F.](#) Fire Station 1 and Edwards Park Guaranteed Maximum Price (GMP) - *Adam Murr, Budget Manager*

10. CITY COUNCIL COMMENTS

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

- [A.](#) Surplus Items Memo
- [B.](#) Cash and Investment Report, John Buchanan, Finance Director
- [C.](#) August 2022 Contingences Report – *Adam Murr, Budget Manager*

12. 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.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Angela Reece, *MPA, CMC, NCCMC*, **MEETING DATE:** August 4, 2022
City Clerk

AGENDA SECTION: CONSENT **DEPARTMENT:** Administration

TITLE OF ITEM: Adoption of City Council Minutes – *Angela L. Reece, City Clerk*

SUGGESTED MOTION(S):

I move that City Council adopt the minutes of the July 7, 2022 Regular Meeting.

SUMMARY:

The City Clerk has prepared minutes of the following meeting(s) for Council consideration:

- i. July 7, 2022, Regular Session Minutes

BUDGET IMPACT: \$0

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

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

ATTACHMENTS:

- i. July 7, 2022, Regular Session Minutes [DRAFT]



MINUTES

July 7, 2022

REGULAR MEETING OF THE CITY COUNCIL [ELECTRONIC]
CITY OPERATIONS CENTER | 305 WILLIAMS ST. | 5:45 p.m.

Present: Mayor Barbara G. Volk and Council Members: Mayor Pro Tem Lyndsey Simpson, Dr. Jennifer Hensley, and Debbie O'Neal-Roundtree

Participating Remotely: Jerry A. Smith Jr., J.D.

Staff Present: City Manager John F. Connet, Assistant City Manager Brian Pahle, City Attorney Angela Beeker, City Clerk Angela Reece, Communications Manager Allison Justus, Budget Manager Adam Murr, and others

1. CALL TO ORDER

Mayor Volk called the meeting to order at 5:45 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.*

Lynn Williams addressed City Council regarding the Washburn tract and sustainability in the community. Ms. Williams expressed concerns regarding tree canopy loss and increasing temperatures.

4. CONSIDERATION OF AGENDA

Council Member Jerry A. Smith Jr., J.D. moved that Council remove item 9B, Municipal Service District Noise Ordinance, and place it on their August 4, 2022 meeting to allow more time to speak with affected business owners. A unanimous roll-call vote of the Council followed. Motion carried.

Council Member Debbie O'Neal-Roundtree moved that City Council approve the agenda as amended. A unanimous roll-call vote of the Council followed. Motion carried.

5. CONSENT AGENDA

A. Adoption of City Council Minutes – Angela L. Reece, City Clerk

I move that City Council approve the minutes of adopt the minutes of the May 25, 2022, Second Monthly Meeting, and June 2, 2022 Regular Meeting.

B. Annexation: Certificate of Sufficiency- Crest Road (Army Corps. of Engineers) (C22-43-ANX) – Tyler Morrow, Planner II

I move Council to accept the City Clerk's Certificate of Sufficiency for the petition submitted by Ralph J. Werthmann- Army Corps of Engineers- Savannah District and set August 4th, 2022, as the date for public hearing.

Resolution #R-22-75

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.2

WHEREAS, a petition requesting annexation of the satellite 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 satellite area described herein will be held at City Operations Center located at 305 William St. Hendersonville NC, 28792 at 5:45 p.m. August 4th, 2022, 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 PIN 9587-68-8771 described in the plat recorded in Book 2022 - ____ [to be inserted at recording of the plat] of the Henderson County Registry, said PIN 9587-68-8771 being described by metes and bounds as follows:

A legal description of an existing tract of land containing 20.603 acres situated in Blue Ridge Township, Henderson County, North Carolina and being the tract of land now or formerly owned by United States of America as described in Deed Book 3904, Pages 139-142 and being the property identified as Henderson County Tax PIN # 9587688771 and being more fully described as follows:

Beginning at the **Point of Beginning (POB)** at a magnetic nail set in the centerline of Crest Road (SR1803) at the southwestern corner of the subject property and having (NAD 83/2011) North Carolina grid coordinates of North 578,010.020 feet, East 986,549.356 feet and being located N32°00'04"W and a grid distance of 4,930.99 feet from NGS monument "DEND" (PID:DG4651) with the published (NAD83/2011) North Carolina grid coordinates of North 573827.40 feet, East 989163.05 feet; thence from the **POB** and with the line of now or formerly (N/F) Bobby Ramey and wife, Wendy H. Ramey (DB 3384, PG 712; DB 1173, PG 1) N06°10'46"E a distance of 707.56 feet to a 3/4" iron pipe found; thence continuing with the Ramey line N53°49'25"W a distance of 314.22 feet to an iron axle found, a common corner between Ramey and N/F Jeffery C. Justus (DB 700, PG 854); thence with Justus line N53°27'04"W a distance of 81.78 feet to an 3/4" iron pipe found beside a stone and being a common corner between Jeffery C. Justus and N/F Boyd L. Hyder (DB 1157, PG 751); thence along the Hyder line N14°35'43"E a distance of 473.78 feet to a 1/2" iron pipe found in a ditch and being also a corner for N/F Henderson County Board of Public Education (DB 824, PG 216) ; thence with the Henderson County Board of Public Education line S65°43'08"E a distance of 1,014.61 feet to a 1/2" iron pipe found; thence continuing and passing through a corner for the Henderson County Board of Public Education and along the line of N/F Douglas Nichols and Cathy Nichols (DB 1165, PG 213) S54°51'37"E a distance of 253.37 feet to a magnetic nail set in the centerline of Crest Road (SR 1804); thence along the centerline of Crest Road the following nine (9) courses:

- (1) S41°25'14"W a distance of 27.75 feet to a computed point,
- (2) thence along a curve to the left with an arc length of 217.51 feet having a radius of 2,065.79 feet and a chord bearing of S38°24'15"W and chord distance of 217.41 feet to a computed point,
- (3) thence along a tangent S35°23'16"W a distance of 295.16 feet to a computed point,
- (4) thence along a tangent S36°18'13"W a distance of 77.31 feet to a computed point,
- (5) thence along a curve to the right and with an arc length of 195.34 feet having a radius of 671.75 feet and a chord bearing of S44°38'11"W and chord distance of 194.65 feet to a computed point,
- (6) thence along a tangent S52°58'01"W a distance of 46.25 feet to a computed point,
- (7) thence along a curve to the right with an arc length of 163.56 feet having a radius of 654.19 feet, and a chord bearing of S60°07'46"W and chord distance of 163.13 feet to a computed point,
- (8) thence continuing along a curve to the right with the arc length of 157.98 feet having a radius of 1876.45 feet, and a chord bearing of S69°42'14"W and chord distance of 157.94 feet to a computed point,
- (9) thence continuing along a curve to the right with the arc length of 178.98 feet having a radius of 843.77 feet, and a chord bearing of S78°11'34"W and chord distance of 178.65 feet to a magnetic nail set in the centerline of Crest Road (SR1803) and being the **POB** and containing 20.603 acres more or less and more completely shown on a unrecorded map entitled Satellite Annexation Plat for: "The City of Hendersonville" dated May 24,2022 by Joyner Keeny, PLLC of Rocky Mount, North Carolina. All distances are ground horizontal distances in U.S. Survey Feet, unless otherwise noted.

Re: Petition for Satellite Annexation

Petitioners: United States of America- Ralph J. Werthmann, Army Corps of Engineers-
Savannah District

File No. C22-43-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 this 7th day of July 2022.

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

C. Contract Award – Comprehensive Multi-Functional Copier/Printing Cost per Copy and Copy Management Service Leasing Agreement – Angela Reece, City Clerk

I move City Council adopt the Resolution by the City of Hendersonville City Council to Authorize the City Manager to Enter into a Contract for Comprehensive Multi-Functional Copier/Printing Cost per Copy and Copy Management Service Leasing Agreement as presented.

Resolution #R-22-76

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT FOR COMPREHENSIVE MULTI-FUNCTIONAL COPIER/PRINTING COST PER COPY AND COPY MANAGEMENT SERVICE LEASING AGREEMENT

WHEREAS, the City solicited proposals for cost per copy services and received two responses on November 12, 202; and

WHEREAS, the City's Technology Committee reviewed each proposal for completeness and accuracy determining RICCOH USA Inc., to have provided the lowest responsive, responsible proposal; and

WHEREAS, the proposal received is determined to be within budget.

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

1. The proposal for *Comprehensive Multi-Functional Copier/Printing Cost per Copy and Copy Management Service Leasing Agreement* is awarded to RICCOH USA Inc, the lowest responsive and responsible proposal at a cost of \$0.0411 per copy for black and white (35,000 per month minimum) and \$0.0646 per copy for color (15,000 per month minimum) for a term of five years.
2. The City Manager is authorized to execute a service agreement and contract to provide a copying service consistent with the terms of this resolution.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

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

D. Resolution Ratifying the Signing of Revised Automatic Aid Agreements with Dana, Blue Ridge, Valley Hill and Mountain Home Rural Fire Protection Districts – John Connet, City Manager

I move that the City Council adopt the resolution ratifying the City Manager's signing of the revised Automatic Aid Agreements with Dana, Blue Ridge, Valley Hill and Mountain Home Rural Fire Protection Districts.

Resolution #R-22-77

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL RATIFYING THE EXECUTION OF REVISED AUTOMATIC AID AGREEMENTS WITH DANA, BLUE RIDGE, VALLEY HILL AND MOUNTAIN HOME RURAL FIRE PROTECTION DISTRICTS

WHEREAS, the North Carolina General Assembly has enacted Chapter 58, Section 83-1 of the North Carolina General Statutes authorizing automatic aid assistance agreements between the City of Hendersonville Fire Department and adjoining Rural Fire Protection Districts (Districts); and

WHEREAS, the City of Hendersonville has the authority to annex real property into the municipal limits of the City, including properties located within Rural Fire Protection Districts; and

WHEREAS, when property located within the Rural Fire Protection Districts are annexed by the City of Hendersonville, any such property ceases to be a part of the Districts and ceases to be subject to the fire district tax for the Districts, resulting in lost revenue; and

WHEREAS, the City Council directed staff to amend the current automatic aid agreements to compensate the Rural Fire Protection Districts for lost revenue due to annexation by the City of Hendersonville; and

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

The City Manager is authorized to enter into revised automatic aid agreements with Dana, Blue Ridge, Valley Hill and Mountain Home Rural Fire Protection Districts. Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

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

E. Resolution Authorizing the City Manager to Enter into a Contract with Ahkirah Legal and Diversity Consulting – John Connet, City Manager

I move the adoption of the resolution authorizing the City Manager to enter into a contract with Ahkirah Legal and Diversity Consulting.

Resolution #R-22-78

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT WITH AHKIRAH LEGAL AND DIVERSITY CONSULTANTS

WHEREAS, advertised for consultant proposals to assist the City of Hendersonville with Diversity, Equity and Inclusion (DEI) efforts; and

WHEREAS, the City of Hendersonville received nine proposals from consulting companies who specialize in DEI work; and

WHEREAS, following an extensive evaluation of all proposals by internal and external stakeholders the selection committee recommend the hiring of Ahkirah Legal and Diversity Consultants.

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

The City Manager is authorized to enter into a contract with Ahkirah Legal and Diversity Consultants to assist with the development of a comprehensive Diversity, Equity and Inclusion Program in the amount not to exceed \$147,500, as presented.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

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

F. Resolution Designating The City's Zoning Administrator and Code Enforcement Officer(s) – Lew Holloway, Community Development Director

I move City Council ADOPT a resolution designating the Community Development Director as the City's Zoning Administrator. Furthermore, that the resolution also designates the Community Development Director and Zoning Enforcement Officer(s) as the City's Code Enforcement Officer(s).

Resolution #R-22-79

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL DESIGNATING THE CITY'S ZONING ADMINISTRATOR & CODE ENFORCEMENT OFFICER(S)

WHEREAS, the Zoning Administrator and Code Enforcement Officer(s) have defined roles within the City's Code of Ordinances, Zoning Code and Subdivision Code in the areas of enforcement and implementation of parts or all of these code requirements; and

WHEREAS, the City of Hendersonville wishes to associate these responsibilities with specific job titles as designated within the City's employment classification system; and

WHEREAS, the City of Hendersonville's recent updates and modification to this classification system and associated job descriptions necessitates establishing these roles by resolution;

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

3. The City of Hendersonville does designate the Community Development Director as the City's Zoning Administrator with all associated rights and responsibilities conveyed to whomever occupies that position within the organization.
4. Furthermore, the City of Hendersonville does designate the Community Development Director and Zoning Enforcement Officer(s) as the City's Code Enforcement Officer(s) with all associated rights and responsibilities conveyed to whomever occupies those positions within the organization.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

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

G. Resolution to Approve Agreement for Bridge Inspections Services NCDOT – Tom Wooten, Public Works Director

I move that City Council adopt the Resolution to Authorize The City Manager to Execute an Agreement to Enter Into A Ten-Year Agreement With The North Carolina Department Of Transportation For Bridge Inspection Services Contract.

Resolution #R-22-80

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

WHEREAS, the National Bridge Inspection Standards (NBIS) requires that all structures defined as bridges located on public roads must be inspected on a cycle, not to exceed twenty-four (24) months.

WHEREAS, the City of Hendersonville has requested the North Carolina Department of Transportation (hereinafter referred to as the Department) or a Consultant retained by the Department to inspect and analyze all public bridges located on its Municipal Street System in compliance with the National Bridge Inspection Standards; and

WHEREAS, the Department and the City of Hendersonville are authorized to enter into an agreement for such work under the provisions of G.S. 136-18(12), G.S. 136-41.3, and G.S. 136-66.1; and,

WHEREAS, the City of Hendersonville has approved the herein above referenced inspections and analysis and the City of Hendersonville has agreed to participate in certain costs thereof in the manner and to the extent as hereinafter set out.

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

1. The City Manager is authorized to enter into a ten-year agreement with the North Carolina Department of Transportation for bridge inspection services contract.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

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

H. Utility Extension Agreement for the Asheville U.S. Army Reserve Center – Brendan Shanahan, Civil Engineer IV

I move that City Council approve the Resolution authorizing the City Manager to enter into a Utility Extension Agreement with the United States of America for the Asheville U.S. Army Reserve Center as presented and recommended by staff.

Resolution #R-22-81

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION
AGREEMENT WITH THE UNITED STATES OF AMERICA FOR THE ASHEVILLE U.S.
ARMY RESERVE CENTER**

WHEREAS, the City of Hendersonville owns, operates and maintains water and sewer systems to serve customers throughout Henderson County; and

WHEREAS, residential, commercial, and industrial developments often require public water service as a part of their development projects; and

WHEREAS, the Developer extends public water and sewer lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

WHEREAS, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the water and sewer line extension process; and

WHEREAS, the United States of America, the “Developer” and “Owner”, will enter into a Utility Extension Agreement with the City to provide water and sewer service to the Asheville U.S. Army Reserve Center.

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

1. The Utility Extension Agreement with the United States of America, the “Developer” and “Owner” to provide water and sewer service to the Asheville U.S. Army Reserve Center is approved, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

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

I. Utility Extension Agreement for the Dairi-O Restaurant – Brendan Shanahan, Civil Engineer IV

I move that City Council approve the Resolution authorizing the City Manager to enter into a Utility Extension Agreement with D2/Dairi-O, LLC for the Dairi-O Restaurant as presented and recommended by staff.

Resolution #R-22-82

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION AGREEMENT WITH D2/DAIRIO, LLC FOR THE DAIRI-O RESTAURANT

WHEREAS, the City of Hendersonville owns, operates and maintains a sewer system to serve customers throughout Henderson County; and

WHEREAS, residential, commercial, and industrial developments often require public water service as a part of their development projects; and

WHEREAS, the Developer extends public sewer lines to their site, which upon completion and acceptance, are provided to the City to own, operate, and maintain; and

WHEREAS, the City requires a Utility Extension Agreement to be executed to establish requirements of both the Developer and the City for the sewer line extension process; and

WHEREAS, D2/Dairio, LLC, the “Developer” and “Owner”, will enter into a Utility Extension Agreement with the City to provide sewer service to the Dairi-O Restaurant.

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

1. The Utility Extension Agreement with D2/Dairio, LLC, the “Developer” and “Owner” to provide sewer service to the Dairi-O Restaurant is approved, as presented.
2. City Manager is authorized to execute the Utility Extension Agreement, and to approve and execute amendments to the Utility Extension Agreement in the future provided such amendments do not impose a financial obligation upon the City.
3. City Manager is authorized to acquire easements, rights-of-way, and other interests in real property consistent with the terms of the Utility Extension Agreement, provided that such acquisition does not impose a financial obligation upon the City.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

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

J. Annual Resolution Authorizing Increase in Micro-Purchase Threshold – Daniel Heyman, Staff Attorney

I move City Council adopt the Resolution by the City of Hendersonville City Council Authorizing Increase of Micro-Purchase Thresholds as presented.

Resolution #R-22-83

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL AUTHORIZING INCREASE IN MICRO-PURCHASE THRESHOLD

WHEREAS, from time to time, the City of Hendersonville purchases goods and services using federal funding subject to the procurement standards in 2 C.F.R. Part 200, Subpart D; and

WHEREAS, the City of Hendersonville’s procurement of such goods and services is subject to the purchasing policies of the City, including but not limited to the City of Hendersonville Uniform Guidance Procurement Policy; and

WHEREAS, the City of Hendersonville is a non-Federal entity under the definition set forth in 2 C.F.R. § 200.1; and

WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(ii), a non-Federal entity may award micro-purchases without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents that the non-Federal entity files accordingly; and

WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iii), a non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures; and

WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), a non-Federal entity may self-certify on an annual basis a micro-purchase threshold not to exceed \$50,000 and maintain documentation to be made available to a Federal awarding agency and auditors in accordance with 2 C.F.R. § 200.334; and

WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), such self-certification must include (1) a justification for the threshold, (2) a clear identification of the threshold, and (3) supporting documentation, which, for public institutions, may be a “higher threshold consistent with State law”; and

WHEREAS, G.S. 143-129(a) and G.S. 143-131(a) require the City of Hendersonville to conduct a competitive bidding process for the purchase of (1) “apparatus, supplies, materials, or equipment” where the cost of such purchase is equal to or greater than \$30,000, and (2) “construction or repair work” where the cost of such purchase is greater than or equal to \$30,000; and

WHEREAS, North Carolina law does not require a unit of local government to competitively bid for purchase of services other than services subject to the qualifications-based selection process set forth in Article 3D of Chapter 143 of the North Carolina General Statutes (the “Mini-Brooks Act”); and

WHEREAS, G.S. 143-64.32 permits units of local government to exercise, in writing, an exemption to the qualifications-based selection process for services subject to the Mini-Brooks Act for particular projects where the aggregate cost of such services do not exceed \$50,000; and

WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), the City Council for the City of Hendersonville now desires to adopt higher micro-purchase thresholds than those identified in 48 C.F.R. § 2.101 in order to take advantage of increased efficiencies and cost savings that are available under an increased micro-purchase threshold exemption.

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

1. In accordance with 2 C.F.R. § 200.320(a)(1)(iv) and the applicable provisions of North Carolina law, the City of Hendersonville hereby self-certifies the following micro-purchase thresholds, each of which is a “higher threshold consistent with State law” under 2 C.F.R. § 200.320(a)(1)(iv)(C) for the reasons set forth in the recitals to this resolution:

A. \$30,000, for the purchase of “apparatus, supplies, materials, or equipment”;

and

B. \$30,000, for the purchase of “construction or repair work”; and

C. \$50,000, for the purchase of services not subject to competitive bidding under North Carolina law;

D. \$50,000, for the purchase of services subject to the qualifications-based selection process in the Mini-Brooks Act; provided that such threshold shall apply to a contract only if the City has exercised an exemption to the Mini-Brooks Act, in writing, for a particular project pursuant to G.S. 143-64.32. If the exemption is not authorized, the micro-purchase threshold shall be \$10,000.

E. \$50,000 for any contract, other than those described in A-D above, that is exempt from competitive procurement requirements under North Carolina State Law.

2. The self-certification made herein shall be effective as of the date hereof and shall be applicable until the end of the current fiscal year of the City of Hendersonville but shall not be

applicable to Federal financial assistance awards issued prior to November 12, 2020, including financial assistance awards issued prior to that date under the Coronavirus Aid, Relief, and Economic Support (CARES) Act of 2020 (Pub. L. 116-136).

3. In the event that the City of Hendersonville receives funding from a federal grantor agency that adopts a threshold more restrictive than those contained herein, the City shall comply with the more restrictive threshold when expending such funds.

4. The City of Hendersonville shall maintain documentation to be made available to a Federal awarding agency, any pass-through entity, and auditors in accordance with 2 C.F.R. § 200.334.

5. The City Manager, Assistant City Manager, Finance Director, and Budget Manager of the City of Hendersonville are hereby authorized, individually and collectively, to revise the purchasing policies of the City, including but not limited to the City of Hendersonville Uniform Guidance Procurement Policy, to reflect the increased micro-purchase thresholds specified herein, and to take all such actions, individually and collectively, to carry into effect the purpose and intent of the foregoing resolution.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

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

K. July Budget Amendments, FY22 – Adam Murr, Budget Manager

I move City Council adopt budget amendment(s) 07072022-01 and 07072022-02 as presented.

L. July Budget Amendments, FY23 – Adam Murr, Budget Manager

I move City Council adopt budget amendment(s) 07072022-03 and 07072022-04 as presented.

**M. Water Resource Development Grant Resolution (Sullivan Park Stream Restoration)–
Michael Huffman, Stormwater Administrator**

I move City Council approve a resolution supporting a grant application to the NC Division of Water Resources Water Resource Development Grant Program in the amount of \$65,000.

Resolution #R-22-84

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL
IN SUPPORT OF APPLICATION FOR
NCDWR WATER RESOURCE DEVELOPMENT GRANT**

WHEREAS, the North Carolina Department of Water Resources has established a grant that provides funding to municipalities for water resource development projects; and

WHEREAS, the City of Hendersonville, NC City Council desires to sponsor, The Sullivan Park Stream Restoration, to restore a heavily degraded stream using natural channel design practices and bioengineering methods that will allow this flashy urban stream to access the adjacent floodplain, reduce erosion rates in the channel, establish a healthy forested buffer zone, and improve water quality and aquatic habitat.; and

WHEREAS, the City of Hendersonville is planning to incorporate green stormwater infrastructure into the Fire Station 1 renovations; and

WHEREAS, the City of Hendersonville desires to include green infrastructure in the Fire Station 1 project to achieve the following objectives:

1. Enhance natural ecosystem resilience and improve water quality within the community.
2. Reduce the impacts of increased stormwater runoff on downstream areas.
3. Address sources of impairment to Mud Creek identified in the 2003 Mud Creek Watershed Restoration Plan.

WHEREAS, the North Carolina Department of Water Resources has announced a competitive Grant to award funding for Watershed Improvement Projects; and

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

- 1) The Council requests the State of North Carolina to provide financial assistance to The City of Hendersonville, NC for Sullivan Park Stream Restoration in the amount of \$ 65,000 or 50 percent of the nonfederal project costs, whichever is the lesser amount;
- 2) The Council assumes full obligation for payment of the balance of project costs;
- 3) The Council will obtain all necessary State and Federal permits;
- 4) The Council will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments.
- 5) The Council will supervise construction of the project to assure compliance with permit conditions and to assure safe and proper construction according to approved plans and specifications;
- 6) The Council will obtain suitable spoil disposal areas as needed and all other easements or rights-of-way that may be necessary for the construction and operation of the project without cost or obligation to the State;
- 7) The Council will assure that the project is open for use by the public on an equal basis with no restrictions;
- 8) The Council will hold the State harmless from any damages that may result from the construction, operation and maintenance of the project;
- 9) The Council accepts responsibility for the operation and maintenance of the completed project.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

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

N. Water Resource Development Grant Resolution (Fire Station 1 Green Infrastructure)

– *Michael Huffman, Stormwater Administrator*

I move City Council approve a resolution supporting a grant application to the NC Division of Water Resources Water Resource Development Grant Program in the amount of \$70,000.

Resolution #R-22-85

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL
IN SUPPORT OF APPLICATION FOR
NCDWR WATER RESOURCE DEVELOPMENT GRANT**

WHEREAS, the North Carolina Department of Water Resources has established a grant that provides funding to municipalities for water resource development projects; and

WHEREAS, the City of Hendersonville, NC City Council desires to sponsor, Fire Station 1 Green Stormwater Infrastructure, to install a rainwater harvesting system that will allow the fire department to reuse runoff from the building to wash equipment, reduce stormwater runoff from the site, enhance natural ecosystem resilience and improve water quality within the community, and address sources of impairment to Mud Creek identified in the 2003 Mud Creek Watershed Restoration Plan; and

WHEREAS, the North Carolina Department of Water Resources has announced a competitive Grant to award funding for Watershed Improvement Projects; and

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

- 1) The Council requests the State of North Carolina to provide financial assistance to The City of Hendersonville, NC for Fire Station #1 Green Infrastructure in the amount of \$ 70,000 or 50 percent of the nonfederal project costs, whichever is the lesser amount;

- 2) The Council assumes full obligation for payment of the balance of project costs;
- 3) The Council will obtain all necessary State and Federal permits;
- 4) The Council will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments.
- 5) The Council will supervise construction of the project to assure compliance with permit conditions and to assure safe and proper construction according to approved plans and specifications;
- 6) The Council will obtain suitable spoil disposal areas as needed and all other easements or rights-of-way that may be necessary for the construction and operation of the project without cost or obligation to the State;
- 7) The Council will assure that the project is open for use by the public on an equal basis with no restrictions;
- 8) The Council will hold the State harmless from any damages that may result from the construction, operation and maintenance of the project;
- 9) The Council accepts responsibility for the operation and maintenance of the completed project.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

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

O. Special Event: Earth Celebration and Tree Planting Ceremony - Lew Holloway, Community Development Director

I move that City Council approve the special event permit for the Earth Celebration and Tree Planting Ceremony.

Council Member Dr. Jennifer Hensley moved that City Council approve the consent agenda as presented. A unanimous roll-call vote of the Council followed. Motion carried.

6. PRESENTATIONS

A. Introduction of Fire Marshal – James Miller, Fire Chief

Fire Chief James Miller introduced Fire Marshal, Ted Williams. Mr. Williams has more than 30 years of fire service experience, starting as a volunteer in 1992 and progressing to Leicester Fire Chief, Deputy Chief and Fire Chief in Weaverville. He is a graduate of the UNC School of Government Municipal and County Administration and holds an extensive list of certifications and course work.

7. PUBLIC HEARINGS

A. Annexation: Public Hearing- Upward Road & Ballenger Road (Justus & Erwin) (C22-45-ANX) – Tyler Morrow, Planner II

Community Development Planner II, Tyler Morrow stated the city has received a petition from Jeff C. Justus, James S. & Ruth G. Erwin Jr. for satellite annexation of PINs 9588-40-8795, 9588-40-7844, and 9588-40-6934 located on Upward Road and Ballenger Road that is approximately 3.795 acres.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 5:59 p.m.

There were no comments.

The public hearing was closed at 6:00 p.m.

Council Member Lyndsey Simpson moved that City Council adopt an ordinance of the City of Hendersonville to annex noncontiguous property owned by Jeff C. Justus, James S. Erwin Jr. & Ruth G. Erwin, identified as PINs 9588-40-8795, 9588-40-7844, and 9588-40-6934, finding that the standards established by North Carolina General Statute 160A-58.1 have been satisfied and that the annexation is in the best interest of the City. A unanimous roll-call vote of the Council followed. Motion carried.

ANNEXATION Ordinance #O-22-40

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO
EXTEND THE CORPORATE LIMITS OF THE CITY AS A SATELLITE ANNEXATION**

Re: Petition for Satellite Annexation
Petitioners: Jeff C. Justus, James S. Erwin Jr. & Ruth G. Erwin
File No. C22-45-ANX

WHEREAS, The City of Hendersonville has been petitioned by Jeff C. Justus, James S. Erwin Jr. & Ruth G. Erwin pursuant to North Carolina General Statutes (NCGS) 160A-58.1, as amended, to annex the area described herein below; and,

WHEREAS, the City Clerk has investigated and certified the sufficiency of said petition; and,

WHEREAS, a public hearing on the question of this annexation was held at the City Operations Center at 305 Williams Street, Hendersonville, NC at 5:45 pm, on the 7th day of July 2022, after due notice by publication as provided by law on June 19th, 2022; and

WHEREAS, the City Council further finds the areas described therein meets the standards of N.C. G.S. 160A-58.1(b), to wit;

- a) The Petition includes a metes and bounds description of the area proposed for annexation and has attached a map showing the proposed satellite area.
- b) The nearest point on the proposed satellite corporate limit is approximately 8,060 from the primary corporate limits of the City of Hendersonville, which is less than 3 miles.
- c) The Petition includes the names and addresses and signatures of all owners of real property lying in the area described therein, except those not required to sign by G.S.160A-58.1 (a).
- d) No point on the proposed satellite corporate limits is closer to the primary corporate limits of another city than to the primary corporate limits of Hendersonville.
- e) The area is situated so the City will be able to provide the same services within the proposed corporate limits that is provided within the primary corporate limits.
- f) The area proposed for annexation is not a subdivision as defined in N.C.G.S. § 160D-802.
- g) The total area within the proposed satellite corporate limits, when added to the area within all the other satellite corporate limits of the City, does not exceed ten (10%) of the area within the primary corporate limits of the City.
- h) The area for annexation meets all other requirements defined in NC 160A-58.54 regarding the character of the area to be annexed.

WHEREAS, the City further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

WHEREAS, the City further finds that the petition is otherwise valid, and that the public health, safety and welfare of the City and of the area proposed for annexation will be best served by annexing the area described;

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

- 1: By virtue of the authority granted by N.C.G.S. 160A-58.2, as amended, the following described noncontiguous area is hereby annexed and made part of the City of Hendersonville as of the seventh day of July 2022.

Being all of that real property shown on that annexation plat recorded in Plat Book 2022 at Page _____ of the Henderson County Registry, and being also all of that real property described in deeds of record in Deed Book 1563, page 383; Deed Book 3551, page 500; and Deed Book 711, page 217 of the Henderson County Registry, and being described by metes and bounds as follows:

PROPOSED ANNEXATION AREA DESCRIPTION:

ALL THAT CERTAIN PIECE, PARCEL, OR TRACT OF LAND LYING AND BEING IN HENDERSON COUNTY, NORTH CAROLINA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A MONUMENT (POB 1) ON THE MITER FORMING THE INTERSECTION OF THE NORTHERLY MARGIN OF THE RIGHT-OF-WAY OF UPWARD ROAD (S.R. 1722) (VARIABLE WIDTH PUBLIC RIGHT-OF-WAY) AND THE WESTERLY MARGIN OF THE RIGHT-OF-WAY OF BALLENGER ROAD (S.F. 1791) (VARIABLE WIDTH PUBLIC RIGHT-OF-WAY) HAVING NC GRID COORDINATES OF N 580,610.84, E 984,932.78; THENCE ALONG THE NORTHERLY MARGIN OF THE RIGHT-OF-WAY OF UPWARD ROAD N69°52'41"W A DISTANCE OF 135.03 FEET TO A MONUMENT, THENCE S20°22'38"W A DISTANCE OF 7.61 FEET TO A MONUMENT, THENCE N69°54'11"W A DISTANCE OF 135.97 FEET TO A MONUMENT, THENCE N66°07'48"W A DISTANCE OF 64.14 FEET TO AN IRON PIN, N65°48'42"W A DISTANCE OF 48.68 FEET TO AN IRON PIN, THENCE ALONG A COUNTERCLOCKWISE CURVE FOR 29.33 FEET HAVING A RADIUS OF 922.70 FEET A CHORD BEARING OF N76°26'00"W AND A CHORD DISTANCE OF 29.33 FEET TO AN IRON PIN, THENCE ALONG THE COMMON LINE OF OATES N13°14'56"E A DISTANCE OF 422.58 FEET TO AN IRON PIN, THENCE ALONG THE COMMON LINE OF MOUNTAIN INN & LODGES, LLC. S46°57'39"E A DISTANCE OF 93.64 FEET TO AN IRON PIN, THENCE S46°56'39"E A DISTANCE OF 114.57 FEET TO AN IRON PIN, THENCE ALONG THE COMMON LINE OF JUSTUS S76°08'56"E A DISTANCE OF 278.66 FEET TO AN IRON PIN, THENCE ALONG THE WESTERLY MARGIN OF THE RIGHT-OF-WAY OF BALLENGER ROAD (FOR THE FOLLOWING FOUR CALLS) (1) S12°45'24"W A DISTANCE OF 126.10 FEET TO AN IRON PIN, (2) THENCE S18°04'21"W A DISTANCE OF 149.78 FEET TO AN IRON PIN, (3) THENCE S19°44'13"W A DISTANCE OF 43.03 FEET TO AN IRON PIN, (4) THENCE S49°50'55"W A DISTANCE OF 54.96 FEET TO THE POINT OF BEGINNING AND CONTAINING 165,300 S.F. OR 3.795 ACRES MORE OR LESS.

- 2: Upon and after the seventh day of July 2022, the above-described territory, and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Hendersonville and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A-58.10, as amended.
3. The Mayor of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Henderson County Board of Elections, as required by G. S. 163-288.1.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

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

B. Annexation: Public Hearing- Erkwood Drive (Kilpatrick) (C22-38-ANX) – Tyler Morrow, Planner II

Community Development Planner II, Tyler Morrow stated the city has received annexation of PIN 9577-18-7316 located on Erkwood Drive that is approximately 1.89 acres.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:03 p.m.

There were no comments.

The public hearing was closed at 6:03 p.m.

Council Member Dr. Jennifer Hensley moved that City Council adopt an ordinance of the City of Hendersonville to extend the Corporate Limits of the City as a contiguous annexation, to annex that property owned by Cameron and Kina Kilpatrick, identified as PIN 9577-18-7316, finding that the standards established by North Carolina General Statute 160A-31 have been satisfied and that the annexation is in the best interest of the City. A unanimous roll-call vote of the Council followed. Motion carried.

CONTIGUOUS ANNEXATION Ordinance #O-22-41

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO EXTEND THE CORPORATE LIMITS OF THE CITY AS A CONTIGUOUS ANNEXATION

IN RE: Parcel Number: 9577-18-7316. Erkwood Drive- Kilpatrick (File# C22-38-ANX)

WHEREAS, The City of Hendersonville has been petitioned by Cameron and Kina Kilpatrick pursuant to North Carolina General Statutes (NCGS) 160A-31, as amended, to annex the area described herein below; and

WHEREAS, the City Clerk has investigated and certified the sufficiency of said petition; and,

WHEREAS, a public hearing on the question of this annexation was held at 305 Williams Street (City Operations Center), Hendersonville, NC at 5:45 pm, on the 7th day of July 2022, after due notice by publication as provided by law on June 19th, 2022; and

WHEREAS, the City Council further finds the areas described therein meets the standards of N.C. G.S. 160A-31.

WHEREAS, the City further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

WHEREAS, the City further finds that the petition is otherwise valid, and that the public health, safety and welfare of the City and of the area proposed for annexation will be best served by annexing the area described;

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

- 1: By virtue of the authority granted by N.C.G.S. 160A-31, as amended, the following described contiguous area is hereby annexed and made part of the City of Hendersonville as of the 7th day of July 2022.

Being all of that real property shown on that annexation plat recorded in Plat Book 2022 at Page _____ of the Henderson County Registry, and being also all of that real property described in deed of record in Deed Book 3875, page 309 of the Henderson County Registry, and being described by metes and bounds as follows:

Beginning at a Point in the South Margin of Erkwood Drive, Point being the southeast corner of the property conveyed to Rick and Carol Huhn by Deed Book 1325, Pg. 382, and running thence from said beginning point North 38-38-31 W 63.90 feet to a Point as recorded and described in Deed Book 3112, Pg. 112 to the Department of Transportation as a Permanent Utility Easement; running thence N 38-38-31 W 348.14 feet to an Existing 1" Iron Pipe; thence running N 15-09-03 E 23.01 feet to an Existing 3" Iron Pipe located at the Southwest corner of the Friebus and Kilpatrick property as recorded at D.B. 788, Pg. 731 and a point in the Boundary of the City of Hendersonville; running thence with Friebus and Kilpatrick Line and with the Boundary of the City of Hendersonville the following two calls, N 87-21-39 E 290.74 feet to an Existing ½" Iron Stake; thence N 43-26-07 E 35.74 feet to a Point located at the Northwest corner of the Flat Rock Centre LLC property as recorded at D.B. 3285, Pg. 382, Plat Slide 4193 and a point in the Boundary of the City of Hendersonville, and thence running with the Boundary of the City of Hendersonville the following five calls, S 76-34-36 E 98.91 feet to a Point; thence S 87-11-44 W 10.78 feet to a Point; thence S 19-29-51 E 23.54 feet to an Existing 1" Iron Pipe located at the Northwest corner of the Sherman Business Park property recorded at D.B. 3285, Pg. 380 and Plat Slide 4193; thence running S 18-44-33 E 43.46 feet to a Point as recorded and described in in D.B. 3112, Pg. 112 to the Department of Transportation as a Permanent Utility Easement; running thence with the same line, S-18-44-33 E 19.85 feet to a point located in the Boundary of the City of Hendersonville, said Point being located S 71-40-39 W 60.94 feet from an Existing Right of Way Monument; running thence S 71-43-18 W 14.15 feet to a Point; thence S 49-28-04 W 58.84 feet to a Point; thence S 38-23-43 W 55.60 to an Existing Right of Way Monument; thence S 36-17-41 W 92.98 feet to an Existing Right of Way Monument; thence S 34-00-10 E 27.47 feet to a Point; thence S 53-08-23 E 19.95 feet to a Point in the Southern Margin of Erkwood Drive; thence S 31-25-42 W 29.02' to a Point and thence S 38-46-12 W 73.17 feet to the Point of Beginning

- 2: Upon and after the seventh day of July 2022, the above-described territory, and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Hendersonville and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A-58.10, as amended.
3. The Mayor of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Henderson County Board of Elections, as required by G. S. 163-288.1.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

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

C. Street Closure: Order to Close- Portion of Fitzsimmons Street (C22-36-SCL) – Tyler Morrow, Planner II

Community Development Planner II, Tyler Morrow stated the city has received application from Lawrence Douglas Marshall to close an unopened and unimproved portion of Fitzsimmons Street between PINs 9578-30-6667 and PIN 9578-31-3322.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:05 p.m.

There were no comments.

The public hearing was closed at 6:06 p.m.

Council Member Debbie O'Neal-Roundtree moved that City Council adopt an order permanently closing an unopened and unimproved portion of Fitzsimmons Street between PINs 9578-30-6667 and 9578-31-3322 as petitioned by Lawrence Douglas Marshall. A unanimous roll-call vote of the Council followed. Motion carried.

ORDER #O-22-42

**ORDER TO PERMANENTLY CLOSE, AN UNOPENED,
UNIMPROVED PORTION OF AN UNIMPROVED RIGHT-OF-WAY LYING BETWEEN
PINS: 9578-30-6667 and 9578-31-3322**

(Petition from Lawrence Douglas Marshall)
For a portion of Fitzsimmons Street

NORTH CAROLINA
HENDERSON COUNTY

TO WHOM IT MAY CONCERN:

WHEREAS, North Carolina General Statue Section §160A-299 authorizes a city council to permanently close any street or public alley way within its corporate limits or area of extraterritorial jurisdiction and provides a procedure for the closing such streets or alleyways; and

WHEREAS, Lawrence Douglas Marshall, owner, has petitioned the City of Hendersonville City Council to close a portion of unimproved right-of-way that abuts property described in a deed recorded in the Henderson County Registry in Deed Book 872 at page 341, having PIN of 9578-30-6667.

WHEREAS, on June 2nd, 2022, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close a portion of this street and setting July 7th, 2022, as the date of a public hearing regarding such closure; and

WHEREAS, the aforementioned resolution has been published once a week for four successive weeks prior to the public hearing in the Hendersonville Times-News (a newspaper of general and regular circulation in Hendersonville and Henderson County) and a copy thereof has been sent by certified mail to all owners of property adjoining the street as shown on the county tax records; and

WHEREAS, notice of the closings and of the public hearing has been posted in at least two places along the streets; and

WHEREAS, a public hearing was held in conformance with the aforementioned public notice on the seventh day of July, 2022.

NOW, THEREFORE, the City Council of the City of Hendersonville does hereby make the following findings of fact:

1. The closing of the street portion hereafter described are not contrary to the public interest.
2. No individual owning property in the vicinity of the streets or in the subdivision in which it is located would be deprived by the closing of such streets of reasonable means of ingress and egress to his property.

IN CONSIDERATION THEREOF, IT IS HEREBY ORDERED:

1. The following portions of streets are permanently closed and no longer existent as of the effective date of this order:

Description of a portion of Fitzsimmons Street

to be closed under NCGS 160A-299

Being a Portion of the 40' Right of Way for Fitzsimmons Street for closure adjoining Deed Book 872, Page 341, Deed Book 597, Page 899 and Norfolk Southern Railroad.
Beginning at a #5 Rebar set at the Southwest corner of Deed Book 597, Page 899 and Lot 20, Block "A", W.R. E.B. Sherman Subdivision Revised, Shown on Plat Cabinet "C", Slide 038. Also being at the intersection of the Northern margin of said right of way and the Eastern Margin of the unopened 1st Avenue, Shown on Plat Cabinet "C", Slide 038;
Thence with the Northern margin of Fitzsimmons Street N 58°17'09" E a distance of 199.32'to a #5 Rebar set at the Southeast corner of Deed Book 597, Page 899 and Lot 17,

Block "A", W.R. E.B. Sherman Subdivision Revised, Shown on Plat Cabinet "C", Slide 038; Also being 50' west of the centerline of Norfolk Southern Railroad.
 Thence on a line 50' west of the centerline of Norfolk Southern Railroad and parallel with said railroad S 25°48'00" E a distance of 40.21' to a point being in the Southern margin of Fitzsimmons Street and 50' west of the centerline of Norfolk Southern Railroad;
 Thence with the Southern margin of Fitzsimmons Street S 58°17'09" W a distance of 192.36' to a point in the Western line of Deed Book 872, Page 341 and Eastern line of Book of Record 3474, Page 097;
 Thence with the Western line Deed Book 872, Page 341 and the Eastern line of Book of Record 3474, Page 097 N 21°13'18" W a distance of 12.06' to a 1 1/2" Iron Pipe, the Northwest corner of Deed Book 872, Page 341 and the Northeast corner of Book of Record 3474, Page 097;
 Thence N 31°42'51" W a distance of 8.14' to a #5 Rebar set in the centerline of Fitzsimmons Street;
 Thence with the centerline of Fitzsimmons Street S 58°17'09" W a distance of 5.01' to a #5 Rebar set;
 Thence N 31°42'51" W a distance of 20.00' to a #5 Rebar set which is the point of beginning; Having an area of 7803 square feet, 0.18 acres

2. The City Clerk shall forthwith cause a certified copy of this order to be filed in the Office of the Register of Deeds of Henderson County.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

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

There were no comments.

D. Rezoning: Conditional Zoning District – AAA Storage (P22-37-CZD) – Matthew Manley, AICP – Planning Manager

Community Development Planning Manager Matthew Manley stated the city has received an application from Lawrence Douglas Marshall to close an unopened and unimproved portion of Fitzsimmons Street between PINs 9578-30-6667 and PIN 9578-31-3322.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

Will Buie, Project Engineer with WGLA Engineering addressed City Council on behalf of the applicant in support of the project.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:19 p.m.

Ken Fitch addressed City Council via Zoom electronic software in support of the project stating that the project represents a demonstration of the process of orderly development with the expansion of an existing business and requested consideration of the addition of a gate off the Apple Ridge Road area of the site.

The public hearing was closed at 6:20 p.m.

Council Member Jerry A. Smith Jr., J.D. moved that City Council adopt ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PIN: 9579-75-6816) from R-15 (Medium Density Residential) to PCD (Planned Commercial Development – Conditional Zoning District) based on the site plan and list of conditions submitted by and agreed to by the applicant, [dated May 18, 2022,] and presented at this meeting and subject to the following: The development shall be consistent with the site plan, including the list of applicable conditions contained therein, and the following permitted uses: Mini warehouses. 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 subject property is located in an area designated as a 'development opportunity' and 'priority growth area' according to the City's 2030 Comprehensive Plan. 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: the development of mini warehouses will be an extension of an existing use next door; the mini warehouses will be in close proximity to recently approved multi-family housing; and the petition provides access from a minor thoroughfare as required in the PCD zoning district. A unanimous roll-call vote of the Council followed. Motion carried.

ORDINANCE #O-22-43

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL POSSESSING PIN NUMBER 9579-75-6816 BY CHANGING THE ZONING DESIGNATION FROM R-15 (MEDIUM DENSITY RESIDENTIAL) TO PCD (PLANNED COMMERCIAL DEVELOPMENT – CONDITIONAL ZONING DISTRICT)

IN RE: Parcel Number: 9579-75-6816
 Addresses: 750, 762, and 780 Sugarloaf Rd
 Project Name: AAA Storage (File # P22-37-CZD)

WHEREAS, the City is in receipt of a Conditional Rezoning application from applicant, Dennis J. Dorn – CD-MAT LLC. an NC Limited Liability Company and property owners, Thomas and Sherry Thompson for the development of 5 mini-warehousing structures on approximately 2.48 acres as an expansion of the existing AAA Storage Facility, and

WHEREAS, the Planning Board took up this application at its regular meeting on June 13, 2022; voting 6-0 to recommend City Council approve an ordinance amending the official zoning map of the City of Hendersonville, and

WHEREAS, City Council took up this application at its regular meeting on July 7, 2022,

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

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Number: 9579-75-6816 from R-15 (Medium Density Residential) to PCD (Planned Commercial Development – Conditional Zoning District).
2. Development of the parcel shall occur in accordance with the final site plan requirements of Article VII of the Zoning Ordinance of the City of Hendersonville, North Carolina, and shall be based on the site plan submitted by the applicant and conditions and developer concessions listed therein and subject to the following.
 - a. Permitted uses shall include:
 - i. Mini warehouses
 - b. Conditions and developer concessions that shall be satisfied prior to final site plan approval include:
 - i. The development shall be consistent with the preliminary site plan and the conditions and developer concessions listed therein as submitted and dated May 18, 2022.
3. This ordinance shall not be effective until the stipulated list of use(s) and conditions and developer concessions, established herein, is consented to in writing by the applicant and all owners of the subject property. Upon such written consent, this ordinance shall be effective retroactive to the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

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

**E. Zoning Text Amendment: Sidewalk Requirements (P22-46-ZTA) – Matthew Manley,
AICP – Planning Manager**

Community Development Planning Manager Matthew Manley stated the city has initiated zoning text amendment related to requirements for sidewalks and said staff recommend adjusting the standards to reduce the distance a property can be from public amenities in determining if sidewalks are required. Mr. Manley clarified the current distance triggering construction of sidewalks are for properties within 1.5 miles of specified public amenities and said the proposal is to reduce the distance to .5 miles while also increasing the type/number of amenities that would trigger the construction of sidewalks. Mr. Manley stated in all circumstances, expedited subdivisions, minor subdivisions, major subdivisions, CZDs and multi-family projects would be required to construct sidewalks under the proposed changes and in accordance with existing subdivision ordinance requirements. Mr. Manley stated the proposed revisions also clarify how measurements are determined and the fee-in-lieu process.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:28 p.m.

There were no comments.

The public hearing was closed at 6:28 p.m.

Council Member Dr. Jennifer Hensley moved that City Council adopt an ordinance amending the official City of Hendersonville Zoning Ordinance, Article VI. – General Provisions, Section 6-12 Sidewalks, based on the following: The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because the 2030 Comprehensive Plan calls for the City to continue to require adequate public facilities for new developments, to promote safe & walkable neighborhoods, to provide pedestrian connections to services and public facilities, and to develop a multi-modal transportation network. We find this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because the text amendment reduces the trigger for sidewalk construction for new developments to a ten-minute walk (0.5 miles); the text amendment ensures that additional public amenities are considered when determining if sidewalks are required as part of a new development; the text amendment aligns with requirements for sidewalks found in the Subdivision Ordinance; and the text amendment ensures that multi-family developments will require sidewalks or a fee-in-lieu of sidewalks. A unanimous roll-call vote of the Council followed. Motion carried.

ZONING ORDINANCE #O-22-44

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AMEND ARTICLE VI – GENERAL PROVISIONS, SECTION 6-12. ‘SIDEWALKS’ OF
THE CITY OF HENDERSONVILLE ZONING ORDINANCE TO ADDRESS
STANDARDS FOR REQUIRING SIDEWALK CONSTRUCTION OR FEE-IN-LIEU OF
SIDEWALKS**

WHEREAS, the City of Hendersonville's Planning Board reviewed this petition for a zoning text amendment at its regular meeting on June 13, 2022; voting 6-0 to recommend City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance, and

WHEREAS, City Council took up this application at its regular meeting on July 7, 2022, and

WHEREAS, City Council has found that this text amendment is consistent with the City's comprehensive plan, and that it is reasonable and in the public interest for the reasons stated, and

WHEREAS, City Council has conducted a public hearing as required by the North Carolina General Statutes on July 7th, 2022,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina that Article VI – General Provisions, Section 6-12. ‘Sidewalks’ be amended as

follows:

Sec. 6-12. Sidewalks.

It is the intent of this section that sidewalks shall be provided in residential zoning districts on one side of every street and in nonresidential districts along both sides of the street.

Where sidewalks are required by this Section 6-12, sidewalks shall be constructed from property line to property line within the street right-of-way, or, in the alternative, within areas set aside by dedication, or otherwise, in accordance with the city's sidewalks and driveway entrance standards.

For purposes of this section, distance is measured between closest points of the properties' boundaries, as the crow flies.

6-12-1 Residential districts. Sidewalks shall be required for new construction in areas zoned PRDCZD, PMH, R-40, R-40 SUCZD, R-20, R-~~SU~~20CZD, R-15, R-15SUCZD, R-10, R-10SUCZD, R-6, R-6SUCZD, when one of the following conditions is present:

- a) When the property adjoins property with an existing sidewalk;
- b) When the property adjoins property for which a development approval, or other governmental approval (e.g. conditional zoning) has been issued requiring the construction of sidewalks;
- c) When an existing segment of sidewalk is within 400 feet of the property on the same side of the street;
- d) When the required sidewalk for a property described in Section 6-12-1(b) is within 400 feet of the property on the same side of the street;
- e) The development contains multi-family uses.
- f) When the property is within one and one-half miles linear traverse of a public or private school, public or private hospital, public library, public safety station (e.g. police, fire, rescue), public transit stop or station, government building, courthouse, government administrative office building, public park, public greenway, or any of the foregoing contained within a local government capital improvement plan (CIP).

In the case of corner lots, sidewalk requirements shall be met along both streets.

6-12-1.1 Extraterritorial Jurisdiction. Notwithstanding the foregoing subsections 6-12-1(a)-(f) above, however, within the city's area of extraterritorial jurisdiction sidewalks shall not be required in the following circumstances:

- a) ~~The platting of a minor subdivision as defined in the subdivision ordinance;~~
- a) The construction of a single-family or two-family dwelling on previously platted property.

6-12-1.2 Other Circumstances Requiring Sidewalks. The city manager may require that a sidewalk be built across the street from the site of new construction when the following conditions exist:

- a) No sidewalk adjoins the site;
- b) A sidewalk exists on the other side of the street ~~in the vicinity~~ within 400 feet of the site; and
- c) There is no legal impediment to constructing the sidewalk on the other side of the street.

In cases where a sidewalk already exists on the opposite side of the street for the entire length of the city block where the subject property is located, and no sidewalk exists along the properties adjacent to the subject property, then a sidewalk is not required to be built along the frontage of the subject property.

6-12-1.3 No sidewalks required. No sidewalks shall be required in the following locations:

- a) Along freeways and interstate highways maintained by NCDOT. As used herein the terms "freeway" shall mean streets designated as a freeway on the Comprehensive Transportation Plan for French Broad River MPO, as amended.
- b) Along alleys and accessways to individual lots not served by a street; and
- c) Along gravel streets.

6-12-2 Other districts. In all other zoning district classifications sidewalks shall be required for new construction from property line to property line. In the case of corner lots, sidewalks shall be provided along both streets.

Furthermore, if the new construction is intended for a commercial, industrial, or institutional use, sidewalks shall be required to connect street sidewalks with any building entrances intended for public use.

6-12-3 Payment of fee in lieu of construction of sidewalks. In lieu of requiring construction of the sidewalks, the city manager may allow the applicant to pay a fee of \$75.00* per linear foot of sidewalk not constructed, which is hereby determined to be the cost of constructing sidewalks, into the City sidewalk fund in lieu of requiring construction of the sidewalks when one or more of the following conditions exist.

- ~~a) Construction of sidewalks will result in a hardship~~
- a) An administrative decision is made determining that ~~Construction of sidewalks will not result in useful pedestrian walkways due to one or more of the following:~~
 - 1) Topographical features will result in impractical design.
 - 2) The lack of ~~adjacent~~ right-of-way for the construction of future sidewalks on adjacent properties ~~construction.~~
- b) The sidewalk location is not identified as a short-term recommendation, long-term recommendation or is not included as part of the comprehensive recommended pedestrian network in the most recently adopted City of Hendersonville Pedestrian Plan.

* In the event that the City of Hendersonville includes the fee for this Section 6-12-3 in the City's fee schedule, the fee as stated in the fee schedule shall be deemed to control.

As an alternative to a payment in lieu of the installation and construction of sidewalks or a portion thereof, the city manager may approve the applicant constructing an equivalent linear footage of sidewalk off site. The specific location for the sidewalk construction shall be at the city manager's discretion. The off-site sidewalk construction shall be completed, inspected and approved prior to a certificate of occupancy being issued.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

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

F. Zoning Map Amendment – Erkwood Dr - Kilpatrick (P22-48-RZO) – Matthew Manley, AICP – Planning Manager

Community Development Planning Manager Matthew Manley stated the city has received an annexation application from Cameron & Kina Kilpatrick (owner) for a 1.89-acre tract along Erkwood Dr. near the intersection of Greenville Highway and Shepperd St. adjacent to city limits on the southern edge of Hendersonville. Mr. Manley said the applicant has not requested zoning, therefore the City is initiating zoning for this parcel from County R-40, Estate Residential District to GHMU, Greenville Highway Mixed Use.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:37 p.m.

There were no comments.

The public hearing was closed at 6:37p.m.

Council Member Lyndsey Simpson 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 (PINS: 9577-18-7316) from Henderson County R-40, Estate Residential zoning district to City of Hendersonville GHMU (Greenville Highway Mixed Use) based on the following: 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 proposed zoning presents an opportunity for compatible infill development and a mix of land uses as called for in Chapters 2, 8 and 9 of the City's 2030 Comprehensive Plan. Additionally, we find this petition to be reasonable and in the public interest based on the information from the staff analysis, public hearing and because Greenville Highway is the predominant zoning in this area and the petition aligns with the Henderson County's Future Land Use designation. Furthermore, we recommend designating the Future Land Use of the parcel as High Intensity Neighborhood and Natural / Agricultural Resources for the portion of the subject property located in the 100-year Floodplain. A unanimous roll-call vote of the Council followed. Motion carried.

ORDINANCE #O-22-45

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL POSSESSING PIN NUMBERS 9577-18-7316 BY CHANGING THE ZONING DESIGNATION FROM MIC HENDERSON COUNTY R-40, ESTATE RESIDENTIAL ZONING DISTRICT TO CITY OF HENDERSONVILLE GHMU (GREENVILLE HIGHWAY MIXED USE)

IN RE: Parcel Numbers: 9577-18-7316
Erkwood Dr – Kilpatrick (File # P22-48-RZO)

WHEREAS, the Planning Board took up this application at its regular meeting on June 13, 2022; voting 5-0 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

WHEREAS, City Council took up this application at its regular meeting on July 7, 2022, and

WHEREAS, City Council has found that this zoning map amendment is consistent with the City's comprehensive plan, and that it is reasonable and in the public interest for the reasons stated, and

WHEREAS, City Council has conducted a public hearing as required by the North Carolina General Statutes on July 7th, 2022,

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

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Numbers: 9577-18-7316 from Henderson County R-40, Estate Residential Zoning District to City of Hendersonville GHMU (Greenville Highway Mixed Use).
2. Any development of this parcel shall occur in accordance with the Zoning Ordinance of the City of Hendersonville, North Carolina.
3. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

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

G. Rezoning: Standard Rezoning – Upward Rd-Justus-Erwin (P22-49-RZO)– Matthew Manley, AICP – Planning Manager

Community Development Planning Manager Matthew Manley stated the city has received an application from Jeff Justus and James & Ruth Erwin (owners) for a group of 3 parcels totaling 3.795 Acres along Upward Rd at the intersection of Ballenger Rd. Mr. Manley stated the applicant has not requested zoning; therefore the City is initiating zoning for this parcel from County Regional Commercial to CHMU, Commercial Highway Mixed Use. Mr. Manley stated the subject property is outside of the corporate city limits on the southeastern edge of Hendersonville and clarified the subject property sits outside of the City’s ETJ but within the Upward Road Planning District.

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board’s recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:46 p.m.

There were no comments.

The public hearing was closed at 6:46 p.m.

Council Member Jerry A. Smith Jr., J.D. 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 (PINS: 9588-40-6934; 9588-40-7844; 9588-40-8795) from Henderson County RC, Regional Commercial zoning district to City of Hendersonville CHMU (Commercial Highway Mixed Use) based on the following: 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 proposed zoning provides design standards which align with most of the design guidelines outlined under Strategy LU-9.4 of the City’s 2030 Comprehensive Plan. 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 Commercial Highway Mixed Use is the zoning district established for the Upward Rd Planning Area; the Commercial Highway Mixed Use zoning district is well suited to achieve the goals of the Comprehensive Plan for this area; and the property is located in an area designated as a “Priority Growth Area” according to the City’s Comprehensive Plan. A unanimous roll-call vote of the Council followed. Motion carried.

ORDINANCE #O-22-46

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL POSSESSING PIN NUMBERS 9588-40-6934; 9588-40-7844; 9588-40-8795 BY CHANGING THE ZONING DESIGNATION FROM HENDERSON COUNTY RC, REGIONAL COMMERCIAL ZONING DISTRICT TO CITY OF HENDERSONVILLE CHMU (COMMERCIAL HIGHWAY MIXED USE)

IN RE: Parcel Numbers: 9588-40-6934; 9588-40-7844; 9588-40-8795
Upward Rd-Justus-Erwin (File # P22-49-RZO)

WHEREAS, the Planning Board took up this application at its regular meeting on June 13, 2022; voting 5-0 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

WHEREAS, City Council took up this application at its regular meeting on July 7, 2022, and

WHEREAS, City Council has found that this zoning map amendment is consistent with the City’s comprehensive plan, and that it is reasonable and in the public interest for the reasons stated, and

WHEREAS, City Council has conducted a public hearing as required by the North Carolina General Statutes on July 7th, 2022,

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

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Numbers: 9588-40-6934; 9588-40-7844; 9588-40-8795 from Henderson County RC, Regional Commercial Zoning District to City of Hendersonville CHMU (Commercial Highway Mixed Use)
2. Any development of this parcel shall occur in accordance with the Zoning Ordinance of the City of Hendersonville, North Carolina.
3. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

/s/Barbara G. Volk, Mayor

Attest: /s/Angela L. Reece, City Clerk

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

H. Rezoning: Standard Rezoning – Edwards Park (P22-52-RZO) – Matthew Manley, AICP – Planning Manager

Community Development Planning Manager Matthew Manley stated the City is initiating a rezoning for a remnant of property zoned C-3 on a parcel (PIN: 9569-70-5860) owned by the Hendersonville Board of Education. Mr. Manley said the parcel is split zoned R-6 & C-3 and is 1.47 acres. Mr. Manley stated the portion currently zoned R-6 makes up approximately 93% of property and said the remaining 1/10th of an acre is zoned C-3. Mr. Manley recalled an exempt subdivision occurring on September 3, 2021 involving the subject property which reduced the size of the parcel and reduced the portion zoned C-3. Mr. Manley said the proposed rezoning would eliminate the split zoning making the entire parcel R-6, High Density Residential and reminded everyone this would be considered a downzoning and would change the dimensional requirements as follows:

<u>C-3 (non-residential)</u>	<u>C-3 (residential)</u>	<u>R-6</u>
Front: 35'	20'	Front: 20'
Side: 15'	8'	Side: 8'
Rear: 20'	10'	Rear: 10'

Staff presented and discussed with City Council an analysis of the consistency with the relevant portions of the Comprehensive Land Use Plan and the Planning Board's recommendation. Both were considered by the City Council in addition to supporting maps and documents provided in the agenda packet.

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:55 p.m.

There were no comments.

The public hearing was closed at 6:55 p.m.

Council Member Dr. Jennifer Hensley 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 (PINS: 9569-70-5860) from C-3, Highway Business & R-6, High Density Residential to R-6, High Density Residential based on the following: 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 Future Land Use designation of Natural Resource / Agricultural Area recommends primary uses which are compatible with publicly owned properties zoned R-6, High Density Residential. 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: R-6 zoning would be an expansion of the primary zoning classification of the subject property; R-6 zoning permits uses which are compatible with surrounding land uses; and R-6 zoning contains dimensional standards which are compatible with the surrounding built environment. A unanimous roll-call vote of the Council followed. Motion carried.

ORDINANCE #O-22-47

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR

PARCEL POSSESSING PIN NUMBERS 9569-70-5860 BY CHANGING THE ZONING DESIGNATION FROM R-6, HIGH DENSITY RESIDENTIAL & C-3, HIGHWAY BUSINESS TO R-6 HIGH DENSITY RESIDENTIAL

IN RE: Parcel Numbers: 9569-70-5860
Edwards Park (File # P22-52-RZO)

WHEREAS, the Planning Board took up this application at its regular meeting on June 13, 2022; voting 6-0 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

WHEREAS, City Council took up this application at its regular meeting on July 7, 2022, and

WHEREAS, City Council has found that this zoning map amendment is consistent with the City's comprehensive plan, and that it is reasonable and in the public interest for the reasons stated, and

WHEREAS, City Council has conducted a public hearing as required by the North Carolina General Statutes on July 7th, 2022,

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

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Numbers: 9569-70-5860 from R-6, High Density Residential & C-3, Highway Business to R-6 High Density Residential
2. Any development of this parcel shall occur in accordance with the Zoning Ordinance of the City of Hendersonville, North Carolina.
3. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina this 7th day of July 2022.

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

8. UNFINISHED BUSINESS

A. Board & Commission Vacant Seat Appointments – Angela L. Reece, City Clerk

Mayor Barbara G. Volk asked for nominations for the following advisory boards. Mayor Volk called for a vote in the order in which multiple nominations were received.

1. ABC Board

Council Member Jerry A. Smith Jr., J.D. moved that City Council appoint Chuck McGrady, to serve a term on the ABC Board ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.

2. Animal Services Advisory Committee

Council Member Dr. Jennifer Hensley moved that City Council appoint Jean Greeson and Melissa Vazquez to serve a term on the Animal Services Advisory Committee ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.

3. Board of Adjustment

Council Member Lyndsey Simpson moved that City Council appoint Melinda Lowrance and Libby Collina to serve a term on the Board of Adjustment ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.

The City Council postponed further appointments pending review of the board seats and vacancies.

4. Business Advisory Committee

Council Member Dr. Jennifer Hensley moved that City Council appoint Jay Egolf and John Stevens to serve a term on the Business Advisory Committee ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.

5. Diversity & Inclusion Advisory Committee

(3 vacancies/ ending June 30, 2025)

Council Member Dr. Jennifer Hensley moved that City Council appoint Nancy Diaz, Melinda Lowrance, and Josh Williams to serve a term on the Diversity and Inclusion Advisory Committee ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.

6. Downtown Advisory Board

Council Member Jerry A. Smith Jr., J.D moved that City Council appoint Phil Wilmot to serve a term on the Downtown Advisory Board as 7th Avenue Stakeholder ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.

Council Member Dr. Jennifer Hensley moved that City Council appoint Mark Pavao to serve a term on the Downtown Advisory Board as a Main Street Stakeholder ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.

Council Member Jerry A. Smith Jr., J.D moved that City Council appoint Gerald Fitzgerald and Keang H Uy to serve a term on the Downtown Advisory Board as an At-Large member ending June 30, 2025. A unanimous roll-call vote of the Council followed. Motion carried.

7. Environmental Sustainability Board

Council Member Lyndsey Simpson moved that that City Council amend the Environmental Sustainability Board Charter and Rules of Procedure, Article IV- Membership and Duties- to designate one of the At-Large seats to be filled by an individual, principal or other significant representative of an organization or business that demonstrates a commitment to an environmentally sustainable future, as determined by the City Council. This term shall be un-expiring. A unanimous roll-call vote of the Council followed. Motion carried.

Council Member Lyndsey Simpson moved that City Council appoint Virginia Tegel and Anthony Baltiero to serve an unexpired term on the Environmental Sustainability Board as a City Resident member ending June 30, 2024. A unanimous roll-call vote of the Council followed. Motion carried.

Council Member Dr. Jennifer Hensley moved that City Council appoint a representative of Mountain True to fill an un-expiring term as an At-Large member of the ESB Board. A unanimous roll-call vote of the Council followed. Motion carried.

8. Historic Preservation Commission

Council Member Jerry A. Smith Jr., J.D moved that City Council appoint Anthony Baltiero, Jim Boyd, and Jane Branigan to serve an unexpired term on the Historic Preservation Commission ending December 31, 2022. A unanimous roll-call vote of the Council followed. Motion carried.

9. Planning Board

Council Member Lyndsey Simpson moved that City Council appoint Laura Flores to serve an unexpired term on the Planning Board ending December 31, 2022. A unanimous roll-call vote of the Council followed. Motion carried.

10. TDA

Council Member Jerry A. Smith Jr., J.D moved that City Council appoint Julie Hall to serve a term in Seat #4 on the TDA Board ending June 30, 2027. A unanimous roll-call vote of the Council followed. Motion carried.

9. NEW BUSINESS

A. Special Appropriation – Adam Murr, Budget Manager

Budget Manager Adam Murr recalled prior discussions and recommendations by City Council regarding special appropriation allocation procedures. Mr. Murr provided an updated policy as requested by Council. Council discussed various applicants and appropriation amounts agreeing to the following:

Special Appropriation Requests - Discretionary Funding		
City Manager Appropriation Target	\$	125,000
Organization	Request FY22-23	Council Appropriation
Appropriation Available (25% of Budget)	31,250	(2,600)
Arts Council of Henderson County, Inc.	5,000	2,700
Blue Ridge Literacy Council	5,000	2,900
Boy's & Girl's Club of Henderson County	20,000	9,050
BRCC Educational Foundation, Inc.	3,500	2,700
Carolina Concert Choir	-	-
Flat Rock Playhouse (Vagabond School)	14,000	3,000
Henderson County Education Foundation	3,500	1,700
Henderson County Heritage Museum	-	-
Henderson County NAACP - CDL Training	7,500	2,600
Henderson County NAACP - Medical Training	5,000	2,500
Hendersonville Community Theatre	85,500	1,800
Hendersonville Shuffleboard Club	1,200	580
Hendersonville Sister Cities, Inc. (HSC)	-	-
Hendersonville Symphony - Second Series	3,000	400
Hendersonville Symphony - Youth Education	5,000	1,600
Latino Advocacy Coalition	25,000	-
Mineral & Lapidary Museum	10,000	1,300
Team ECCO	3,500	1,020
The Art & Inspiration Center	-	-
Sub-Total	196,700	33,850

Appropriation Available (75% of Budget)	93,750	2,450
Blue Ridge Community Health Services	10,000	9,100
Blue Ridge Humane	8,000	5,600
Chamber of Commerce	-	-
Children & Family Resource Center	10,000	7,500
Henderson County Council on Aging	4,700	4,220
Henderson County Young Leaders (Camplify)	3,500	3,100
Interfaith Assistance Ministry - Rent Asst.	40,000	15,700
Mayor's Advocacy Council	-	-
Medical Loan Closet of Henderson County	3,500	2,600
Pisgah Legal Services - Domestic Violence	5,000	4,600
Pisgah Legal Services - Homeless Prevent.	5,000	3,800
Safelight, Inc.	20,000	13,830
St. Gerard House	8,000	5,600
The Mediation Center	1,500	1,400
Thrive	15,000	8,450
True Ridge	10,000	5,800
Sub-Total	144,200	91,300
Total	340,900	\$ 125,150
Special Appropriation Requests - Full Funding		
Organization	Request FY22-23	Council Appropriation
Agribusiness Henderson County (AgHC)	5,000	5,000
Hand On! - A Child's Gallery	42,000	42,000
Henderson County Economic Investment Fund	50,000	50,000
Henderson County Partnership for Econ. Dev.	20,000	20,000
Henderson County Planning Department	166,018	166,018
Henderson County Rescue Squad	15,000	15,000
Interfaith Assistance Ministry	30,000	30,000
Merchant's and Business Association	1,500	1,500
Mills River Partnership	70,000	70,000
Total	399,518	\$ 399,518

Council Member Dr. Jennifer Hensley moved that City Council approve the fiscal year 2022-2023 special appropriations as presented. A unanimous roll-call vote of the Council followed. Motion carried.

Council Member Dr. Jennifer Hensley moved that City Council approve the revised special appropriations policy as presented. A unanimous roll-call vote of the Council followed. Motion carried.

B. Parking Deck Update – Brian Pahle, Assistant City Manager

Assistant City Manager Brian Pahle provided an update to Council regarding the construction progress of the parking deck project. Manager Pahle advised the parking deck construction will impact traffic along 5th Avenue and Church Street at various times starting in mid-July and continuing through August. Manager Pahle stated a crane will be assembled on-site the week of July 11 and then starting the week of July 18 and for approximately six weeks, pre-cast concrete pieces will be lifted and positioned to build the parking deck structure. He said during construction, there will be multiple daily deliveries where Church Street will be blocked for very short periods while sections are unloaded with the crane and said at the end of this process, a temporary street closure of 5th Avenue West will occur to facilitate the garage's construction. He stated the goal was completion of construction prior to the Apple Festival.

10. CITY COUNCIL COMMENTS

Council Member Jerry A. Smith Jr., J.D. stated Hendersonville High School will be officially dedicated on August 3, 2022 and invited fellow Council Members and the public to come see the new facility.

Council Member Debbie O'Neal-Roundtree reminded everyone of the Back to School Fest on August 21, 2022 at Sullivan Park from 11 a.m to 3 p.m. and encouraged all to attend.

Council Member Dr. Jennifer Hensley responded to earlier public comments by Ms. Lynne Williams and advised she has not corresponded to any emails with Ms. Williams since December 3, 2021.

11. CITY MANAGER REPORT – John F. Connet, City Manager

City Manager John Connet introduced Rodney Gilliam who is participating in the Veterans ICMA Fellowship Program and said he will be assisting with recruitment strategy for veterans leaving military service and entering the civilian workforce

12. CLOSED SESSION

A. Closed Session – John Connet, City Manager

At 7:34 p.m. Council Member Lyndsey Simpson moved that City Council enter into closed session pursuant to NCGS § 143-318.11 (a) (1) and (5) to prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes and to establish, or to instruct the public body's staff concerning the position to be taken by or on the behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, lease, option, or exchange. A unanimous roll-call vote followed. Motion carried.

At 7:59 p.m. Council Member Debbie O'Neal-Roundtree moved that City Council return to open session. A unanimous roll-call vote of the Council followed. Motion carried.

13. ADJOURN

There being no further business, the meeting was adjourned at 7:59 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST:

Angela L. Reece, City Clerk



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Adam Steurer **MEETING DATE:** August 4, 2022

AGENDA SECTION: Consent Agenda **DEPARTMENT:** Utilities

TITLE OF ITEM: Resolution to Accept an Offer of American Rescue Plan Funding – *Adam Steurer, Utilities Engineer*

SUGGESTED MOTION(S):

I move City Council to adopt the Resolution By the City Council to Accept An Offer Of Funding From The State Fiscal Recovery Fund Established In S.L. 2021-180 To Assist Eligible Units Of Government With Meeting Their Water/Wastewater Infrastructure Needs

SUMMARY:

The North Carolina Department of Environmental Quality (NCDEQ) has offered American Rescue Plan (ARP) funding in the amount of \$5,000,000 to complete the WWTF Ultraviolet Disinfection Improvements and WWTF Aeration Basin No. 2 Repairs and Rehabilitation Projects. The attached resolution serves as a formal acceptance of the offer of funding.

BUDGET IMPACT: Grant Acceptance of \$5,000,000

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.

ATTACHMENTS:

1. Resolution By the City Council to Accept an Offer of Funding

Resolution #R-22-87

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ACCEPT AN OFFER OF FUNDING FROM THE STATE FISCAL RECOVERY FUND ESTABLISHED IN S.L. 2021-180 TO ASSIST ELIGIBLE UNITS OF GOVERNMENT WITH MEETING THEIR WATER/WASTEWATER INFRASTRUCTURE NEEDS

WHEREAS, the City of Hendersonville has received an earmark for the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund established in S.L. 2021-180 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of \$5,000,000 to perform work detailed in the submitted applications, entitled WWTF Ultraviolet Disinfection Improvements and WWTF Aeration Basin No. 2 Repairs and Rehabilitation, and

WHEREAS, the City of Hendersonville intends to perform said project in accordance with the agreed scope of work,

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

1. The City of Hendersonville does hereby accept in the American Rescue Plan Grant offer of \$5,000,000.
2. That the City of Hendersonville does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.
3. That John Connet, City Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with this project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of August 2022.

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 AGENDA ITEM SUMMARY

SUBMITTER: Adam Murr **MEETING DATE:** 08/04/2022

AGENDA SECTION: Consent Agenda **DEPARTMENT:** Administration

TITLE OF ITEM: Sole Source Purchase of a Standby Generator for the Fire Station 1 Project-
Adam Murr, Budget Manager

SUGGESTED MOTION(S):

I move City Council adopt the *Resolution by the City of Hendersonville City Council to Authorize the Sole-Source Purchase of a Generator for the Fire Station 1 and Edwards Park Project (#19019)* as presented.

SUMMARY:

The City of Hendersonville Fire Station 1 project will provide a new headquarters facility for the Hendersonville Fire Department on an existing Fire Station 1 site. The new Fire Station 1 will require installation of a stand-by generator to operate in times of power outage and emergency. The National Fire Protection Association (NFPA) provides an overview in Standard 110 for emergency power provision. NCGS 143-129(e) lists the authorized exceptions to the formal bid procedures. NCGS 143-129(e)(6) allows for purchases of apparatus, supplies, materials, or equipment to be purchasing using sole-source exception when: (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration. The governing board of a political subdivision of the State shall approve the purchases listed in the preceding sentence prior to the award of the contract. Staff are requesting to continue to standardize on generators City-wide by asking that Council approve the sole source purchase of a stand-by generator from Cummins.

BUDGET IMPACT: \$110,873.00

Is this expenditure approved in the current fiscal year budget? No – included in Project 19019.

If no, describe how it will be funded. The purchase will be covered by a planned 2022 installment financing contract (IFC) for the Fire Station 1, Edwards Park, Fire Ladder, and Fire Engine projects.

ATTACHMENTS:

- Resolution
- Quote/Proposal from Cummins, Inc.
- Sole-source Justification letter from Cummins, Inc.

Resolution # _____

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE SOLE-SOURCE PURCHASE OF A GENERATOR FOR THE FIRE
STATION 1 AND EDWARDS PARK PROJECT**

WHEREAS, the Fire Station 1 and Edwards Park Project (#19019) is intended to provide an updated, long-term facility solution for the Hendersonville Fire Department; and,

WHEREAS, the new Fire Station 1 facility will act as a headquarters, public meeting space, and backup emergency operations center for the City; and,

WHEREAS, the Fire Station 1 facility is required by National Fire Protection Association (NFPA) standards (standard 110) to have a generator to support operations in times of power outage; and,

WHEREAS, NCGS 143-129(e) lists the authorized exceptions to the formal bid procedures. NCGS 143-129(e)(6) allows for purchases of apparatus, supplies, materials, or equipment to be purchasing using sole-source exception when: (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration. The governing board shall approve the purchases listed in the preceding sentence prior to the award of the contract; and,

WHEREAS, Staff are requesting to continue to standardize generators within the City by asking Council approve the sole-source purchase of a standby generator from Cummins; and,

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that the City Manager is authorized to execute a contract and purchase of a sole source of a generator, transfer switch, installation, and associated items for the project, not to exceed \$110,873.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of August, 2022.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

July 21, 2022

Prepared by

Nicole Michael

Nicole.m.michael@cummins.com

We are pleased to provide you this quotation based on your inquiry.

Item	Description	Qty
1	DQDAA, Genset, Configurable Diesel U.S. EPA, Stationary Emergency Application 250DQDAA, Diesel Genset, 60Hz, 250kW Duty Rating-Standby Power (ESP) Emission Certification, EPA, Tier 3, NSPS CI Stationary Emergency Fuel Tank-Sub Base, 1420 Gallon, UL142 Compliant Listing, ULC-S601-07 Listing-UL 2200 Fuel Water Separator Vent Extensions-Fuel Tank, 5 Inch Diameter Control Mounting-Left Facing PowerCommand 2.3 Controller Alarm-Audible, Engine Shutdown Signals-Auxiliary, 8 Inputs/8 Outputs Control Display Language-English Circuit Breaker or Entrance Box or Terminal Box-Right And Left Circuit Breaker-1200A, Left Circuit Breaker on Right side, 3-Pole, UL 600, IEC 690, 100% Circuit Breaker-250A, Right Circuit Breaker on Right side, 3-Pole, UL 600, IEC 690 100% Bottom Entry, Left Bottom Entry, Right Engine Governor-Electronic, Isochronous Engine Starter-24 Volt DC Motor Engine Air Cleaner-Normal Duty Battery Charging Alternator Engine Cooling-Radiator, High Ambient Air Temperature, Ship Fitted Shutdown-Low Coolant Level Engine Coolant-50% Antifreeze, 50% Water Mixture Exciter/Regulator-Permanent Magnet Generator, 3 Phase Sensor Coolant Heater-120V, Single Phase Voltage-120/208, 3 Phase, Wye, 4 Wire Engine Oil Standby 5 Year 2500 Hour Parts+Labor+Travel Alternator-60Hz, 12 Lead, Broad Range, 105C Literature-English Packing-None, Base Mounted Housing Steel Sound Attenuated Level 1 Enclosure, with Exhaust System Enclosure Color-Green, Steel	1
2	Freight & other charges	1
3	Battery Charger-10Amp, 120/208/240VAC, 12/24V, 50/60Hz	1
4	OTECD, OTEC Transfer Switch-Electronic Control: 800A/1000A OTEC1000, Transfer Switch, PowerCommand, 1000 Amp Interface-Communications Network, MODBUS RTU Module Relay-Elevator Signal Listing-UL 1008/CSA Certification Application-Utility to Genset Transfer Switch Warranty-1 Year Comprehensive Cabinet-Type 1 Poles-4 (Switched Neutral)	1

	Frequency-60 Hz System-3 Phase, 3 or 4 Wire Voltage-208 Volts AC Genset Starting Battery-24V DC PC40 Control Auxiliary Relay-Switch in Emergency Position-24 Volts DC Auxiliary Relay-Switch In Normal Position-24 Volts DC	
5	OTECA, OTEC Transfer Switch-Electronic Control: 40A/70A/125A OTEC125, Transfer Switch-Electronic Control, 125 Amp Interface-Communications Network, MODBUS RTU Module Relay-Elevator Signal Listing-UL 1008/CSA Certification Application-Utility to Genset Transfer Switch Warranty-1 Year Comprehensive Cabinet-Type 1 Poles-4 (Switched Neutral) Frequency-60 Hz System-3 Phase, 3 or 4 Wire Voltage-208 Volts AC Genset Starting Battery-24V DC PC40 Control Auxiliary Relay-Switch in Emergency Position-24 Volts DC Auxiliary Relay-Switch In Normal Position-24 Volts DC	1
6	Eaton Non Automatic Molded Case Switch 30A thru 1000A 208/120v, 60hz, 3 Phase, 4 Wire, 3 poles Transition Mode: Open Controller Type: Electromechanical Continuous Current: 150 Amps Withstand: 100kA	1
7	Service - start up & 2 hour load bank test testing	1

TOTAL: \$ 110,873.00

Quote value does not include any tax.

EXCEPTIONS AND CLARIFICATIONS:

1. The above proposal is based on specification 63213 and drawing E500.

NOTES:

Project Notes & Clarifications:

- Current Production Lead Time (after receipt of approved submittal and accepted PO):
 - Transfer Switch(es): TBD at time of release, currently 36-40 weeks
 - Generator TBD at the time of release, currently 52 weeks
- Price quoted is F.O.B. factory with freight allowed to the first U.S. destination.
- Price does not include any applicable taxes unless listed above.
- All ship loose items installed by others.
- Unloading, installation, and fuel are not included and will be the responsibility of others.

Warranty: Cummins 1-year ATS warranty begins at the successful completion of startup and testing in lieu of acceptance or substantial completion.

PMA: Generator Maintenance Agreement is not included and will be negotiated directly with the owner once equipment has been successfully started up and tested.

NOTICE: As a result of the outbreaks of the disease COVID-19 arising from the novel coronavirus, temporary delays in delivery, labor, or services from Cummins and its sub-suppliers or subcontractors may occur. Among other factors, Cummins' delivery is subject to correct and punctual supply from our sub-suppliers or subcontractors, and Cummins reserves the right to make partial deliveries or modify its labor or service. While Cummins shall make every commercially reasonable effort to meet the delivery, service, or completion described herein, such date(s) is(are) subject to change.



Please feel free to contact me if you require any additional information; or if you have any further questions or concerns that I may be of assistance with.

Thank you for choosing Cummins.

Submitted by:

Nicole Michael, Sales Engineer
hq689@cummins.com
(864) 641-5077

SUBMITTALS. An order for the equipment covered by this quotation will be accepted on a hold for release basis. Your order will not be released and scheduled for production until written approval to proceed is received in our office. Such submittal approval shall constitute acceptance of the terms and conditions of this quotation unless the parties otherwise agree in writing.

THERE ARE ADDITIONAL CONTRACT TERMS AND CONDITIONS ATTACHED TO THIS QUOTATION, INCLUDING LIMITATIONS OF WARRANTIES AND LIABILITIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN. BY ACCEPTING THIS QUOTATION, CUSTOMER ACKNOWLEDGES THAT THE CONTRACT TERMS AND CONDITIONS HAVE BEEN READ, FULLY UNDERSTOOD AND ACCEPTED.

Authorized Signature

Date

Company Name

Printed Name & Title

Purchase Order No

<Rest of the page is intentionally left blank>

TERMS AND CONDITIONS FOR SALE OF POWER GENERATION EQUIPMENT

These Terms and Conditions for Sale of Power Generation Equipment, together with the Quote, Sales Order, and/or Credit Application on the front side or attached hereto, are hereinafter referred to as this "Agreement" and shall constitute the entire agreement between the customer identified in the quote ("Customer") and Cummins Inc. ("Cummins") and supersede any previous representation, statements, agreements or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, the Terms and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site will be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, any terms and conditions related thereto shall be null and void and of no legal effect on Cummins.

SCOPE

Cummins shall supply power generation equipment and any related parts, materials and/or services expressly identified in this Agreement (collectively, "Equipment"). No additional services, parts or materials are included in this Agreement unless agreed upon by the parties in writing. The Quote is based upon the assumption that the Equipment will be reasonably available and is not subject to unusual market fluctuations. In the event of unusual and/or unanticipated price fluctuations and/or shortage of materials ("Fluctuations"), Cummins reserves the right to adjust the estimated delivery time and/or the price to reflect such Fluctuations. Subject to the foregoing, any Quote is valid for 30 days, and the price is firm provided drawings are approved and returned within 30 days after submission and ship date is not extended beyond published lead times. Any delays may result in escalation charges. A Sales Order for Equipment is accepted on hold for release basis. The Sales Order will not be released and scheduled for production until written approval to proceed is received. A Quote is limited to plans and specifications section set forth in the Quote. No other sections shall apply. Additional requirements for administrative items may require additional costs. The Quote does not include off unit wiring, off unit plumbing, offloading, rigging, installation, exhaust insulation or fuel, unless otherwise stated. Cummins makes no representation or assurance as to the Equipment complying with any Buy America or Buy American laws, regulations, or requirements unless specifically provided in the Quote.

SHIPPING; DELIVERY; DELAYS

Unless otherwise agreed in writing by the parties, Equipment shall be delivered FOB origin, freight prepaid to first destination. For consumer and mobile products, freight will be charged to Customer. Unless otherwise agreed to in writing by the parties, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. Cummins may deliver in installments. A reasonable storage fee, as determined by Cummins, may be assessed if delivery of the Equipment is delayed, deferred, or refused by Customer. Offloading, handling, and placement of Equipment and crane services are the responsibility of Customer and not included unless otherwise stated. All shipments are made within normal business hours, Monday through Friday. Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order and will be in effect after engineering drawings have been approved for production. Cummins shall use best efforts to meet estimated dates, but shall not be liable to customer or any third party for any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result from Fluctuations or directly or indirectly from acts of Customer or any unforeseen event, circumstance, or condition beyond Cummins' reasonable control including, but not limited to, acts of God, actions by any government authority, civil strife, fires, floods, windstorms, explosions, riots, natural disasters, embargos, wars, strikes or other labor disturbances, civil commotion, terrorism, sabotage, late delivery by Cummins' suppliers, fuel or other energy shortages, or an inability to obtain necessary labor, materials, supplies, equipment or manufacturing facilities.

AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.

PAYMENT TERMS; CREDIT; RETAINAGE

Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of the invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Equipment. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay Cummins' costs and expenses (including reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. Retainage is not acceptable nor binding, unless required by statute or accepted and confirmed in writing by Cummins prior to shipment.

TAXES; EXEMPTIONS

Unless otherwise stated, the Quote excludes all applicable local, state and federal sales and/or use taxes, permits and licensing. Customer must provide a valid resale or exemption certificate prior to shipment of Equipment or applicable taxes will be added to the invoice.

TITLE; RISK OF LOSS

Unless otherwise agreed in writing by the parties, title and risk of loss for the Equipment shall pass to Customer upon delivery of the Equipment by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

INSPECTION AND ACCEPTANCE

Customer shall inspect the Equipment upon delivery, before offloading, for damage, defects, and shortage. Any and all claims which could have been discovered by such inspection shall be deemed absolutely and unconditionally waived unless noted by Customer on the bill of lading. Where Equipment is alleged to be non-conforming or defective, written notice of defect must be given to Cummins within three (3) days from date of delivery after which time Equipment shall be deemed accepted. Cummins shall have a commercially reasonable period of time in which to correct such non-conformity or defect. If non-conformity or defect is not eliminated to Customer's satisfaction, Customer may reject the Equipment (but shall protect the Equipment until returned to Cummins) or allow Cummins another opportunity to undertake corrective action. In the event startup of the Equipment is included in the services, acceptance shall be deemed to have occurred upon successful startup.

LIEN; SECURITY AGREEMENT

Customer agrees that Cummins retains all statutory lien rights. To secure payment, Customer grants Cummins a Purchase Money Security Interest in the Equipment. If any portion of the balance is due to be paid following delivery, Customer agrees to execute and deliver such security agreement, financing statements, deed of trust and such other documents as Cummins may request from time to time in order to permit Cummins to obtain and maintain a perfected security interest in the Equipment; or in the alternative, Customer grants Cummins a power of attorney to execute and file all financing statements and other documents needed to perfect this security interest. Cummins may record this Agreement, bearing Customer's signature, or copy of this Agreement in lieu of a UCC-1, provided that it shall not constitute an admission by Cummins of the applicability or non-applicability of the UCC nor shall the failure to file this form or a UCC-1 in any way affect, alter, or invalidate any term, provision, obligation or liability under this Agreement. The security interest shall be superseded if Customer and Cummins enter into a separate security agreement for the Equipment. Prior to full payment of the balance due, Equipment will be kept at Customer's location noted in this Agreement, will not be moved without prior notice to Cummins, and is subject to inspection by Cummins at all reasonable times.

CANCELLATION; CHARGES

Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. If Customer seeks to cancel all or a portion of an order placed pursuant to this Agreement, and Cummins accepts such cancellation in whole or in part, Customer shall be assessed cancellation charges as follows: (i) 10% of total order price if cancellation is received in Cummins' office after Cummins has provided submittals and prior to releasing equipment to be manufactured; (ii) 25% of total order price if cancellation is received in Cummins' office after receipt of submittal release to order, receipt of a purchase order for a generator already on order with the factory, or is asked to make any hardware changes to the equipment already on order with the factory; (iii) 50% of total order price if cancellation is received in Cummins' office 60 or fewer days before the scheduled shipping date on the order; or (iv) 100% of total order price if cancellation is received in Cummins' office after the equipment has shipped from the manufacturing plant.

MANUALS

Unless otherwise stated, electronic submittals and electronic operation and maintenance manuals will be provided, and print copies may be available upon Customer's request at an additional cost.

TRAINING; START UP SERVICES; INSTALLATION

Startup services, load bank testing, and owner training are not provided unless otherwise stated. Site startup will be subject to the account being current and will be performed during regular Cummins business hours, Monday to Friday. Additional charges may be added for work requested to be done outside standard business hours, on weekends, or holidays. One visit is allowed unless specified otherwise in the Quote. A minimum of two-week prior notice is required to schedule site startups and will be subject to prior commitments and equipment and travel availability. A signed site check sheet confirming readiness will be required, and Cummins personnel may perform an installation audit prior to the startup being completed. Any issues identified by the installation audit shall be corrected at the Customer's expense prior to the start-up. Portable load banks for site test (if offered in the Quote) are equipped with only 100 feet of cable. Additional lengths may be arranged at an extra cost. Cummins is not responsible for any labor or materials charged by others associated with start-up and installation of Equipment, unless previously agreed upon in writing. Supply of fuel for start-up and/or testing, fill-up of tank after start up, or change of oil is not included unless specified in the Quote. All installation/execution work at the site including, but not limited to: civil, mechanical, electrical, supply of wall thimbles, exhaust extension pipe, elbows, hangers, expansion joints, insulation and cladding materials, fuel/oil/cooling system piping, air ducts, and louvers/dampers is not included unless specified in the Quote. When an enclosure or sub-base fuel tank (or both) are supplied, the openings provided for power cable and fuel piping entries, commonly referred to as "stub-ups", must be sealed at the site by others before commissioning. All applications, inspections and/or approvals by authorities are to be arranged by Customer.

MANUFACTURER'S WARRANTY

Equipment purchased hereunder is accompanied by an express written manufacturer's warranty ("Warranty") and, except as expressly provided in this Agreement, is the only warranty offered on the Equipment. A copy of the Warranty is available upon request. While this Agreement and the Warranty are intended to be read and applied in conjunction, where this Agreement and the Warranty conflict, the terms of the Warranty shall prevail.

WARRANTY PROCEDURE

Prior to the expiration of the Warranty, Customer must give notice of a warrantable failure to Cummins and deliver the defective Equipment to a Cummins location or other location authorized and designated by Cummins to make the repairs during regular business hours. Cummins shall not be liable for towing charges, maintenance items such as oil filters, belts, hoses, etc., communication expenses, meals, lodging, and incidental expenses incurred by Customer or employees of Customer, "downtime" expenses, overtime expenses, cargo damages and any business costs and losses of revenue resulting from a warrantable failure.

LIMITATIONS ON WARRANTIES THE REMEDIES PROVIDED IN THE WARRANTY AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

The limited warranty does not cover Equipment failures resulting from: (a) inappropriate use relative to designated power rating; (b) inappropriate use relative to application guidelines; (c) inappropriate use of an EPA-SE application generator set relative to EPA's standards; (d) normal wear and tear; (e) improper and/or unauthorized installation; (f) negligence, accidents, or misuse; (g) lack of maintenance or unauthorized or improper repair; (h) noncompliance with any Cummins published guideline or policy; (i) use of improper or contaminated fuels, coolants, or lubricants; (j) improper storage before and after commissioning; (k) owner's delay in making Equipment available after notification of potential Equipment problem; (l) replacement parts and accessories not authorized by Cummins; (m) use of battle short mode; (n) owner or operator abuse or neglect such as: operation without adequate coolant, fuel, or lubricants; over fueling; over speeding; lack of maintenance to lubricating, fueling, cooling, or air intake systems; late servicing and maintenance; improper storage, starting, warm-up, running, or shutdown practices, or for progressive damage resulting from a defective shutdown or warning device; or (o) damage to parts, fixtures, housings, attachments and accessory items that are not part of the generating set.

INDEMNITY

Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Equipment supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed to by, in whole or in part, the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

LIMITATION OF LIABILITY NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF EQUIPMENT UNDER THIS AGREEMENT OR THE USE OR PERFORMANCE OF EQUIPMENT SUPPLIED UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF EQUIPMENT SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN EVEN IF THE EXCLUSIVE REMEDY UNDER THE WARRANTY IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

DEFAULT; REMEDIES

Customer shall be in breach and default if: (a) any of the payments or amounts due under this Agreement are not paid; (b) Customer fails to comply, perform, or makes any misrepresentation relating to any of the Customer's obligations or covenants under this Agreement; or (c) prior to full payment of the balance due, Customer ceases to do business, becomes insolvent, makes an assignment for the benefit of its creditors, appoints a receiver, commences an action for dissolution or liquidation, or becomes subject to bankruptcy proceedings, or the Equipment is attached, levied upon, seized under legal process, is subjected to a lien or encumbrance, or transferred by operation of law or otherwise to anyone other than Cummins.

Upon the occurrence of any event of Customer's default, Cummins, at its sole option and without notice, shall have the right to exercise concurrently or separately any one or all of the following remedies, which shall be cumulative and not alternative: (a) to declare all sums due, and to become due, under this Agreement immediately due and payable; (b) to commence legal proceedings, including collection actions and specific performance proceedings, to enforce performance by Customer of any and all provisions of this Agreement, and to be awarded damages or injunctive relief for the Customer's breach; (c) to require the Customer to deliver the Equipment to Cummins' branch specified on the face of this Agreement; (d) to exercise one or more of the rights and remedies available to a secured party under applicable law; and (e) to enter, without notice or liability or legal process, onto any premises where the Equipment may be located, using force permitted by law, and there to disconnect, remove and repossess the Equipment, the Customer having waived further right to possession after default. A waiver of any event of default by Cummins shall not be a waiver as to any other or subsequent default.

CUSTOMER REPRESENTATIONS; RELIANCE

Customer is responsible for obtaining, at its cost, permits, import licenses, and other consents in relation to the Equipment, and if requested by Cummins, Customer shall make these permits, licenses, and consents available to Cummins prior to shipment. Customer represents that it is familiar with the Equipment and understands operating instructions and agrees to perform routine maintenance services. Until the balance is paid in full, Customer shall care for the Equipment properly, maintain it in good operating condition, repair and appearance; and Customer shall use it safely and within its rated capacity and only for purpose it was designed. Even if Customer's purchase of Equipment from Cummins under this Agreement is based, in whole or in part, on specifications, technical information, drawings, or written or verbal advice of any type from third parties, Customer has sole responsibility for the accuracy, correctness and completeness of such specifications, technical information, drawings,

or advice. Cummins make no warranties or representations respecting the accuracy, correctness and completeness of any specifications, technical information, drawings, advice or other information provided by Cummins. Cummins makes no warranties or representations respecting the suitability, fitness for intended use, compatibility, integration or installation of any Equipment supplied under this Agreement. Customer has sole responsibility for intended use, for installation and design and performance where it is part of a power, propulsion, or other system. Limitation of warranties and remedies and all disclaimers apply to all such technical information, drawings, or advice. Customer acknowledges and agrees by accepting delivery of the Equipment that the Equipment purchased is of the size, design, capacity and manufacture selected by the Customer, and that Customer has relied solely on its own judgment in selecting the Equipment.

CONFIDENTIALITY

Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

GOVERNING LAW AND JURISDICTION

This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the courts of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

INSURANCE

Upon Customer's request, Cummins will provide to Customer a Certificate of Insurance evidencing Cummins' relevant insurance coverage.

ASSIGNMENT

This Agreement shall be binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

INTELLECTUAL PROPERTY

Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a licence or any other rights to use any of the intellectual property rights of Cummins.

MISCELLANEOUS

Cummins shall be an independent contractor under this Agreement. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in this Agreement. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Equipment pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement. In the event of a conflict in the terms of this Agreement with any Customer terms or conditions or agreement (whether referenced in an order submitted by Customer as the terms that govern the purchase of the Equipment or otherwise) or any terms set forth in any other documentation of Customer with respect to the Equipment, the terms of this Agreement shall govern. Cummins may incur additional charges which will be passed on to the Customer, as applicable.

COMPLIANCE

Customer shall comply with all laws applicable to its activities under this Agreement, including, without limitation, any and all applicable federal, state, and local anti-bribery, environmental, health, and safety laws and regulations then in effect. Customer acknowledges that the Equipment, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Equipment or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable all laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall act as the importer of record with respect to the Equipment and shall not resell, export, re-export, distribute, transfer, or dispose of the Equipment or related technology, directly or indirectly, without first obtaining all necessary written permits, consents, and authorizations and completing such formalities as may be required under such laws, rules, and regulations. In addition, Cummins has in place policies not to distribute its products for use in certain countries based on applicable laws and regulations including but not limited to UN, U.S., UK, and European Union regulations. Customer undertakes to perform its obligations under this Agreement with due regard to these policies. Strict compliance with this provision and all laws of the territory pertaining to the importation, distribution, sales, promotion and marketing of the Equipment is a material consideration for Cummins entering into this Agreement with Customer and continuing this Agreement for its term. Customer represents and warrants that it has not and shall not, directly or through any intermediary, pay, give, promise to give or offer to give anything of value to a government official or representative, a political party official, a candidate for political office, an officer or employee of a public international organization or any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities for the purposes of inducing such person to use his influence to assist Cummins in obtaining or retaining business or to benefit Cummins or any other person in any way, and will not otherwise breach any applicable laws relating to anti-bribery. Any failure by Customer to comply with these provisions will constitute a default giving Cummins the right to immediate termination of this Agreement and/or the right to elect not to recognize the warranties associated with the Equipment. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.

Check if this Agreement pertains to government work or facilities



July 20, 2022

Mr. Logan Hickey
Procurement/Contract Administrator
City of Hendersonville
160 Sixth Avenue East
Hendersonville, NC

Subject: Hendersonville Fire Station #1 - Cummins

Dear Mr. Hickey:

We are providing you this letter to confirm that we (Cummins Inc) are the factory owned, sales outlet that is authorized to sell direct the Cummins Commercial Generator sets to the public and industry.

The commercial generator and ATS for this project is our Model DQDAA, 250 kW configurable, diesel generator set and OTECSE configurable automatic transfer switch. No other vendor or Cummins dealer is authorized to sell this equipment direct to the customer.

Please do not hesitate to contact me directly with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Andresen', with a stylized flourish at the end.

Mark Andresen
Director - Commercial Power Generation Sales
Cummins Inc.

Cummins Inc.
11101 Nation Ford Road
Charlotte, NC 28273
(M) 704/652-1623
Mark.D.Andresen@cummins.com



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Ricky Levi, Logan Hickey **MEETING DATE:** 08/04/2022
AGENDA SECTION: Consent Agenda **DEPARTMENT:** Administration
TITLE OF ITEM: Sole Source Purchase of Ortho Phosphate- *Ricky Levi*

SUGGESTED MOTION(S):

I move City Council adopt the *Resolution by the City of Hendersonville City Council to Authorize the continued Sole-Source Purchase of Ortho Phosphate for the City Water Treatment Plant.*

SUMMARY:

The City of Hendersonville Water Treatment Plant utilizes Ortho Phosphate. Ortho Phosphate is required by the state for corrosion control. Ortho Phosphate is a proprietary blend called 70/30 Ortho Poly with a total PO₄ value of 36 percent. It is only available from one source of supply. While there are alternative products in the market, no other vendors offer this particular blend. We have used this blend for roughly 15-20 years and utilizing a different blend would create a need to for an entirely new corrosion study with the state and the changeover would take 3-6 months to replace within the distribution system. This would significant budgetary overages, would cause regulatory issues with the state, and would cause issues with corrosion control (ie. Lead and copper). NCGS 143-129(e) lists the authorized exceptions to the formal bid procedures. NCGS 143-129(e)(6) allows for purchases of apparatus, supplies, materials, or equipment to be purchasing using sole-source exception when: (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration. The governing board of a political subdivision of the State shall approve the purchases listed in the preceding sentence prior to the award of the contract. Staff are requesting to continue to utilize Worx on Ortho Phosphate City-wide by asking that Council approve this sole source request.

BUDGET IMPACT: \$68,000.00

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

ATTACHMENTS:

Resolution

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE SOLE-SOURCE PURCHASE OF ORTHO PHOSPHATE FOR THE
WATER TREATMENT PLANT**

WHEREAS, the City's Water Treatment Plant utilizes Ortho Phosphate; and,

WHEREAS, Ortho Phosphate is required by the state for corrosion control; and,

WHEREAS, Ortho Phosphate is a proprietary blend called 70/30 Ortho Poly with a total PO4 value of 36 percent; and,

WHEREAS, Ortho Phosphate is only available from one source of supply. While there are alternative products in the market, no other vendors offer this particular blend; and,

WHEREAS, the City has used this blend for roughly 15-20 years and utilizing a different blend would create a need to for an entirely new corrosion study with the state and the changeover would take 3-6 months to replace within the distribution system. This would significant budgetary overages, would cause regulatory issues with the state, and would cause issues with corrosion control (ie. Lead and copper); and,

WHEREAS, NCGS 143-129(e) lists the authorized exceptions to the formal bid procedures. NCGS 143-129(e)(6) allows for purchases of apparatus, supplies, materials, or equipment to be purchasing using sole-source exception when: (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration. The governing board of a political subdivision of the State shall approve the purchases listed in the preceding sentence prior to the award of the contract; and,

WHEREAS, staff are requesting to continue to utilize Worx on Ortho Phosphate City-wide by asking that Council approve this sole source request; and,

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that a sole-source purchase of Ortho Phosphate is authorized for the City's Water Treatment Plant.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of August, 2022.

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 AGENDA ITEM SUMMARY

SUBMITTER: John Connet **MEETING DATE:** 08/04/2022
AGENDA SECTION: CONSENT **DEPARTMENT:** Administration
TITLE OF ITEM: Utility Easement Contract Resolution with AT&T – *John Connet, City Manager*

SUGGESTED MOTION(S):

I move that the City Council adopt the resolution authorizing the City Manager to enter into option contract with AT&T for a 12 x18 utility easement in the Dogwood Parking Lot.

SUMMARY:

AT&T is in the process of expanding fiber optic cable throughout downtown Hendersonville. They are requesting a 12x18 utility easement along 5th Avenue on the edge of the Dogwood Parking Lot. They have asked the City to enter into an option contract to allow them to survey the property. The property would include an existing AT&T utility box.

BUDGET IMPACT: \$5,000 payment to the City of Hendersonville

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

If no, describe how it will be funded. NA

ATTACHMENTS:

Proposed Resolution

Easement Map

Option Documents

Resolution # __ - ____

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO AN OPTION CONTRACT WITH AT&T FOR A 12 X18 UTILITY EASEMENT IN THE DOGWOOD PARKING LOT

WHEREAS, the North Carolina General Statutes authorize municipalities to enter grant utility easements to private utilities for the expansion of public infrastructure; and

WHEREAS, AT&T is currently developing plans to install additional fiber optic cable in downtown Hendersonville; and

WHEREAS, the Hendersonville City Council has made it a priority to expand fiber optic infrastructure in Hendersonville; and

WHEREAS, the identified 12x18 area in the Dogwood Parking Lot is an appropriate location for utility infrastructure.

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

1. The City Manager is authorized to enter into an option contract with AT&T for a 12X18 utility easement along 5th Avenue in the Dogwood Parking Lot.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of August 2022.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

EXHIBIT "B"

COUNTY: HENDERSON
 PIN: 9568783304
 BK/PG: 556/205
 OWNER: CITY OF HENDERSONVILLE
 CONTRACT: JOHN CONNETT @ 828-273-3201
 JOB: A02DE\$9
 RWID: NC-2022-JUN-3405152-0

PREPARED BY:
 JERRY DUTALL
 828-430-0543
 7-1-2022

PERMISSION TO REMOVE
 OVERTHANGING LIMB ON TREE

PROPOSED TREE
 ESTIMEMENT

DUKE
 POLE

SIGN

2'

EXISTING
 PAD

POLE

SIDEWALK

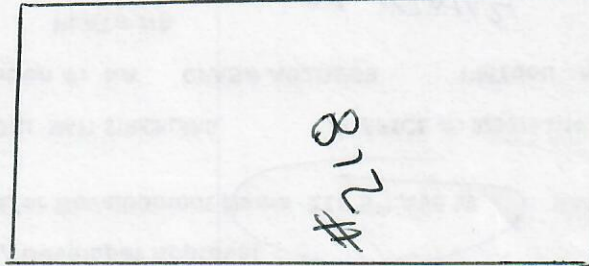
CITY
 PARKING

R/W

5TH AVE W

← TO CHURCH ST.

- NOT TO SCALE -



8420-C
(02-2013)

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

Preparer's name and address:
Jerry Duvall
2641 Holly Hills Dr.
Valdese, NC
28690

Grantee's Address:
BellSouth Telecommunications, LLC, d/b/a AT&T North Carolina
100 S. Eugene Street
Greensboro, NC 27401
Attn: Kara Rydill

Option For Acquisition Of Easement (Or Servitude)

For and in consideration of the sum of money hereinafter set out and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, the undersigned owner(s) of the premises described below, hereinafter referred to as Grantor, do(es) hereby grant to BellSouth Telecommunications, LLC, d/b/a AT&T North Carolina, a Georgia Limited Liability Company, and its parent and its and its parent's direct and indirect affiliates, subsidiaries, agents, attorneys, employees, officers, directors, servants, insurance carriers, licensees, successors, and assigns, hereinafter referred to as Grantee, an option to acquire an easement (or servitude), to construct, operate, maintain, add, and/or remove such systems of communications (including broadcast), facilities, and related items as the Grantee may from time to time deem necessary in the conduct of its business upon, over, and under a portion of the lands described in Deed Book 556, page 205, Henderson County (Parish), North Carolina Records, and, to the fullest extent the Grantor has the power to grant, upon, over, along, and under the roads, streets, or highways adjoining or through said property. The said easement is more particularly described as follows:

Grantee shall have the right to enter upon the property covered by this option for the purpose of making surveys and tests deemed necessary by the Grantee. Grantor shall convey the easement (or servitude) area substantially in the following form:

A site approximately 18' x 12' in the NE corner of said
property as shown on the attached Exhibit B. Site is
subject to survey at Grantee's expense.



The receipt of One and No/100 Dollars (\$1.00) is hereby acknowledged by the undersigned for an option for a period of One Hundred Eighty (180) days commencing on the date of execution of this instrument. Should the Grantee choose not to exercise this option, Grantee shall be released from any and all obligations herein granted. Grantee agrees to pay the owner Five Thousand and no/100 dollars (\$ 5,000.00) when and if this option is exercised. The sum herein agreed upon is in full payment for all rights herein granted. Should the Grantee choose to exercise this Option, then Grantor agrees to execute an easement (or servitude) conveyance document in form attached hereto as Exhibit "A", Easement (or Servitude).

To have and to hold the above granted option for acquisition of easement (or servitude) unto BellSouth Telecommunications, LLC, d/b/a AT&T North Carolina, and its parent and its and its parent's direct and indirect affiliates, subsidiaries, agents, attorneys, employees, officers, directors, servants, insurance carriers, licensees, successors, and assigns.

In witness whereof, the undersigned has/have caused this instrument to be executed on the _____ day of July, 2022.

Signed, sealed and delivered in the presence of:

Witness
(Print Name) N/A

City of Hendersonville
Name of Corporation
(Address)
160 Sixth Avenue East
Hendersonville, NC 28792

Witness
(Print Name) N/A

By: _____
Title: _____
Attest: _____

State of North Carolina, County (Parish) of Henderson

I, _____, do hereby certify that _____, personally came before me this day and acknowledged that he(or she) is _____ (officer) of the _____, City of Hendersonville, a corporation, and backed by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____ (officer) sealed with its corporate seal, and attested by himself (or herself) as its N/A (officer).

Witness my hand and seal, this _____ day of July, 2022.

Notary Public
(Print Name) _____

My Commission Expires: _____

TO BE COMPLETED BY GRANTEE

District <u>North Carolina</u>	FRC <u>845C</u>	Wire Center/NXX <u>Hendersonville-Church/</u>	Authority <u>A02DES9</u>
Drawing <u>N/A</u>	Area Number <u>22415</u>	Plat Number <u>N/A</u>	RWID <u>NC-2022-JUN-3405152-0</u>
Parcel ID <u>9568783304</u>	Approval <u>Lee Sadler</u>	Title <u>Mgr-OSP Planning &Design SE/CA</u>	

EXHIBIT "A"

STATE OF NORTH CAROLINA COUNTY OF
HENDERSON

8416-C-NC
(06-2019)

Preparer's name and address:

Jerry L. DuVall
2641 Holly Hills Drive
Valdese, NC 28690

**Grantee's Address: BellSouth Telecommunications,
LLC, d/b/a AT&T North Carolina**
100 S. Eugene Street
Greensboro, NC 27401

EASEMENT

For and in consideration of FIVE THOUSAND dollars (\$ \$5,000.00) and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, the undersigned owner(s) of the premises described below, hereinafter referred to as Grantor, do(es) hereby grant to BELLSOUTH TELECOMMUNICATIONS, LLC, d/b/a AT&T North Carolina, a Georgia limited liability company, its licensees, agents, successors, assigns, and allied and associated companies, hereinafter referred to as Grantee, an easement to construct, operate, maintain, add, and/or remove such systems of communications, facilities, standby generators and associated fuel supply systems as a means of providing uninterrupted service during commercial power outages, or related services as the Grantee may from time to time require upon, over, and under a portion of the lands described in Deed Book 556, page 205, Henderson County, North Carolina Records, and, to the fullest extent the Grantor has the power to grant, upon, over, along, and under the roads, streets, or highways adjoining or through said property. The said easement is more particularly described as follows:

All that tract or parcel of land lying in _____, County, State of North Carolina, consisting of a (strip) (parcel) of land shown on that survey, attached hereto as Exhibit A and incorporated by reference.

The following rights are also granted: the nonexclusive right to allow any other person, firm, or corporation to attach wires, antennas, or communications equipment or lay cable or conduit or other appurtenances upon, over, and under said easement for communications or electric power transmission or distribution; ingress to and egress from said easement at all times; the right, but not the obligation, to clear the easement and keep it cleared of all trees, undergrowth, or other obstructions; the right, but not the obligation, to trim and cut and keep trimmed and cut all dead, weak, leaning, or dangerous trees or limbs outside the easement which might interfere with or fall upon the lines or systems of communication or power transmission or distribution; the right to relocate said facilities, systems of communications, or related services on said lands to conform to any future highway relocation, widening, or improvements, the right to test and maintain generators and associated equipment; and the right to allow any other person, firm, or corporation to provide for fuel/energy distribution to equipment placed on the site.

To have and to hold the above granted easement unto BellSouth Telecommunications, LLC, d/b/a AT&T North Carolina, its licensees, agents, successors, assigns, and allied and associated companies forever and in perpetuity.

Grantor warrants that Grantor is the true owner of record of the above described land on which the aforesaid easement is granted.

SPECIAL STIPULATIONS OR COMMENTS:

8416-C-NC
(06-2019)
Page 2

The following special stipulations shall control in the event of conflict with any of the foregoing easement:

N/A

In witness whereof, the undersigned has/have caused this instrument to be executed on the _____ day of _____, _____.

Signed, sealed and delivered in the presence of:

_____	_____	_____
Witness	(Address)	Name of Company/Corporation
(Print Name)	_____	_____
_____	_____	_____

_____	By: _____
Witness	Title: _____
(Print Name)	_____
_____	Attest: _____
_____	_____

State of North Carolina, County of _____

I, _____, do hereby certify that _____, personally came before me this day and acknowledged that he(or she) is _____ (officer) of the _____, a company/corporation, and backed by authority duly given and as the act of the company/corporation, the foregoing instrument was signed in its name by its _____ (officer), sealed with its company/corporate seal, and attested by himself (or herself) as its _____ (officer).
Witness my hand and seal, this _____ day of _____, _____.

Notary Public
(Print Name) _____
My Commission Expires: _____

TO BE COMPLETED BY BILLSOUTH TELECOMMUNICATIONS, LLC.

District	FRC	Wire Center/NXX	Authority
Drawing N/A	Area Number	Plat Number	RWID
Approval Kevin W. Hogsed	Title Mgr-OSP Planning & Design		



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Ricky Levi, Logan Hickey **MEETING DATE:** 08/04/2022
AGENDA SECTION: Consent Agenda **DEPARTMENT:** Administration
TITLE OF ITEM: Sole Source Purchase of Bicarbonate- *Ricky Levi*

SUGGESTED MOTION(S):

I move City Council adopt the *Resolution by the City of Hendersonville City Council to Authorize the continued Sole-Source Purchase of Bicarbonate for the City Water Treatment Plant.*

SUMMARY:

The City of Hendersonville Water Treatment Plant utilizes Bicarbonate. Bicarbonate is required by the state for providing required alkalinity level. Bicarbonate is a proprietary blend called Alkalinity First and is only available from one source of supply in this area as they are the only authorized area distributor. This is a granular technical grade Bicarbonate, which ensures consistent levels of alkalinity that other products cannot offer. NCGS 143-129(e) lists the authorized exceptions to the formal bid procedures. NCGS 143-129(e)(6) allows for purchases of apparatus, supplies, materials, or equipment to be purchasing using sole-source exception when: (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration. The governing board of a political subdivision of the State shall approve the purchases listed in the preceding sentence prior to the award of the contract. Staff are requesting to continue to utilize Univar on Bicarbonate City-wide by asking that Council approve this sole source request.

BUDGET IMPACT: \$210,000.00

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

ATTACHMENTS:

Resolution

Resolution #R-22-90

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE SOLE-SOURCE PURCHASE OF CHLORINE FOR THE WATER TREATMENT PLANT

WHEREAS, the City’s Water Treatment Plant utilizes Bicarbonate; and,

WHEREAS, Bicarbonate is required by the state for providing required alkalinity level; and,

WHEREAS, Bicarbonate is a proprietary blend called Alkalinity First and is only available from one source of supply in this area as they are the only authorized area distributor; and,

WHEREAS, this is a granular technical grade Bicarbonate, which ensures consistent levels of alkalinity that other products cannot offer; and,

WHEREAS, NCGS 143-129(e) lists the authorized exceptions to the formal bid procedures. NCGS 143-129(e)(6) allows for purchases of apparatus, supplies, materials, or equipment to be purchasing using sole-source exception when: (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration. The governing board of a political subdivision of the State shall approve the purchases listed in the preceding sentence prior to the award of the contract; and,

WHEREAS, staff are requesting to continue to utilize Univar on Bicarbonate City-wide by asking that Council approve this sole source request; and,

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that a sole-source purchase of Bicarbonate is authorized for the City’s Water Treatment Plant.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of August, 2022.

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 AGENDA ITEM SUMMARY

SUBMITTER: Ricky Levi, Logan Hickey **MEETING DATE:** 08/04/2022
AGENDA SECTION: Consent Agenda **DEPARTMENT:** Administration
TITLE OF ITEM: Sole Source Purchase of Coagulant- *Ricky Levi*

SUGGESTED MOTION(S):

I move City Council adopt the *Resolution by the City of Hendersonville City Council to Authorize the continued Sole-Source Purchase of Coagulant for the City Water Treatment Plant.*

SUMMARY:

The City of Hendersonville Water Treatment Plant utilizes Coagulant. Coagulant is required by the state for coagulation, flocculation, and sedimentation. Coagulant is a proprietary blend only available from one source of supply. While there are other alternative non-coagulant products, none have this particular blend which required for the efficient operations of our facility. NCGS 143-129(e) lists the authorized exceptions to the formal bid procedures. NCGS 143-129(e)(6) allows for purchases of apparatus, supplies, materials, or equipment to be purchasing using sole-source exception when: (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration. The governing board of a political subdivision of the State shall approve the purchases listed in the preceding sentence prior to the award of the contract. Staff are requesting to continue to utilize CedarChem on Coagulant City-wide by asking that Council approve this sole source request.

BUDGET IMPACT: \$100,000.00 with potential overages based emergency situations.

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

ATTACHMENTS:

Resolution

Resolution # _____

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE SOLE-SOURCE PURCHASE OF CHLORINE FOR THE WATER TREATMENT PLANT

WHEREAS, the City’s Water Treatment Plant utilizes Coagulant; and,

WHEREAS, Coagulant is required by the state for coagulation, flocculation, and sedimentation; and,

WHEREAS, Coagulant is a proprietary blend only available from one source of supply; and,

WHEREAS, While there are other alternative non-coagulant products, none have this particular blend which required for the efficient operations of our facility; and,

WHEREAS, NCGS 143-129(e) lists the authorized exceptions to the formal bid procedures. NCGS 143-129(e)(6) allows for purchases of apparatus, supplies, materials, or equipment to be purchasing using sole-source exception when: (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration. The governing board of a political subdivision of the State shall approve the purchases listed in the preceding sentence prior to the award of the contract; and,

WHEREAS, staff are requesting to continue to utilize CedarChem on Coagulant City-wide by asking that Council approve this sole source request; and,

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that a sole-source purchase of Coagulant is authorized for the City’s Water Treatment Plant.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of August, 2022.

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 AGENDA ITEM SUMMARY

SUBMITTER: Adela Gutierrez Ramirez **MEETING DATE:** 08/04/2022

AGENDA SECTION: Consent **DEPARTMENT:** Engineering

TITLE OF ITEM: 7th Ave. Streetscape Construction Manager at Risk Selection – *Adela Gutierrez Ramirez, Civil Engineer I*

SUGGESTED MOTION(S):

I move the City Council adopt a Resolution directing the City Manager to negotiate a contract with Harper General Contractors to provide construction manager at risk services, based on their review as most qualified firm to perform the work and authorize the City Manager to negotiate with the next most qualified firm, based on the presented rankings, if the initial negotiations fail.

SUMMARY:

An agenda item directing the City Manager to negotiate a contract with Harper General Contractors to provide construction manager at risk services as identified as the most qualified firm based on the City’s RFQ process. Responses were due July 8th, 2022. After a review by the selection team and conversations with project references, the City ranked Harper General Contractors as the highest scoring and ranking firm based on an average of all reviews. Firms Frank L. Blum Construction, Crowder Construction, and First Victory were the next highest ranking, in order.

BUDGET IMPACT: TBD

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

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

ATTACHMENTS:

Resolution

Scoring Sheet

Resolution R-22-93

RESOLUTION BY THE HENDERSONVILLE CITY COUNCIL TO ENTER INTO A CONTRACT FOR CONSTRUCTION MANAGER AT RISK SERVICES WITH A SELECTED FIRM FOR THE SEVENTH AVENUE STREETScape PROJECT

WHEREAS, the City of Hendersonville advertised a request for qualifications for construction manager at risk services for a Seventh Avenue Streetscape Project and;

WHEREAS, Harper General Contractors was determined to have the highest aggregate score and was most frequently ranked as the highest firm by each reviewer; and

WHEREAS, firms Frank L. Blum Construction, Crowder Construction, and First Victory were the next highest-ranking firms in order; and

WHEREAS, the City Council may authorize the City Manager to complete contract negotiations on the behalf of City Council for construction manager at risk services; and

WHEREAS, a contract for services is still to be established;

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

1. The City Manager is authorized to negotiate a contract for construction manager at risk services with Harper General Contractors on behalf of City Council..
2. If negotiations fail, the City Manager is directed to negotiate a contract with the next most qualified firm based on the rankings provided in the RFQ review sheet.
3. The final negotiated agreement shall be presented to City Council for its approval.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of August, 2022.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

EVALUATION CRITERIA	4 First Victory	2 Frank L. Blum	3 Crowder	1 Harper
a. Reputation, Quality, and Experience (30 Possible Points) Experience in providing similar services of comparable size and complexity to municipal, county, or other entities. Favorable responses from project references.	15.6	21.4	15.2	21.4
b. Experience of Proposed Team (50 Possible Points) Experience and technical qualifications of the team to provide requested services. Recent experience of the project team providing services of similar scope. Organizational structure of the firm with defined line of communication and clearly defined roles of personnel.	36.8	43.2	44.8	46.6
c. Quality Control (10 Possible Points) Ensure that proper technologies are selected and utilized for the projects. Ensure responses/deliverables are accurate, thorough, and delivered on time. Ensure responses are within the 30-page response limit. Adequacy of firm's technical review process.	7.8	9	9.4	9.8
d. Approach (10 Possible Points) Proposed approach is innovative and effective. Describes tools and processes used to provide preliminary time and budget estimates.	5.6	8.4	9	9.8

SUB-TOTAL	65.8	82	78.4	87.6
RANK	4	2.2	2.8	1

		4 First Victory	2 Frank Blum	3 Crowder	1 Harper
Reviewer 1	a.	14	23	16	23
	b.	37	48	48	49
	c.	7	10	10	10
	d.	6	10	10	10
	SUB-TOTAL	64	91	84	92
	RANK	4	2	3	1
Reviewer 2	a.	15	21	15	22
	b.	38	41	44	47
	c.	7	8	9	10
	d.	5	8	9	10
	SUB-TOTAL	65	78	77	89
	RANK	4	2	3	1
Reviewer 3	a.	19	22	15	22
	b.	34	47	43	48
	c.	7	10	10	10
	d.	5	9	9	10
	SUB-TOTAL	65	88	77	90
	RANK	4	2	3	1
Reviewer 4	a.	15	21	15	20
	b.	36	37	46	46
	c.	9	8	9	10
	d.	5	7	8	10
	SUB-TOTAL	65	73	78	86
	RANK	4	3	2	1
Reviewer 5	a.	15	20	15	20
	b.	39	43	43	43
	c.	9	9	9	9
	d.	7	8	9	9
	SUB-TOTAL	70	80	76	81
	RANK	4	2	3	1

Resolution #R-22-94

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ENTER INTO A CONTRACT FOR ENGINEERING SERVICES FOR THE WWTF AERATION BASIN NO. 2 REPAIRS AND REHABILITATION PROJECT

WHEREAS, the City owns and operates a wastewater treatment facility (WWTF), which contains a concrete aeration basin structure that is bowing outwards and showing signs of stress fractures; and

WHEREAS, the City desires to repair and rehabilitate this concrete aeration basin to ensure structural stability and prolong the useful life of the structure; and

WHEREAS, City Staff have performed a qualifications-based selection, determined McKim & Creed, Inc. as most qualified, and received a proposal from McKim & Creed, Inc. to provide Engineering Services to support the project.

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

- 1. McKim & Creed, Inc. is most qualified to provide professional engineering services for the project, as recommended by Staff.
- 2. The scope of engineering services from Hazen and Sawyer is approved in the amount of \$240,499
- 3. The City Manager is authorized to execute an agreement with McKim & Creed, Inc. consistent with the terms of this Resolution, as approved by the City Attorney.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of August 2022.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

Engineering Services WWTF Aeration Basin No. 2 Repairs and Rehabilitation - QUALIFICATION STATEMENT EVALUATION

Statements Due: June 2, 2022

Firm Name	Location	Reviewer	Team Qualifications (35)	Approach and Management (25)	Similar Projects (35)	Proximity to City (5)	MBE/DBE (Y/N)	TOTAL (100)	FINAL SCORE (100)	Reviewer Rank	Average RANK
McGill Associates, PA	Asheville, NC	Reviewer 1	31	23	30	5	Y (subconsultant)	89	90.0	2	2
		Reviewer 2	33	23	30	5		91		2	
		Reviewer 3	31	22	30	5		88		2	
		Reviewer 4	32	23	32	5		92		2	
McKim & Creed, Inc	Charlotte, NC	Reviewer 1	32	25	33	3	Y (subconsultant)	93	94.5	1	1
		Reviewer 2	34	25	34	3		96		1	
		Reviewer 3	34	25	33	3		95		1	
		Reviewer 4	34	24	33	3		94		1	

EXHIBIT A
PROFESSIONAL ENGINEERING SERVICES
for the
CITY OF HENDERSONVILLE
WWTF AERATION BASIN NO. 2 REPAIRS AND REHABILITATION PROJECT

PROJECT UNDERSTANDING

The City of Hendersonville owns and operates a wastewater treatment facility (WWTF) with a permitted capacity of 4.8 MGD located at 99 Balfour Road, Hendersonville, NC. Biological treatment of wastewater at the WWTF is accomplished using an extended aeration activated sludge process with two 2.4 million gallon (MG) rectangular aeration basins. The existing aeration basins are constructed of cast-in-place concrete, on timber pile foundations, with each basin sharing a common center wall lengthwise, a common influent channel, and a common effluent channel. A condition assessment of the existing aeration basins was recently conducted as part of the City's WWTF Master Plan, which identified structural defects and provided recommendations for further evaluation and repairs. The most notable structural defect identified from the WWTF Master Plan is an outward bowing/deflection of the north wall of aeration basin No. 2 which requires immediate evaluation and repairs. Per the recommendations of the WWTF Master Plan the City has elected to proceed with further evaluation of the existing aeration basins and repairs to correct structural defects. The repairs that are to be completed as part of this project are expected to include:

- New concrete buttresses constructed on the exterior of the north wall of aeration basin No. 2 to provide structural support against further deflection/bowing. Extension of the existing aeration basin base slab/pile cap along with new timber piles or helical piers to support the new buttress assembly (or other alternative structural support method identified during design).
- Repair of interior and exterior cracks on the north wall of aeration basin No. 2, as well as any other high priority cracks around the aeration basins discovered upon further inspection.
 - Repairs are expected to include the use of low viscosity, hydrophilic expanding polyurethane injection chemical grout adhesive system and polymer modified cementitious mortar.
- Replacement of aging equipment and failing pipe penetrations within the aeration basins.

The following Professional Engineering Services shall be performed by McKim & Creed and/or its subconsultants and will be initiated upon written authorization by the City:

SCOPE OF SERVICES

ITEM 1 – PROJECT ADMINISTRATION

M&C will perform the following project administration activities:

1. Manage and coordinate the activities of the Project Team including M&C's staff and sub-consultants, according to the project scope.
2. Conduct a project kick-off meeting with OWNER and project team to review project goals, critical success factors, risks, communication protocols, team roles and responsibilities and confirm project milestones and schedule. Prepare and distribute written meeting minutes.
3. Prepare and distribute written meeting summaries of project status meetings.
4. Prepare monthly invoices for M&C's services in format acceptable to the City.

ITEM 2 – PRELIMINARY ENGINEERING

Design Survey Services

McKim & Creed will coordinate with our surveying subconsultant SEPI Inc. to provide design survey services as described below:

1. Establish initial field control:
 - a. SEPI office personnel will research on-line for the most available and accessible North Carolina Geodetic Grid monumentation within reasonable location of the site. The office personnel will process and adjust the control network from the collected field data.
 - b. SEPI field personnel will tie the control network of the survey work to the NC Geodetic Grid System utilizing GPS. The horizontal datum will be referenced to NAD 83 (2011). The vertical datum will be referenced to NAVD 88. The field personnel will establish a pair of primary control points on-site. Secondary control points will be set for locations of features.
2. Survey of the top of the north wall of existing aeration basin No. 2 to determine the existing degree of deflection/bowing prior to any repair work.
3. Provide limited topographic survey of the existing grade surrounding the north wall of existing aeration basin No. 2 from the basin wall to the existing facility fence line. Topographic survey data will be utilized to support repair designs for the north wall of aeration basin No. 2 and to establish pre-construction conditions within the FEMA 100-year flood plain for the purposes of comparison to post-construction conditions and avoidance of impacts to regulatory flood elevations.
4. Determine horizontal and vertical location of the existing 12-inch diameter ductile iron blower discharge air piping at the penetrations into each existing aeration basin from the blower building.
5. Determine existing grade elevations surrounding the existing aeration basins at the base of the exterior walls. Existing grade elevations will be collected at each corner of the structure, and approximately every 10-ft in between along each wall.

Geotechnical Investigations

McKim & Creed will coordinate with our geotechnical subconsultant, S&ME, to provide a limited geotechnical investigation of subgrade conditions immediately north of the north wall of aeration basin No. 2. This task includes geotechnical investigations to provide data needed to design structural foundations. The geotechnical investigations will include:

1. Explore subsurface conditions by performing up to three soil test borings, assuming one boring located near the center of the north wall of aeration basin No. 2, and one boring near each end of the north wall of aeration basin No. 2 approximately 30-ft from the northeast and northwest ends of the wall, respectively. Soil borings are assumed to be performed to auger refusal or partially weather rock. This is assumed to occur at depths of 40-feet or less based on prior borings at the WWTF.
2. Laboratory testing will be performed to verify soil classification and obtain soil strength parameters for construction and structure foundation design recommendations.
3. A findings report will be prepared which will include the following:
 - a. Site and exploration location plan
 - b. Soil test boring logs and generalized subsurface profiles
 - c. Recommendations for foundation bearing for the structures, including recommendations for timber pile foundations and helical pier foundations
 - d. Recommendations for site preparation and construction of structural compacted fills
 - e. Recommendations for control of groundwater or drainage systems if necessary

Materials Testing

McKim & Creed will coordinate with our materials testing subconsultant, S&ME, to provide non-destructive materials testing services to assist in the structural evaluation of the existing aeration basins. The materials testing services will include:

1. Ground penetrating radar (GPR) and Pacometer scanning of the exterior walls of the aeration basins to confirm the general size and spacing of reinforcing steel, and to determine estimated concrete cover thickness. GPR and Pacometer scanning will be limited to a maximum of three locations on the exterior face of the north wall of aeration basin No. 2, one location on the interior face of the north wall of aeration basin No. 2, and one location on the exterior face of the east, west, and south exterior walls of the aeration basins. GPR scanning will be performed in accordance with ASTM D6432.
2. Impact echo tests on the exterior face of the exterior walls of the aeration basins to identify concrete defects, voids, or abnormalities. Impact echo tests will be focused on a representative sample of visually identified defects and areas of efflorescence on the exterior face of the exterior walls of the aeration basins, and a limited representative area of the exterior face of the exterior walls that appear to be in "good" condition for comparison of results. Impact echo tests will be performed in accordance with ASTM C1383.

3. Use of Ultrasonic Pulse Velocity (Surfer) across cracking in areas identified by impact echo tests to collect data on the depth of cracking and its severity. Ultrasonic Pulse Velocity testing will be performed in accordance with ASTM C597.
4. Core samples of the exterior walls of the aeration basins will be taken for compressive strength testing according to ASTM C42. Partial depth (approx. 4" diameter x 10" depth) core samples will be taken from the exterior face of the exterior walls of the aeration basins and core holes will be repaired with 5,000 psi high early strength non-shrink grout. A maximum of five core samples are proposed to be collected and tested: two (2) core samples from the north wall of aeration basin No. 2, and one (1) core sample from each of the east, west, and south exterior walls of the aeration basins
5. Preparation of a materials testing report summarizing the procedures, results, and analysis of findings.

Structural Evaluation and Recommendations for Repairs and Rehabilitation

McKim & Creed will coordinate with the City to perform a structural evaluation of the existing aeration basin facilities to assess existing conditions and identify recommendations for repairs and rehabilitation. Services provided under this task will include:

1. Review of record drawings and available photos, original construction documentation, proposals, and other pertinent information for the existing aeration basins.
2. Assist the City in coordinating the schedule for draining and cleaning of aeration basin No. 2 to allow for the observation of interior concrete surfaces.
3. Conduct a site visit to visually review the condition of the aeration basin facilities. The observation of the aeration basin facilities will include:
 - a. Exposed exterior surfaces of the above grade exterior north, south, east, and west side walls of the facility
 - b. The visible interior surfaces of the exterior and interior walls for both aeration basins No. 1 and No. 2, assuming aeration basin No. 1 will be in service during the site visit, and aeration basin No. 2 will be drained for complete interior review.
 - c. The exposed top surfaces of the bottom slab where visible in aeration basin No. 2.
 - d. The exposed top surfaces of the bottom slab of aeration basin No. 2 where visible on the exterior of the northern exterior wall in the location of the proposed test pit.
 - e. The exposed top and side surfaces of the elevated top slabs and the exposed surfaces of the bottom sides of these same components, where visible.
 - f. Random non-destructive "ping" sound testing of accessible concrete surfaces to locate sub-surface voids and abnormalities.
 - g. Numbered photographs of existing conditions and defects noted during the review.

It is assumed that the City will assist McKim & Creed's review by providing the following:

- a. Scheduled draining and cleaning of the interior of aeration basin No. 2 will be completed by the City prior to the site visit to ensure both the interior and exterior conditions can be reviewed thoroughly.
 - b. Ladders and air monitors will be provided by the City to enable access to the interior of aeration basin No. 2.
 - c. Excavation will be completed by the City to provide a test pit on the exterior of the northern exterior wall of aeration basin No. 2 for observation of the bottom slab of aeration basin No. 2.
4. A brief technical memorandum (TM) will be prepared to summarize the findings of the structural evaluation of the existing aeration basins. Recommendations for repairs and rehabilitation to the existing aeration basins will be provided in the TM. A draft TM will be submitted to the City for review, with the geotechnical investigations report, materials testing report, and site survey map included as attachments.
 5. A preliminary opinion of probable construction cost (OPCC) will be prepared based on the recommendations for repairs and rehabilitation identified by the structural evaluation. The preliminary OPCC will be submitted to the City for review along with the structural evaluation TM.
 6. TM and Preliminary OPCC Review: A review meeting will be held with City staff to review the findings of the structural evaluation, review the recommendations for repairs and rehabilitation, and receive the City's comments on the TM and preliminary OPCC. The TM and preliminary OPCC will be finalized based on the feedback received from the City.

ITEM 3 – DETAILED DESIGN

Upon receiving authorization from the City, M&C will proceed with the Detailed Design Phase, including the following efforts:

90% and Final Design

1. Prepare and submit a 90% design level set of documents including Drawings, Technical Specifications and the Engineer's Opinion of Probable Construction Cost. The 90% design level documents shall incorporate the City comments and concerns received from the preliminary engineering technical memorandum submittal.
2. McKim & Creed will attend regular meetings with the City staff as needed during the detailed design effort to provide project status updates, review project documents and receive comments. In addition, we will schedule and participate in one formal design review meeting with the City's project team at the 90% stage of Detailed Design preparation.
3. Upon approval of the 90% submittal and responses to the City's comments and concerns, McKim & Creed will finalize contract documents for submittal to the North

Carolina Department of Environmental Quality, Division of Water Infrastructure (NCDEQ DWI) for approval of the Bid and Design Package per the Letter of Intent to Fund from NCDEQ DWI dated February 22, 2022. This task will include the following:

- a. Prepare the final Engineer’s Opinion of Probable Construction Cost
- b. Prepare recommended schedule for bidding and construction
- c. Submit final contract documents to the City and NCDEQ DWI

Quality Assurance and Quality Control

McKim & Creed will include an in-house quality assurance/quality control (QA/QC) review with staff members not involved in the project. The QA/QC review will be entirely separate from the normal in-house reviews conducted by the project team and the City’s staff. The QA/QC review will be conducted after the preliminary engineering technical memorandum and 90% design submittals, and its findings presented to the design team prior to comments from the City’s preliminary engineering technical memorandum and 90% design reviews.

ITEM 4 – BID PHASE SERVICES

Following approval of the Bid and Design Package by NCDEQ DWI, McKim & Creed will prepare the bid documents. The bid documents will consist of the plans (drawings) and specifications for the WWTF Aeration Basin No. 2 Repairs and Rehabilitation Project. The bid documents will be used by contractors to prepare bids for the work detailed on the plans and described in the specifications. A final Engineer’s Opinion of Probable Construction Cost will also be provided with the bid documents.

Our scope of work for Bid Phase services is premised on our understanding that McKim & Creed will be responsible for managing the bids and contracting process for one (1) single prime construction contract.

Bid Phase Services performed by M&C will include:

- 1. Provide necessary information to the City for the preparation of the project bid advertisement.
- 2. Issue electronic bid documents to the City’s QuestCDN on-line advertisement and bidding service.
- 3. Conduct the pre-bid conference and prepare and issue minutes.
- 4. Assist in answering bidders’ questions.
- 5. Prepare addenda as appropriate to interpret, clarify, or further define the Contract Documents. Addenda will be issued by McKim & Creed upon the City’s approval.
- 6. Consult with and advise the City to determine the acceptability of substitute materials and equipment proposed by bidders when substitution prior to the award of contracts is allowed by the contract documents.
- 7. Conduct the bid opening.
- 8. Review bid packages and prepare the certified bid tabulations.

9. Provide written letter of recommendation of award to the City.
10. Assist the City in submitting the bid information to NCDEQ DWI to secure Authority to Award. This task is contingent on the receipt of bids less than or equal to the available funding for the project. Value engineering to reduce the bid price to fall within the range of available funding has not been included as part of this task. If value engineering is required, this effort shall be considered additional services and may be provided utilizing the Unallocated Project Budget phase upon written authorization from the City.
11. Assist the City in the contract award process following receipt of Authority to Award.
12. Prepare and issue conformed documents to incorporate addenda issued during the bidding process into the contract documents to be used by the contractor for construction.
13. Provide conformed documents for execution for the City, McKim & Creed, and contractor.

If a re-bid is required, this effort shall be considered additional services. If required, additional services will be provided utilizing the Unallocated Project Budget phase upon written authorization from the City.

ITEM 5 – CONSTRUCTION PHASE SERVICES

Construction Administration

Our scope of work for Construction Administration services assumes a single prime construction contract over a 6-month consecutive construction period. The construction period is based on five (5) months to reach substantial completion and one (1) additional month to reach final completion. If the contract duration extends beyond this construction period, or is delayed, McKim & Creed shall be entitled to adjustment of the scope and fee associated with this task. If required, additional services associated with construction administration may be provided utilizing the Unallocated Project Budget phase upon written authorization from the City.

Our construction administration services will include:

1. Conduct the pre-construction meeting on-site at the WWTF and issue meeting minutes.
2. Schedule and hold regular monthly construction progress meetings with the City and contractor. These meetings are assumed to be held on-site at the WWTF, or virtually via Microsoft Teams or Zoom, for a period of five (5) months. Prepare and distribute construction meeting minutes to document discussions and responsibilities.
3. Receive, log, track and perform shop drawing reviews. Compare shop drawings to the plans and technical specifications, note deficiencies or compliance issues, and issue comments to the contractor.
4. Receive, log, track, & respond to contractor's written requests for information or clarification of the contract documents.
5. Provide clarification of requirements as indicated on the construction plans and specifications if/when questions arise during construction.

6. Receive, log, track, & respond to notifications from contractor of changes to work conditions and requests for change orders.
7. Review materials testing for conformance to the specifications.
8. Receive, log, track, & review contractor's monthly invoices and make recommendations for payment.
9. Conduct site visits with City staff monthly to review project status, and confirm/certify that work is progressing in accordance with the approved construction documents.
10. Schedule and conduct the substantial completion evaluation. Prepare the substantial completion punch list and submit to the City for concurrence, and work with the Contractor to ensure outstanding work is completed.
11. Upon satisfactory completion of the substantial completion punch list and after reviewing test results from the Contractor, prepare the Engineer's Substantial Completion Certification.
12. Schedule and conduct the final completion evaluation. Prepare the final completion punch list and submit to the City for concurrence, and work with the Contractor to ensure work is fully complete.
13. After the Contractor has satisfactorily completed the final punch list, submitted all test results, as-built redlined drawings, O&M manuals (if required), and release of waivers and claims, McKim & Creed will prepare the Engineer's Final Completion Certification.

Construction Observation

McKim & Creed will provide periodic field observation during construction as required for certification to regulatory agencies. This scope of work is based on an average of one day per week and an active construction duration of 20 weeks (5 months). If the contract duration extends beyond this construction period or is delayed, McKim & Creed shall be entitled to adjustment of the scope and fee associated with this task. If required, additional services associated with construction observation will be provided utilizing the Unallocated Project Budget phase upon written authorization from the City. McKim & Creed will provide the following services:

1. Preparation of reports for each day construction observer is onsite.
2. Maintain a photographic record during construction to document aspects of the construction process.
3. Document field conditions and maintain a record of the weather, Contractor's personnel on-site, Contractor's equipment on-site, and the specific work task(s) completed since the last site visit.
4. Verify that the work being performed complies with the approved plans and specifications and coordinate with the City, Engineer, and Contractor to remedy any situations where the work is not in compliance.

5. Confirm that Contractor as-built documents are continuously being kept up-to-date and being completed to the minimum standards of care.
6. Review the Contractor's monthly pay requests to confirm that quantities are accurate and that lump sum percentages are representative of the current progress of lump sum work.
7. Participate in the substantial completion and final completion evaluations.

ITEM 6 – POST-CONSTRUCTION SERVICES

Upon authorization from the City, McKim & Creed shall perform the following post-construction services:

1. Post-Construction Survey

McKim & Creed will coordinate with our subconsultant SEPI Inc. to provide limited topographic survey of the post-construction grade surrounding the north wall of existing aeration basin No. 2 from the basin wall to the existing facility fence line. Post-construction topographic survey data will be compared to pre-construction topographic survey data to ensure that no permanent fill has been placed within the FEMA 100-year flood plain. Following the results of the post-construction topographic survey and comparison to pre-construction conditions, McKim & Creed will coordinate with the contractor to ensure modifications to the final grading are completed, as necessary.

2. Record Drawings

Our effort for Record Drawing preparation services is premised on the understanding that the contractor will be responsible for continuously maintaining the red-lined "as-built" markups on the approved construction drawings. McKim & Creed will utilize the red-lined markups provided by the contractor to prepare the final Record Drawings. Record Drawings will be submitted to the City upon completion. After City review and approval, digital copies (AutoCAD and PDF format) of the Record Drawings will be delivered to the City.

3. One Year Assistance

McKim & Creed will assist the City with operational and warranty assistance on a time and materials basis as may be needed. Generally, the services will be as follows:

- a. Provide for a mid-year warranty inspection with the City and the contractor to develop a warranty punch list and then review the completed work of the contractor to verify items have been corrected.
- b. Provide for final warranty inspection with the City and the contractor at 11 months after substantial certification to develop a warranty punch list and then review the completed work of the contractor to verify items have been corrected.

ITEM 7 – UNALLOCATED PROJECT BUDGET

Item 7 will be set aside as unallocated project budget to provide for changes in the scope of work or unforeseen revisions to the project approach. McKim & Creed will not utilize or expend effort on Item 7 without prior development of a scope, schedule, and fee estimate for the change in scope, and written authorization from the City. All tasks invoiced under the unallocated budget shall require prior approval from the City.

ITEM 8 –COMPENSATION

McKim & Creed will perform the services outlined in this Exhibit A as indicated below. Services will be billed monthly on an hourly time and expense basis in accordance with the hourly rate schedule included as an attachment to this Exhibit A.

Item	Fee
Item 1: Project Administration	\$14,127.00
Item 2: Preliminary Engineering	\$50,463.00
<i>Item 2.1: Subconsultant Fee – SEPI Inc. (Survey)¹</i>	<i>\$3,600.00</i>
<i>Item 2.2: Subconsultant Fee – S&ME, Inc. (Geotech and Materials Testing)¹</i>	<i>\$25,700.00</i>
Item 3: Detailed Design	\$62,388.00
Item 4: Bidding and Award Phase	\$11,226.00
Item 5: Construction Phase Services	\$60,375.00
Item 6: Post-Construction Services	\$19,920.00
<i>Item 6.1: Subconsultant Fee – SEPI Inc. (Survey)²</i>	<i>\$2,800.00</i>
Subtotal (Items 1 – 6)	\$218,499.00 NTE
Item 7: Unallocated Project Budget (10% of subtotal)	\$22,000.00 NTE
Total Estimated Fee (Items 1 – 7)	\$240,499.00 NTE

¹Items 2.1 and 2.2 are included in the overall fee for Item 2 and are shown for information only.

²Item 6.1 is included in the overall fee for Item 6 and is shown for information only.

³Not To Exceed (NTE) = To be billed on an hourly time and expense basis

ITEM 9 – ANTICIPATED PROJECT SCHEDULE

The following is the estimated schedule for the scope outlined above:

Task	Anticipated Duration from NTP (Calendar Days)	Anticipated Task Duration (Calendar Days)
Notice to Proceed	0	0
Project Kickoff	5	5
Preliminary Engineering TM and EOPC	95	90
90% Design Submittal	155	60
City of Hendersonville Review	170	15
Bid and Design Package Submittal to NCDEQ DWI	200	30
NCDEQ DWI Review of Bid and Design Package	260	60
Bid Documents Submittal	275	15
Advertise for Bids	305	30
Open Bids	305	0
Submit Bid Documents to NCDEQ DWI	320	15
Contract/Bonds Preparation/Notice to Proceed	380	60
Construction Substantially Complete	530	150
Construction Final Completion	560	30
Record Drawings Submittal	590	30
Warranty Period Complete	955	365

Note: The schedule provided is approximate and may vary depending on City review and regulatory approval.

ITEM 10 – ADDITIONAL SERVICES

If authorized in writing by the City, McKim & Creed shall furnish or obtain from others Additional Services of the types listed below. These services will be paid for by the City on an hourly rate basis in accordance with the current Hourly Rate Schedule. If required, additional services will be provided utilizing the Unallocated Project Budget phase upon written authorization from the City.

1. Collection of precise dimensional data of existing construction conditions.
2. Providing for the measurement of dry film thickness of any existing coating systems in place.
3. Expert witness or technical support concerning property surveying or engineering matters for which the Engineer has no direct liability.
4. Assistance with permitting.
5. Assistance with bidder prequalification.
6. Providing for additional soil borings or geotechnical analyses beyond the identified scope of work.

7. Providing for an environmental impact statement (EIS).
8. Providing for detailed investigations and/or surveys for archeological sites, protected/threatened/endangered species of shellfish, fish, wildlife, and natural vegetation.
9. Providing for determining, evaluating, and assistance with contaminated soils for the project area.
10. Providing assistance for wetland mitigation.
11. Preparing for, coordinating with, participating in and responding to structured independent review processes for construction management, cost estimating, value engineering and constructability reviews requested by the City and performing or furnishing services required to revise studies, reports, drawings, specifications, or other bidding documents as a result of such review processes.
12. Providing for any re-designs requested by the City after final design drawings have been approved.
13. Boundary surveys for the wastewater treatment facility site.
14. Construction survey and staking.
15. Preparing for multi-prime contracts and bidding.
16. Development of design or bid documents to comply with alternate funding agencies or other funding mechanisms.
17. Engineer-led operator training on equipment, processes, or other miscellaneous training related to the existing or proposed facilities.
18. Providing for Special Inspections (North Carolina State Building Code) if required by the Local Inspections Departments.
19. Assistance in connection with Bid protest, re-bidding, or renegotiation contracts for construction, materials, equipment, or services.
20. Preparing to serve or serving as a consultant or witness for the City in any litigation, arbitration or other dispute resolution process related to the project.
21. Other services performed or furnished by McKim & Creed not otherwise provided for in this Agreement. These services are to be identified as additional services for City approval prior to McKim & Creed performing the service.

ITEM 11 – OWNER’S RESPONSIBILITIES

The following items shall be the responsibility of the City:

1. Provide McKim & Creed with all criteria and full information as to the City's requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which the City will require to be included in the Drawings and Specifications; and furnish copies of the

City's standard forms, conditions and related documents for McKim & Creed to include in the Bidding Documents, when applicable.

2. The timely provision of all available information, data, reports, records, and maps to which the City has access and which are needed by McKim & Creed for the performance of the services provided herein.
3. Providing assistance and cooperation for McKim & Creed in obtaining any other needed material which the City does not have in its possession.
4. Making available the services of the City as may be necessary to obtain information as needed to perform the work program set forth in the Scope of Services.
5. The designation of a single representative who will be authorized to make necessary decisions required on behalf of the City and will serve to provide the necessary direction and coordination for the project.
6. Advise McKim & Creed of the identity and scope of services of any independent consultants employed by the City to perform or furnish services in regard to the project, including, but not limited to, cost estimating, project peer review, value engineering and constructability review.
7. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings and Substantial Completion, final payment, and warranty reviews.

ITEM 12 – MISCELLANEOUS PROVISIONS

1. Opinion of Probable Construction Costs: Engineer's opinions of probable construction costs are based on assumed labor costs and approximate quantities of material and equipment, and therefore is of a conditional character. The Engineer cannot and does not guarantee the cost of work to be performed by others since market or bidding conditions can change at any time and changes in the scope or quality of the project may affect estimates. The City waives and releases McKim & Creed from any loss, liability, or claim arising out of or in any way related to the Engineer's opinion of probable construction costs.

END OF EXHIBIT A

Water Market 2022 Schedule of Hourly Rates

Employee Classification	(Rate/Hour)
Principal	\$295.00
Engineering Manager	\$260.00
Project Manager III	\$225.00
Project Manager II	\$205.00
Project Manager I	\$185.00
Technical Specialist II	\$270.00
Technical Specialist I	\$230.00
Project Engineer IV	\$215.00
Project Engineer III	\$200.00
Project Engineer II	\$165.00
Project Engineer I	\$145.00
Engineer Intern	\$133.00
Land Planner/Landscape Architect	\$140.00
I&C Specialist III	\$205.00
I&C Specialist II	\$175.00
I&C Specialist I	\$138.00
Programmer III	\$185.00
Programmer II	\$165.00
Programmer I	\$130.00
Designer IV	\$152.00
Designer III	\$135.00
Designer II	\$125.00
Designer I	\$105.00
Sr. CAD Technician	\$90.00
CAD Technician	\$75.00
Sr. Project Administrator	\$103.00
Project Administrator	\$88.00
Administrative Assistant	\$72.00
Construction Administrator IV	\$180.00
Construction Administrator III	\$160.00
Construction Administrator II	\$145.00
Construction Administrator I	\$120.00
Project Representative III	\$142.00
Project Representative II	\$123.00
Project Representative I	\$99.00
GIS Technician I	\$79.00
GIS Technician II	\$99.00
Field Technician I	\$88.00
Field Technician II	\$115.00
Field Services Manager	\$138.00

Water Market 2022 Schedule of Hourly Rates

Expenses

In addition to labor, McKim & Creed bills for the following project related costs at a contractually agreed markup: printing; conference calling charges; document review, permit or recording fees paid on behalf of the client; shipping; bid advertisement; specialty materials, software or equipment rental; sub-consultant fees; costs of project related employee travel including meals, lodging, airfare and miscellaneous travel costs such as tolls, parking etc.; mileage for all company-owned vehicles (trucks) will be billed at \$0.85/mile; employee owned vehicles used for transportation related to the project will be charged at the prevailing federal mileage rate allowed by the IRS at the time the travel occurs.

McKim & Creed also bills for the cost of internal reproduction and the use of specialized equipment related to subsurface utility vacuum excavation, mobile scanning (LIDAR), and hydrographic surveying.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Melissa Justus, *Admin Asst III* **MEETING DATE:** August 4, 2022

AGENDA SECTION: CONSENT **DEPARTMENT:** Police Department

TITLE OF ITEM: Authorization to Purchase Patrol Vehicles – *Blair Myhand, Chief of Police*

SUGGESTED MOTION(S):

I move that City Council approve the purchase of seven patrol vehicles from Performance Automotive in the amount of \$242,169.64 under State Contract 070A, as presented.

SUMMARY:

The police department requests approval of a purchase order for 6 patrol vehicles and 1 unmarked vehicle. The purchase will be from Performance Ford of Clinton, NC, in the amount of \$242,169.64 and is under state contract 070A. The funds were approved in our departments capital outlay, FY 22-23 and this approval is needed per purchasing policy due to the amount.

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:

- i. Vehicle cost data

PERFORMANCE

AUTOMOTIVE



2022 Ford PI Utility, AWD

North Carolina Statewide Vehicle Contract #202100002

Category H - Police Pursuit SSV Vehicles

Contract Term Dates: May 10, 2020 - May 9, 2023



Powertrain Configuration

		Cost
<input type="checkbox"/>	99W-44B 3.3L V-6 DIRECT INJECTION HYBRID ENGINE	\$ 35,794.54
<input checked="" type="checkbox"/>	99B-44U 3.3L V-6 DIRECT INJECTION GASOLINE ENGINE	\$ 32,587.42
<input type="checkbox"/>	99C/44U 3.0L V-6 ECOBOOST GAS ENGINE	\$ 36,554.62

PKG CODE	PI UTILITY OPTIONS PREFERRED EQUIPMENT PACKAGES	COST
<input type="checkbox"/>	65U Interior Upgrade Package	\$ 366.60
<input checked="" type="checkbox"/>	66A Front Headlamp Lighting Solution	\$ 841.30
<input checked="" type="checkbox"/>	86T Tail Lamp / Police Interceptor Housing Only	\$ 56.40
<input type="checkbox"/>	66B Tail Lamp Lighting Solution	\$ 404.20
<input type="checkbox"/>	66C Rear Lighting Solution	\$ 427.70
<input type="checkbox"/>	67H Ready for the Road Package	\$ 3,379.30
<input checked="" type="checkbox"/>	67U Ultimate Wiring Package	\$ 526.40

<input checked="" type="checkbox"/>	67V	Police Wire Harness Connector Kit - Front	\$	173.90
<input type="checkbox"/>	60A	Pre Wiring for Grill LED Lights, Siren, Speaker	\$	47.00

Interior Options

<input checked="" type="checkbox"/>	96	Standard Configuration: Cloth Front / Vinyl Rear		Included
<input type="checkbox"/>	16C	1st & 2nd Row Carpet Floor Covering w Mats	\$	117.50
<input type="checkbox"/>	88F	2nd Row Cloth Seats	\$	56.40
<input type="checkbox"/>	87P	Power Passenger Seat	\$	305.50
<input type="checkbox"/>	47E	12.1" Integrated Computer Screen	\$	2,580.30
<input type="checkbox"/>	61B	OBD-II Split Connector	\$	51.70
<input type="checkbox"/>	85D	Front Console Plate Delete		N/C
<input type="checkbox"/>	85S	Rear Center Seat Delete		N/C
<input type="checkbox"/>	85R	Rear Console Plate	\$	42.30
<input type="checkbox"/>	17A	Auxiliary Rear Air Conditioning	\$	573.40
<input checked="" type="checkbox"/>	17T	Red/White Dome Light - Rear Cargo Area	\$	47.00
<input checked="" type="checkbox"/>	55F	Remote Keyless - Entry Key FOB	\$	319.60
<input type="checkbox"/>	18D	Global Lock / Unlock Feature		N/C
<input type="checkbox"/>	87R	Rear View Camera - Mirror Display		N/C
<input type="checkbox"/>	19V	Rear Camera on Demand	\$	216.20

Exterior Options

<input type="checkbox"/>	41H	Engine Block Heater	\$	84.60
<input type="checkbox"/>	153	License Plate Bracket - Front		N/C
<input type="checkbox"/>	942	Daytime Running Lights	\$	42.30
<input type="checkbox"/>	92G	Glass - Solar Tint 2nd Row, Liftgate, Rear Qtr	\$	112.80
<input type="checkbox"/>	92R	Glass - Solar Tint, 2nd Row Only - Privacy Rear	\$	79.90
<input type="checkbox"/>	76D	Deflector Plate	\$	314.90
<input type="checkbox"/>	549	Mirrors - Heated Sideview Mirrors	\$	56.40
<input checked="" type="checkbox"/>	76P	Pre-Collision Assist with Pedestrian Detection	\$	136.30
<input type="checkbox"/>	55B	BLIS - Blind Spot Monitoring w/ Cross Traffic Alert	\$	512.30
<input type="checkbox"/>	593	Perimeter Anti Theft Alarm (Req 595)	\$	112.80
<input type="checkbox"/>	76R	Reverse Sensing System	\$	258.50
<input type="checkbox"/>	16D	Badge Delete		N/C
<input type="checkbox"/>	19K	H8 AGM Battery	\$	103.40
<input type="checkbox"/>	59E	Keyed Alike (Specify Frequency)	\$	47.00

Tire / Wheel Options

<input type="checkbox"/>	65L	Wheel Covers, 18 Inch Full Face Wheel Cover	\$	56.40
<input type="checkbox"/>	64E	18 Inch Painted Aluminum Wheels	\$	446.50

Spotlight Options

<input type="checkbox"/>	51P	Spot Lamp Prep Kit, Driver Side	\$	131.60
<input type="checkbox"/>	51W	Spot Lamp Prep Kit, Dual Side	\$	263.20
<input type="checkbox"/>	51R	Spot Lamp - LED Bulb, Driver Side (Unity)	\$	371.30
<input checked="" type="checkbox"/>	51T	Spot Lamp - LED Bulb, Driver Side (Whelen)	\$	394.80
<input type="checkbox"/>	51S	Spot Lamp - LED Bulb, Dual Sides (Unity)	\$	582.80
<input type="checkbox"/>	51V	Spot Lamp - LED Bulb, Dual Sides (Whelen)	\$	625.10

Police Equipment Options

<input type="checkbox"/>	43D	Dark Car Feature	\$	23.50
<input type="checkbox"/>	47A	Police Engine Idle Feature	\$	244.40
<input type="checkbox"/>	68B	Police Perimeter Alert System	\$	634.50
<input type="checkbox"/>	63V	Cargo Storage Vault	\$	230.30
<input type="checkbox"/>	60R	Noise Suppression Bonds	\$	94.00
<input type="checkbox"/>	68E	Low-Band Frequency Noise Suppression Kit	\$	183.30
<input type="checkbox"/>	52P	Hidden Door/Lock Plunger. Rear Doors Inoperable	\$	150.40
<input checked="" type="checkbox"/>	68G	Rear Door Handles/Controls/Locks Inoperable	\$	70.50

<input type="checkbox"/>	90D	Ballistic Door Panels (LVL III+) Driver Door	\$ 1,489.90
<input type="checkbox"/>	90E	Ballistic Door Panels (LVL III+) Driver & Passenger Door	\$ 2,979.80
<input type="checkbox"/>	90F	Ballistic Door Panels (LVL IV+) Driver Door	\$ 2,270.10
<input type="checkbox"/>	90G	Ballistic Door Panels (LVL IV+) Driver & Passenger Door	\$ 4,540.20

<input type="checkbox"/>	21L	Front Warning Auxiliary Light (Fog Lights)	\$ 517.00
<input type="checkbox"/>	43A	Rear Auxiliary Liftgate Lights	\$ 371.30
<input type="checkbox"/>	96W	Front Interior Visor Light Bar	\$ 1,076.30
<input type="checkbox"/>	63L	Rear Quarter Glass Side Marker Lights	\$ 540.50
<input type="checkbox"/>	96T	Rear Spoiler Traffic Warning Lights	\$ 1,405.30
<input type="checkbox"/>	18X	100 Watt Siren/Speaker (bracket & pigtail)	\$ 296.10
<input type="checkbox"/>	63B	Side Marker LED - Sideview Mirrors	\$ 272.60

Standard Colors:

	Code	Color	Quantity	
<input type="checkbox"/>	BU	Medium Brown Metallic		Enter Quantity of Each Color Here
<input type="checkbox"/>	E3	Arizona Beige		
<input type="checkbox"/>	E4	Vermillion Red		
<input type="checkbox"/>	FT	Blue Metallic		
<input type="checkbox"/>	HG	Smokestone		
<input type="checkbox"/>	JL	Dark Toreador Red		
<input type="checkbox"/>	JS	Iconic Silver		
<input type="checkbox"/>	J1	Kodiak Brown		
<input type="checkbox"/>	LK	Dark Blue		
<input type="checkbox"/>	LM	Royal Blue		
<input type="checkbox"/>	LN	Light Blue Metallic		
<input type="checkbox"/>	MY	Carbonized Gray		
<input type="checkbox"/>	TN	Silver Grey Metallic		
<input type="checkbox"/>	UJ	Sterling Gray		
<input checked="" type="checkbox"/>	UM	Agate Black		
<input type="checkbox"/>	YG	Medium Titanium Clear Coat		
<input type="checkbox"/>	YZ	Oxford White		

Emergency Equipment/Lighting Upfit

<input type="checkbox"/>			
<input type="checkbox"/>	InnerEdge	Whelen Inner Edge Slicktop Standard Upfit	\$ 4,389.63
<input type="checkbox"/>		See worksheet for further details	
<input type="checkbox"/>			

Total Price Each: \$ 34,627.22

Number Units This Spec: -

Total Price: \$ -

Notes:

Agency Information:

Agency Name: _____
Contact: _____
Position: _____
Address 1: _____
Address 2: _____
City, State, Zip: _____
Office Phone: _____
Cell Phone: _____
Email: _____
Fax: _____

Amy Hill
Government & Fleet Sales
605 Warsaw Road
Clinton, North Carolina 28328
ahill@ramclinton.com
(336) 687-7964 Cell

Dianne Nelms
Government & Fleet Sales
605 Warsaw Road
Clinton, North Carolina 28328
dnelms@ramclinton.com
(910) 214-2956 Cell



PURCHASE ORDER/QUOTE FORM

NOTE: All requisitions must be entered in Oracle and approved prior to the department making the purchase.

Requester Name:	Tracey Cox	Dollar Thresholds:	Select value of purchase below.
Date Quotes Obtained:	3/1/2022	No Competition Required:	<input type="checkbox"/> Below \$5,000.00
Date Goods Are Required:	ASAP	Formal Written Quotes:	<input type="checkbox"/> \$5,000.00-\$29,999.99
Reason For Purchase:	Police Vehicles	Informal Bid Process:	<input type="checkbox"/> \$30,000.00-\$89,999.99
		Formal Bid Process:	<input checked="" type="checkbox"/> \$90,000.00 and above

If alternate purchasing policy other than those listed in section entitled "Dollar Thresholds" was followed, check appropriate box below for policy followed and provide applicable justification(s).

NC State Contract (NSC): (Select top box if you are utilizing the state contracted quote. Select the second box if you are selecting an alternative quote based on the listed acceptable criteria.)	<input checked="" type="checkbox"/>	NC State Contract #: *Vendor must reference contact # on the quote.	NC Statewide Vehcile Contract 070A
	<input type="checkbox"/>	Non-State Contract Quote Comparison Option (Justification Required): *After obtaining NSC quote, a non-NSC quote may be utilized if price or timeline are overriding considerations. Product offerings must otherwise be identical. Must be approved by Finance. This only applies for purchases below \$30,000.00.	
Group Purchasing Program (aka Cooperative Agreement Contract):	<input type="checkbox"/>	Contract Name, Number, and Other General Information:	
Blanket PO:	<input type="checkbox"/>	Justification Required:	

Waive Competition: (Select basis for waiving competition in the field below. SELECT ALL THAT APPLY AND PROVIDE THOROUGH WRITTEN JUSTIFICATION FOR EACH BASIS BELOW. An * indicates City Council approval is required for purchases \$30,000.00 or greater. Other documentation may also be requested.)

- Where performance or price competition is not available. Sole source letter from vendor is required.*
- Where a needed product or service is available from only one source of supply. Sole source letter from vendor is required.*
- Where emergency action is required due to present, immediate, and existing special emergency involving public health and safety of people or property.
- Where standardization or compatibility is the overriding consideration.*
- Where personal or particular professional services are required.
- Where a product or service being sourced from a nonprofit work center for the blind or severely disabled, and there are overriding considerations for its use.
- Where additional products or services are needed to complete an ongoing job or task.
- Where equipment is already installed, connected and in service, and it is determined advantageous to purchase it.
- Where a purchase is being made and a satisfactory price is available from a previous federal, state, or local government agency's contract in the U.S. within the previous 12 months. This is contingent on the contractor's willingness to extend the same or more favorable prices, terms, and conditions. This is known as Piggybacking.*
- Where a purchase is being made for gasoline, diesel, fuel alcohol fuel, motor oil, fuel oil, or natural gas.
- Where construction/repair work undertaken during the progress of a competitively bid project that is within the scope of the original project.
- Where a purchases is being sourced directly from another federal, state, or local government anywhere in the U.S.
- Where used good(s) is available on short notice and subject to prior sale. This includes items sourced from both public and private entities. Remanufactured, refabricated, or demo goods are not included under this allowance of waiving competition.

Justification Required:	This software is only available from this vendor. Sole source letter is attached.
--------------------------------	---

Single Brand Convenience: (Select basis for the brand specific nature of this request in the field below. SELECT ALL THAT APPLY AND PROVIDE THOROUGH WRITTEN JUSTIFICATION FOR EACH BASIS BELOW. If this brand is only sold by one source, the "Waive Competition" field should also be filled out.)

- Where the desired product must be compatible with or is an integral component of the existing equipment or products or where prequalification of products is necessary to support specific needs of a program.
- The product is covered by a patent or copyright; when the product must yield absolute continuity of results.
- The product is one with which a user has had extensive training and experience, and the use of any other similar piece of equipment would require considerable reorientation, training, and funding.

Justification Required:	The software is copyrighted, and specific to Chief Myhand's plan to evaluate personnel.
--------------------------------	---

Vendor Name	Vendor 1:	Vendor 2:	Vendor 3:
	Performance Automotive		
Total Quote	242,169.64		

We have filled out the vehicle request form and submitted it online, however we do not need assistance in finding vehicles, we already have 7 on pre-order. These vehicles are on NC State contract. They will be equipped once they arrive to our upfitter.

PERFORMANCE

AUTOMOTIVE



2022 Ford PI Utility, AWD

North Carolina Statewide Vehicle Contract #202100002

Category H - Police Pursuit SSV Vehicles

Contract Term Dates: May 10, 2020 - May 9, 2023



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<input type="checkbox"/>	63B	Side Marker LED - Sideview Mirrors	\$ 272.60

Standard Colors:

	Code	Color	Quantity	
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<input type="checkbox"/>	E3	Arizona Beige		
<input type="checkbox"/>	E4	Vermillion Red		
<input type="checkbox"/>	FT	Blue Metallic		
<input type="checkbox"/>	HG	Smokestone		
<input type="checkbox"/>	JL	Dark Toreador Red		
<input type="checkbox"/>	JS	Iconic Silver		
<input type="checkbox"/>	J1	Kodiak Brown		
<input type="checkbox"/>	LK	Dark Blue		
<input type="checkbox"/>	LM	Royal Blue		
<input type="checkbox"/>	LN	Light Blue Metallic		
<input type="checkbox"/>	MY	Carbonized Gray		
<input type="checkbox"/>	TN	Silver Grey Metallic		
<input type="checkbox"/>	UJ	Sterling Gray		
<input checked="" type="checkbox"/>	UM	Agate Black		
<input type="checkbox"/>	YG	Medium Titanium Clear Coat		
<input type="checkbox"/>	YZ	Oxford White		

Emergency Equipment/Lighting Upfit

<input type="checkbox"/>			
<input type="checkbox"/>	InnerEdge	Whelen Inner Edge Slicktop Standard Upfit	\$ 4,389.63
<input type="checkbox"/>		See worksheet for further details	
<input type="checkbox"/>			

Total Price Each: \$ 34,406.32

Number Units This Spec: -

Total Price: \$ -

Notes:

Agency Information:

Agency Name: _____
Contact: _____
Position: _____
Address 1: _____
Address 2: _____
City, State, Zip: _____
Office Phone: _____
Cell Phone: _____
Email: _____
Fax: _____

Amy Hill
Government & Fleet Sales
605 Warsaw Road
Clinton, North Carolina 28328
ahill@ramclinton.com
(336) 687-7964 Cell

Dianne Nelms
Government & Fleet Sales
605 Warsaw Road
Clinton, North Carolina 28328
dnelms@ramclinton.com
(910) 214-2956 Cell



ATTACHMENTS:

1. Satellite Annexation Ordinance
2. Signed Certificate of Sufficiency
3. Signed Resolution setting public hearing
4. Annexation Plat
5. Typed legal description
6. GIS Map
7. City of Hendersonville- Village of Flat Rock
Annexation Agreement Map
8. Annexation application
9. Deed
10. Public Hearing Notice

Ordinance #O-22-48

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO
EXTEND THE CORPORATE LIMITS OF THE CITY AS A SATELLITE ANNEXATION**

Re: Petition for Satellite Annexation
Petitioners: United States of America, Ralph J. Werthmann- Army Corps of Engineers-
Savannah District
File No. C22-43-ANX

WHEREAS, The City of Hendersonville has been petitioned by Ralph J. Werthmann- Army Corps of Engineers- Savannah District pursuant to North Carolina General Statutes (NCGS) 160A-58.1, as amended, to annex the area described herein below; and,

WHEREAS, the City Clerk has investigated and certified the sufficiency of said petition; and,

WHEREAS, a public hearing on the question of this annexation was held at the City Operations Center at 305 Williams Street, Hendersonville, NC at 5:45 pm, on the 4th day of August 2022, after due notice by publication as provided by law on July 24th 2022; and

WHEREAS, the City Council further finds the areas described therein meets the standards of N.C. G.S. 160A-58.1(b), to wit;

- a. All of the proposed satellite corporate limits are less than three miles from the primary corporate limits of Hendersonville. The map distance is approximately 9,850’.
- b. The proposed satellite corporate limits are closer to the primary corporate limits of the Village of Flat Rock (9,300’). The City of Hendersonville and the Village of Flat Rock reentered their annexation agreement on August 3rd, 2018. The area to be annexed is located within the area that the participating municipalities agreed will not be annexed by the Village of Flat Rock and could be annexed by the City of Hendersonville.

- c. The area described is so situated that the City of Hendersonville will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- d. The area proposed for annexation is not a subdivision as defined in NCGS 160A-376.
- e. The area within the proposed satellite corporate limits, when added to the areas within all other satellite corporate limits does not exceed 10 percent (10%) of the area within the primary corporate limits of the City of Hendersonville.

WHEREAS, the City further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

WHEREAS, the City further finds that the petition is otherwise valid, and that the public health, safety and welfare of the City and of the area proposed for annexation will be best served by annexing the area described;

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

- 1: By virtue of the authority granted by N.C.G.S. 160A-58.2, as amended, the following described noncontiguous area is hereby annexed and made part of the City of Hendersonville as of the 4th day of August 2022.

Being all of that real property shown on that annexation plat recorded in Plat Book 2022 at Page _____ of the Henderson County Registry, and being also all of that real property described in deed of record in Deed Book 3904 at page 139 of the Henderson County Registry, and being described by metes and bounds as follows:

Beginning at the **Point of Beginning (POB)** at a magnetic nail set in the centerline of Crest Road (SR1803) at the southwestern corner of the subject property and having (NAD 83/2011) North Carolina grid coordinates of North 578,010.020 feet, East 986,549.356 feet and being located N32°00'04"W and a grid distance of 4,930.99 feet from NGS monument "DEND" (PID:DG4651) with the published (NAD83/2011) North Carolina grid coordinates of North 573827.40 feet, East 989163.05 feet;

thence from the **POB** and with the line of now or formerly (N/F) Bobby Ramey and wife, Wendy H. Ramey (DB 3384, PG 712; DB 1173, PG 1) N06°10'46"E a distance of 707.56 feet to a 3/4" iron pipe found; thence continuing with the Ramey line N53°49'25"W a distance of 314.22 feet to an iron axle found, a common corner between Ramey and N/F Jeffery C. Justus (DB 700, PG 854); thence with Justus line N53°27'04"W a distance of 81.78 feet to an 3/4" iron pipe found beside a stone and being a common corner between Jeffery C. Justus and N/F Boyd L. Hyder (DB 1157, PG 751); thence along the Hyder line N14°35'43"E a distance of 473.78 feet to a 1/2" iron pipe found in a ditch and being also a corner for N/F Henderson County Board of Public Education (DB 824, PG 216) ; thence with the Henderson County Board of Public Education line S65°43'08"E a distance of 1,014.61 feet to a 1/2" iron pipe found; thence continuing and passing through a corner for the Henderson County Board of Public Education and along the line of N/F Douglas Nichols and Cathy Nichols (DB 1165, PG 213) S54°51'37"E a distance of 253.37 feet to a magnetic nail set in the centerline of Crest Road (SR 1804); thence along the centerline of Crest Road the following nine (9) courses:

- (1) S41°25'14"W a distance of 27.75 feet to a computed point,
- (2) thence along a curve to the left with an arc length of 217.51 feet having a radius of 2,065.79 feet and a chord bearing of S38°24'15"W and chord distance of 217.41 feet to a computed point,
- (3) thence along a tangent S35°23'16"W a distance of 295.16 feet to a computed point,
- (4) thence along a tangent S36°18'13"W a distance of 77.31 feet to a computed point,
- (5) thence along a curve to the right and with an arc length of 195.34 feet having a radius of 671.75 feet and a chord bearing of S44°38'11"W and chord distance of 194.65 feet to a computed point,
- (6) thence along a tangent S52°58'01"W a distance of 46.25 feet to a computed point,
- (7) thence along a curve to the right with an arc length of 163.56 feet having a radius of 654.19 feet, and a chord bearing of S60°07'46"W and chord distance of 163.13 feet to a computed point,
- (8) thence continuing along a curve to the right with the arc length of 157.98 feet having a radius of 1876.45 feet, and a chord bearing of S69°42'14"W and chord distance of 157.94 feet to a computed point,
- (9) thence continuing along a curve to the right with the arc length of 178.98 feet having a radius of 843.77 feet, and a chord bearing of S78°11'34"W and chord distance of 178.65 feet to a magnetic nail set in the centerline of Crest Road (SR1803) and being the **POB** and containing 20.603 acres more or less and more completely shown on a unrecorded map entitled Satellite Annexation Plat for: "The City of Hendersonville" dated May 24,2022 by Joyner Keeny, PLLC of Rocky Mount, North Carolina.

All distances are ground horizontal distances in U.S. Survey Feet, unless otherwise noted.

- 2: Upon and after the fourth day of August 2022, the above-described territory, and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Hendersonville and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A-58.10, as amended.
- 3. The Mayor of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Henderson County Board of Elections, as required by G. S. 163-288.1.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of August, 2022.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

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

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, _____, a Notary Public in Henderson County, State of North Carolina, do hereby certify that Barbara G. Volk in her capacity of Mayor of the City of Hendersonville; Angela L. Reece, in her capacity of City Clerk personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this _____ day of _____, 20_____.

Signature (seal)

My commission expires: _____

CERTIFICATE OF SUFFICIENCY

Section 7, Item A.

Re: Petition for Satellite Annexation
Petitioners: United States of America- Ralph J. Werthmann, Army Corps of Engineers- Savannah District
File No. C22-43-ANX

To the Honorable Mayor and members of the City Council of Hendersonville, North Carolina:
I, Angela L. Reece, City Clerk, being first duly sworn, hereby certify that:

- 1. A petition has been received for satellite annexation of properties consisting of +/- 20.603 acres located on Crest Road in Hendersonville, NC, being tax parcel PIN 9587-68-8771, and being more particularly described on Exhibit A, attached hereto and incorporated by reference, hereinafter "Petition."
2. An investigation has been completed as required by N.C.G.S. § 160A-58.2 of the Petition for compliance with the requirements of N.C.G.S. § 160A-58.1.

Based upon this investigation, I find that

- 1. The Petition includes a metes and bounds description of the area proposed for annexation and has attached a map showing the proposed satellite area.
2. The nearest point on the proposed satellite corporate limit is approximately 9,850' from the primary corporate limits of the City of Hendersonville, which is less than 3 miles.
3. The Petition includes the names and addresses and signatures of all owners of real property lying in the area described therein, except those not required to sign by G.S.160A-58.1 (a).
4. The proposed satellite corporate limits are closer to the primary corporate limits of the Village of Flat Rock (9,300'). The City of Hendersonville and the Village of Flat Rock reentered their annexation agreement on August 3rd, 2018. The area to be annexed is located within the area that the participating municipalities agreed will not be annexed by the Village of Flat Rock and could be annexed by the City of Hendersonville.
5. The area is situated so the City will be able to provide the same services within the proposed corporate limits that is provided within the primary corporate limits.
6. The area proposed for annexation is not a subdivision as defined in N.C.G.S. § 160D-802.
7. The total area within the proposed satellite corporate limits, when added to the area within all the other satellite corporate limits of the City, does not exceed ten (10%) of the area within the primary corporate limits of the City.
8. The area for annexation meets all other requirements defined in NC 160A-58.54 regarding the character of the area to be annexed.

Having made the findings stated above, I hereby certify the Petition appears to be valid.

In witness hereof, I have set my hand and the City Seal on this the 29 day of June, 2022.

(City Seal)



Angela L. Reece
Angela L. Reece, City Clerk

**LEGAL DESCRIPTION OF PROPOSED
ANNEXATION FOR THE CITY OF HENDERSONVILLE, N.C.
BLUE RIDGE TOWNSHIP, HENDERSON COUNTY NORTH CAROLINA
(OWNER: UNITED STATES OF AMERICA)
PIN #9587688771; REID #9940144**

A legal description of an existing tract of land containing 20.603 acres situated in Blue Ridge Township, Henderson County, North Carolina and being the tract of land now or formerly owned by United States of America as described in Deed Book 3904, Pages 139-142 and being the property identified as Henderson County Tax PIN # 9587688771 and being more fully described as follows:

Beginning at the **Point of Beginning (POB)** at a magnetic nail set in the centerline of Crest Road (SR1803) at the southwestern corner of the subject property and having (NAD 83/2011) North Carolina grid coordinates of North 578,010.020 feet, East 986,549.356 feet and being located N32°00'04"W and a grid distance of 4,930.99 feet from NGS monument "DEND" (PID:DG4651) with the published (NAD83/2011) North Carolina grid coordinates of North 573827.40 feet, East 989163.05 feet;

thence from the **POB** and with the line of now or formerly (N/F) Bobby Ramey and wife, Wendy H. Ramey (DB 3384, PG 712; DB 1173, PG 1) N06°10'46"E a distance of 707.56 feet to a 3/4" iron pipe found; thence continuing with the Ramey line N53°49'25"W a distance of 314.22 feet to an iron axle found, a common corner between Ramey and N/F Jeffery C. Justus (DB 700, PG 854); thence with Justus line N53°27'04"W a distance of 81.78 feet to an 3/4" iron pipe found beside a stone and being a common corner between Jeffery C. Justus and N/F Boyd L. Hyder (DB 1157, PG 751); thence along the Hyder line N14°35'43"E a distance of 473.78 feet to a 1/2" iron pipe found in a ditch and being also a corner for N/F Henderson County Board of Public Education (DB 824, PG 216) ; thence with the Henderson County Board of Public Education line S65°43'08"E a distance of 1,014.61 feet to a 1/2" iron pipe found; thence continuing and passing through a corner for the Henderson County Board of Public Education and along the line of N/F Douglas Nichols and Cathy Nichols (DB 1165, PG 213) S54°51'37"E a distance of 253.37 feet to a magnetic nail set in the centerline of Crest Road (SR 1804); thence along the centerline of Crest Road the following nine (9) courses:

- (1) S41°25'14"W a distance of 27.75 feet to a computed point,
- (2) thence along a curve to the left with an arc length of 217.51 feet having a radius of 2,065.79 feet and a chord bearing of S38°24'15"W and chord distance of 217.41 feet to a computed point,
- (3) thence along a tangent S35°23'16"W a distance of 295.16 feet to a computed point,
- (4) thence along a tangent S36°18'13"W a distance of 77.31 feet to a computed point,
- (5) thence along a curve to the right and with an arc length of 195.34 feet having a radius of 671.75 feet and a chord bearing of S44°38'11"W and chord distance of 194.65 feet to a computed point,
- (6) thence along a tangent S52°58'01"W a distance of 46.25 feet to a computed point,
- (7) thence along a curve to the right with an arc length of 163.56 feet having a radius of 654.19 feet, and a chord bearing of S60°07'46"W and chord distance of 163.13 feet to a computed point,
- (8) thence continuing along a curve to the right with the arc length of 157.98 feet having a radius of 1876.45 feet, and a chord bearing of S69°42'14"W and chord distance of 157.94 feet to a computed point,
- (9) thence continuing along a curve to the right with the arc length of 178.98 feet having a radius of 843.77 feet, and a chord bearing of S78°11'34"W and chord distance of 178.65 feet to a magnetic nail set in the centerline of Crest Road (SR1803) and being the **POB** and containing 20.603 acres more or less and more completely shown on a unrecorded map entitled Satellite Annexation Plat for: "The City of Hendersonville" dated May 24,2022 by Joyner Keeny, PLLC of Rocky Mount, North Carolina.

All distances are ground horizontal distances in U.S. Survey Feet, unless otherwise noted.

Resolution #R-22-75

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.2

WHEREAS, a petition requesting annexation of the satellite 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 satellite area described herein will be held at City Operations Center located at 305 William St. Hendersonville NC, 28792 at 5:45 p.m. August 4th, 2022, 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 PIN 9587-68-8771 described in the plat recorded in Book 2022 - ____ [to be inserted at recording of the plat] of the Henderson County Registry, said PIN 9587-68-8771 being described by metes and bounds as follows:

A legal description of an existing tract of land containing 20.603 acres situated in Blue Ridge Township, Henderson County, North Carolina and being the tract of land now or formerly owned by United States of America as described in Deed Book 3904, Pages 139-142 and being the property identified as Henderson County Tax PIN # 9587688771 and being more fully described as follows:

Beginning at the **Point of Beginning (POB)** at a magnetic nail set in the centerline of Crest Road (SR1803) at the southwestern corner of the subject property and having (NAD 83/2011) North Carolina grid coordinates of North 578,010.020 feet, East 986,549.356 feet and being located N32°00'04"W and a grid distance of 4,930.99 feet from NGS monument "DEND" (PID:DG4651) with the published (NAD83/2011) North Carolina grid coordinates of North 573827.40 feet, East 989163.05 feet; thence from the **POB** and with the line of now or formerly (N/F) Bobby Ramey and wife, Wendy H. Ramey (DB 3384, PG 712; DB 1173, PG 1) N06°10'46"E a distance of 707.56 feet to a 3/4" iron pipe found; thence continuing with the Ramey line N53°49'25"W a distance of 314.22 feet to an iron axle found, a common corner between Ramey and N/F Jeffery C. Justus (DB 700, PG 854); thence with Justus line N53°27'04"W a distance of 81.78 feet to a 3/4" iron pipe found beside a stone and being a common corner between Jeffery C. Justus and N/F Boyd L. Hyder (DB 1157, PG 751); thence along the Hyder line N14°35'43"E a distance of 473.78 feet to a 1/2" iron pipe found in a ditch and being also a corner for N/F Henderson County Board of Public Education (DB 824, PG 216); thence with the Henderson County Board of Public Education line S65°43'08"E a distance of 1,014.61 feet to a 1/2" iron pipe found; thence continuing and passing through a corner for the Henderson County Board of Public Education and along the line of N/F Douglas Nichols and Cathy Nichols (DB 1165, PG 213) S54°51'37"E a distance of 253.37 feet to a magnetic nail set in

the centerline of Crest Road (SR 1804); thence along the centerline of Crest Road the following nine (9) courses:

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- (9) thence continuing along a curve to the right with the arc length of 178.98 feet having a radius of 843.77 feet, and a chord bearing of S78°11'34"W and chord distance of 178.65 feet to a magnetic nail set in the centerline of Crest Road (SR1803) and being the **POB** and containing 20.603 acres more or less and more completely shown on a unrecorded map entitled "Satellite Annexation Plat for: "The City of Hendersonville" dated May 24,2022 by Joyner Keeny, PLLC of Rocky Mount, North Carolina.

All distances are ground horizontal distances in U.S. Survey Feet, unless otherwise noted.

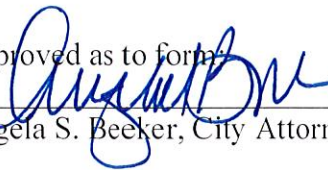
Re: Petition for Satellite Annexation
 Petitioners: United States of America- Ralph J. Werthmann, Army Corps of Engineers-
 Savannah District
 File No. C22-43-ANX

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 7th day of July, 2022.

Attest: 
 Barbara G. Volk, Mayor, City of Hendersonville


 Angela L. Reece, City Clerk

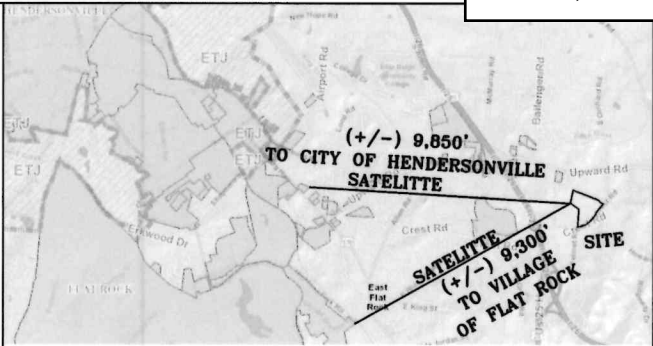
Approved as to form:

 Angela S. Beecher, City Attorney

I, MICHAEL L. FINCH, N.C. PROFESSIONAL LAND SURVEYOR, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED BOOK 1038, PAGE 349); THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED IS BETTER THAN 1:20,000; THAT THIS MAP MEETS THE MINIMAL REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21NCAc 56h600) AND THAT THIS SURVEY IS OF AN EXISTING PARCEL OF LAND OR ONE OR MORE EXISTING EASEMENTS AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET. I, MICHAEL L. FINCH FURTHER CERTIFY THAT LOCAL HORIZONTAL AND GRID CONTROL WAS ESTABLISHED FROM AN ACTUAL GPS SURVEY MADE UNDER MY SUPERVISION AND THAT THE FOLLOWING INFORMATION WAS USED TO PERFORM THE SURVEY:

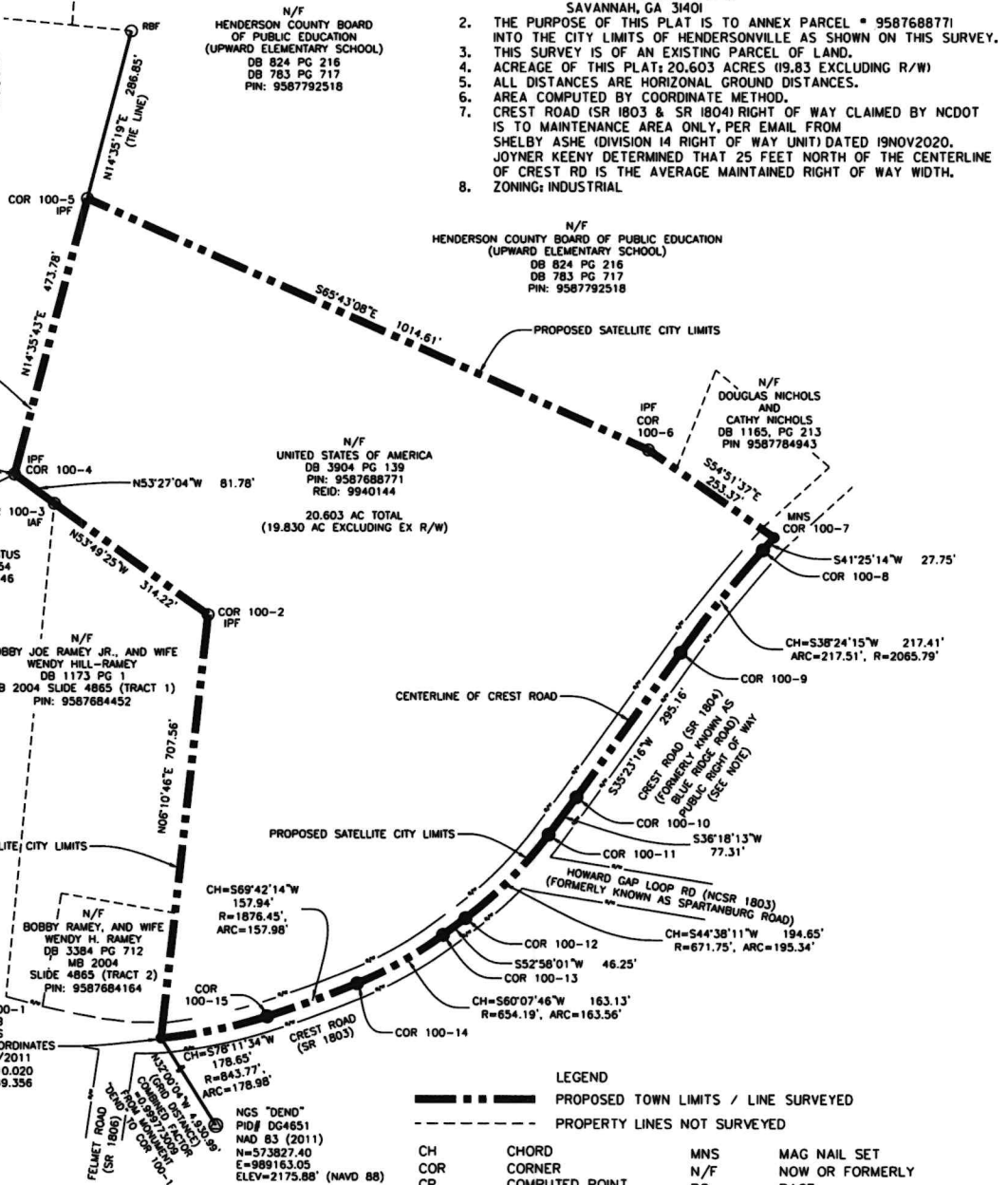
1. CLASS OF SURVEY: CLASS A
2. POSITIONAL ACCURACY: 0.03 HORIZONTAL AT 95%
3. TYPES OF GPS FIELD PROCEDURE: NC VRS NETWORK
4. DATE OF SURVEY: NOVEMBER 2020
5. DATUM/EPOCH: NAD83/2011
6. PUBLISHED/FIXED CONTROL: NGS MON 'DEND'
7. GEOID MODEL: I2B
8. COMBINED GRID FACTOR: 0.999773009
9. UNITS: US SURVEY FEET

WITNESS MY SIGNATURE, THIS 16TH DAY OF JUNE 2022.

Michael L. Finch
 N.C. PROFESSIONAL LAND SURVEYOR LICENSE # L-3969



VICINITY MAP
(NTS)



SURVEY NOTES:

1. OWNER: UNITED STATES OF AMERICA
100 W OGLETHORPE AVE
SAVANNAH, GA 31401
2. THE PURPOSE OF THIS PLAT IS TO ANNEX PARCEL # 9587688771 INTO THE CITY LIMITS OF HENDERSONVILLE AS SHOWN ON THIS SURVEY.
3. THIS SURVEY IS OF AN EXISTING PARCEL OF LAND.
4. ACREAGE OF THIS PLAT: 20.603 ACRES (19.83 EXCLUDING R/W)
5. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
6. AREA COMPUTED BY COORDINATE METHOD.
7. CREST ROAD (SR 1803 & SR 1804) RIGHT OF WAY CLAIMED BY NCDOT IS TO MAINTENANCE AREA ONLY, PER EMAIL FROM SHELBY ASHE (DIVISION 14 RIGHT OF WAY UNIT) DATED 19NOV2020. JOYNER KEENEY DETERMINED THAT 25 FEET NORTH OF THE CENTERLINE OF CREST RD IS THE AVERAGE MAINTAINED RIGHT OF WAY WIDTH. ZONING: INDUSTRIAL
- 8.

NAD 83/2011
 N.C. GRID

LEGEND

-----	PROPOSED TOWN LIMITS / LINE SURVEYED		
-----	PROPERTY LINES NOT SURVEYED		
CH	CHORD	MNS	MAG NAIL SET
COR	CORNER	N/F	NOW OR FORMERLY
CP	COMPUTED POINT	PG	PAGE
DB	DEED BOOK	PIN	PARCEL IDENTIFICATION NUMBER
IAF	IRON AXLE FOUND	POB	POINT OF BEGINNING
IPF	IRON PIPE FOUND	R	RADIUS
MB	MAP BOOK	R/W	RIGHT OF WAY

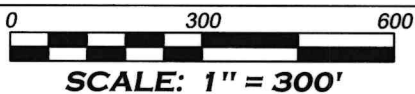
THIS PLAT REPRESENTS ONE AREA BEING ANNEXED TO THE CITY OF HENDERSONVILLE, NORTH CAROLINA PURSUANT TO NCGS 160A-31, BY ORDINANCE DULY ADOPTED (ANNEXATION ORDINANCE).

THIS..... DAY OF 202...

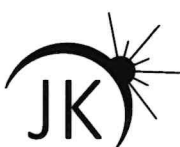
ANGELA L. REECE, CITY CLERK

THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.

SATELLITE ANNEXATION PLAT

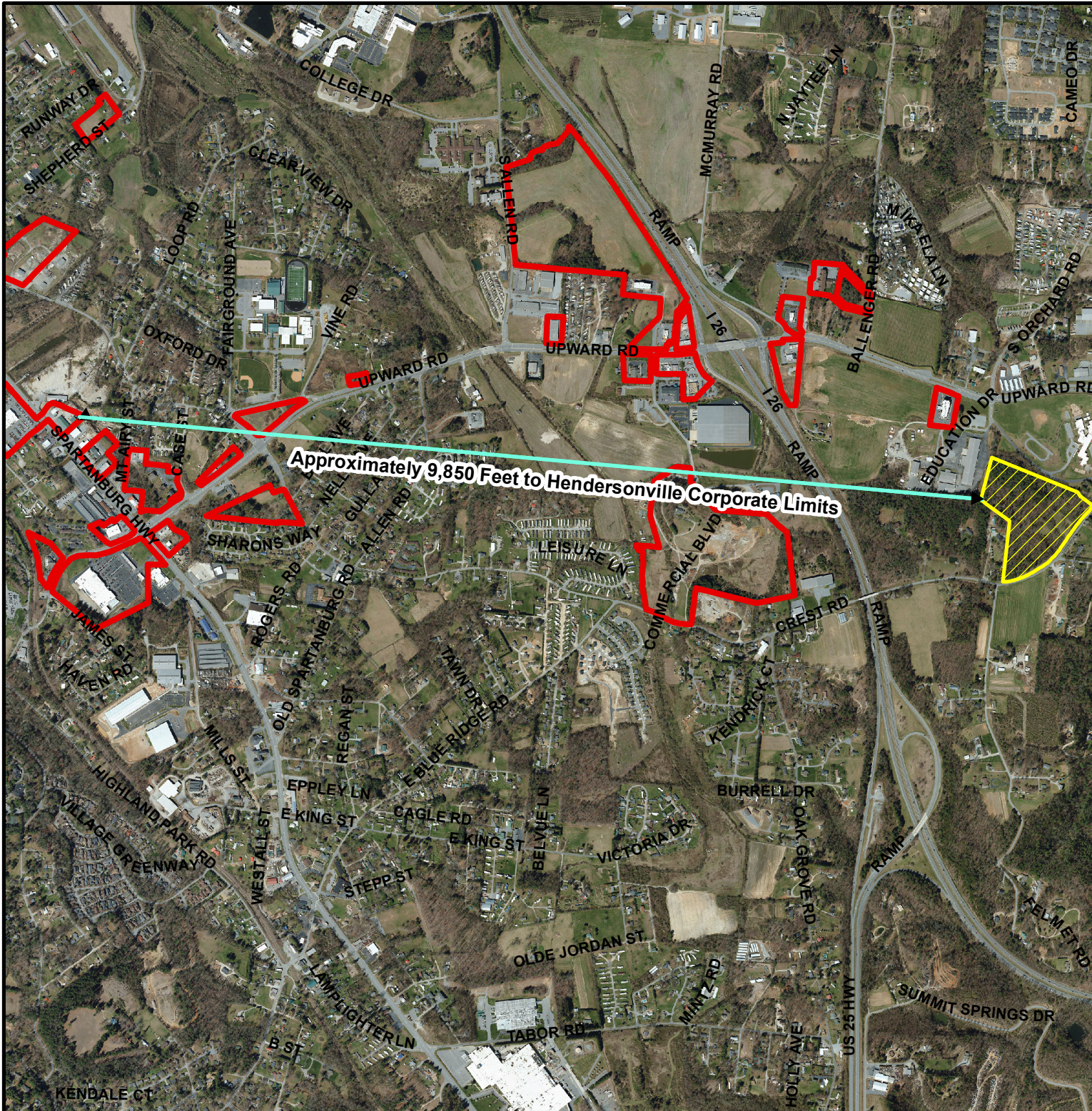


FOR
 THE CITY OF HENDERSONVILLE
 PIN: 9587688771
 REID: 9940144



JoynerKeeny ^{PLLC}
 Planning, Surveying & Engineering
 1051 N. Winstead Avenue - P.O. Box 7533
 Rocky Mount, North Carolina 27804
 North Carolina Firm Number P-0551
 V: 252.977.3124 F: 252.985.6026
 joynerkeeney.com

TWSP: BLUE RIDGE	COUNTY/STATE: HENDERSON COUNTY, NC
DRAWN BY: JAM	CHECKED BY: MLF
	DATE: 16JUNE2022
DWG: 200322A_US Army Reserve Training Center_Ashville_Annexation.dgn	



Crest Road- Army Corps
 C22-43-ANX
 PIN: 9587-68-8771
 Acreage: 20.603
Satellite Annexation Map
 Community Development Department

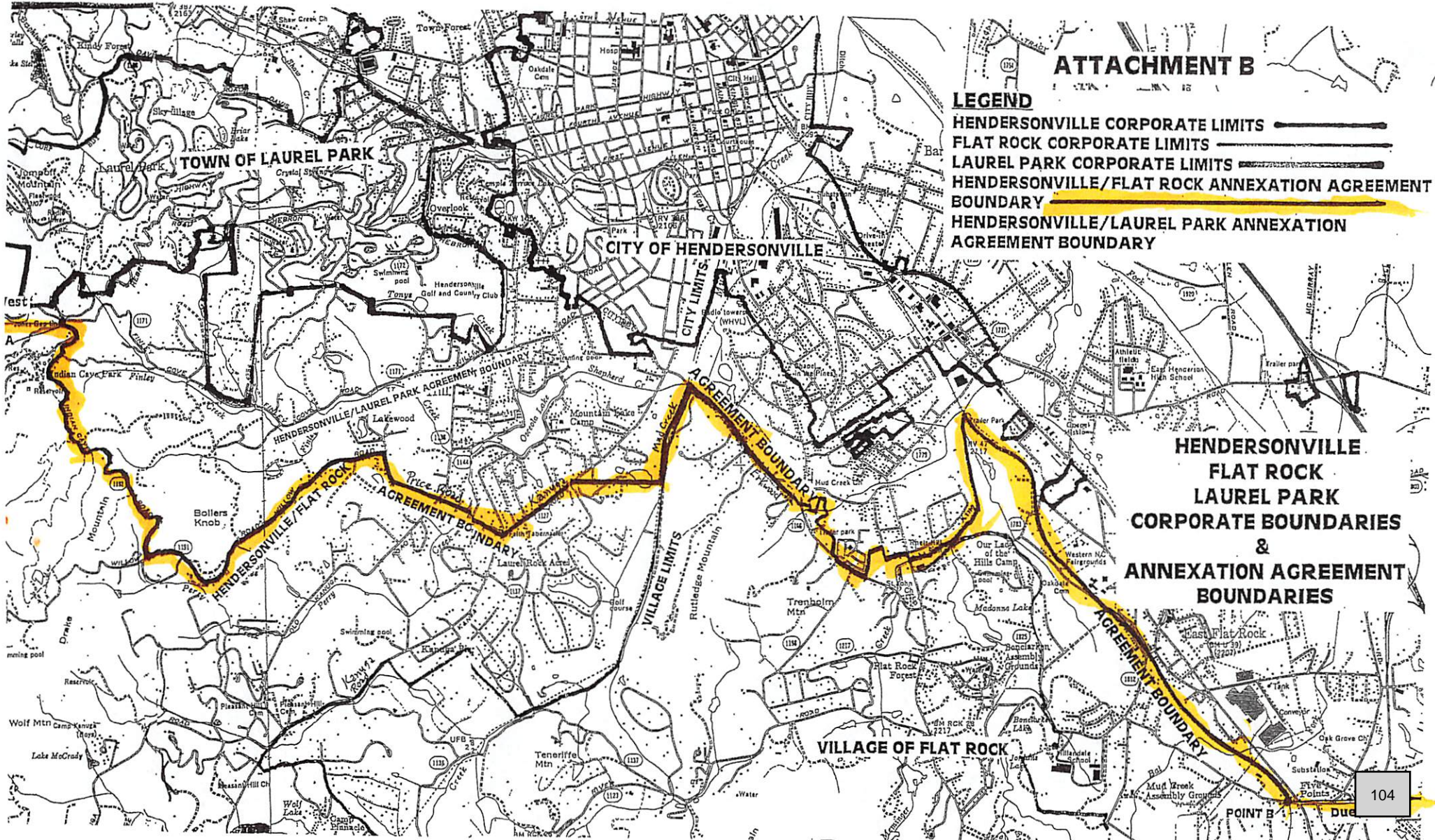
- Subject Property
- Hendersonville City Limits



ATTACHMENT B

LEGEND

- HENDERSONVILLE CORPORATE LIMITS
- FLAT ROCK CORPORATE LIMITS
- LAUREL PARK CORPORATE LIMITS
- HENDERSONVILLE/FLAT ROCK ANNEXATION AGREEMENT BOUNDARY
- HENDERSONVILLE/LAUREL PARK ANNEXATION AGREEMENT BOUNDARY



**HENDERSONVILLE
FLAT ROCK
LAUREL PARK
CORPORATE BOUNDARIES
&
ANNEXATION AGREEMENT
BOUNDARIES**



CITY OF HENDERSONVILLE
DEVELOPMENT ASSISTANCE DEPARTMENT
100 N. King St. ~ Hendersonville, NC ~ 28792 Phone
(828) 697-3010 ~ Fax (828) 697-6185
www.hendersonvillenc.gov

PETITION REQUESTING ANNEXATION

The following are required to constitute a complete application for voluntary annexation:
~This form including the property owner's signature
~A copy of the deed indicating ownership of the property.
~A survey plat (8 1/2 " by 11") of the property prepared by a registered surveyor licensed to practice in the state of North Carolina.
~ A typed boundary description of the property, in digital format if possible.

Date 5/3/2022

Location / Property Address Crest Road

List 10 digit PIN or 7 digit PID number 9587688771

Does this property adjoin the present City Limits? YES NO

Is the property within the ETJ? YES NO

Reason for annexation Access to Sanitary Sewer

Applicant Name US Army Corps of Engineers

Address 100 West Oglethorpe Ave, Savannah, GA 30458

Phone 912-652-5011

Fax

Email ralph.j.werthmann@usac

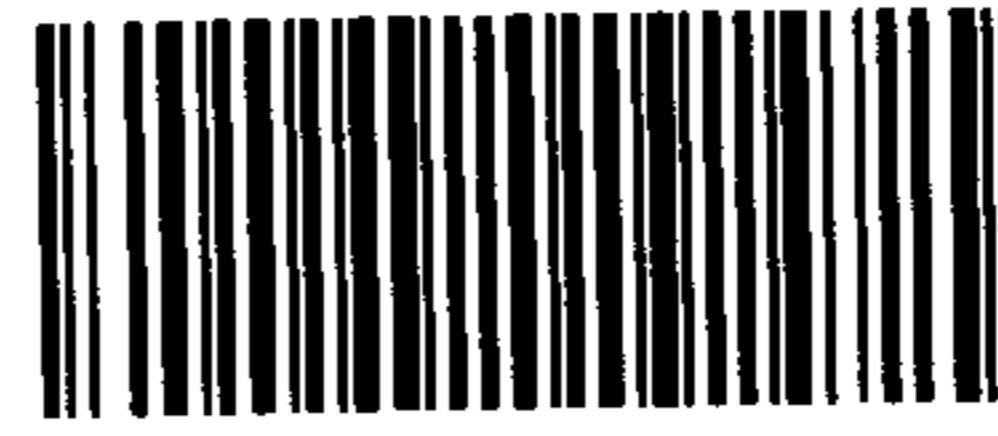
Property Owner: Name US Army Corps of Engineers

Address 100 West Oglethorpe Ave, Savannah, GA 30458

Signature Ralph J. Werthmann Digitally signed by Ralph J. Werthmann
Date: 2022.05.20 07:47:00 -04'00'

Printed Name Ralph J. Werthmann

Official Use:
DATE RECEIVED: _____ BY _____



This document presented and filed:
04/26/2022 01:20:58 PM

WB

WILLIAM LEE KING, Henderson COUNTY, NC
Transfer Tax: \$2,800.00

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax \$2800.00

Parcel Identifier No. 9587688771

Verified by _____ County on the ____ day of _____, 2022 by

Prepared by/Mail after recording to: US ARMY, Corps of Engineers, 100 West Oglethorpe Avenue,
savannah, Georgia, 31401

Brief Description for the Index: 20.603 ACRES adj. Crest Road, (NCSR 1804), New Site Army Reserve
Center

THIS DEED, made this 26th day of April 2022, by and between: **PATRICIA ANN JONES AND HUSBAND, DONALD NEAL JONES**, whose address is 125 West Blue Ridge Road, Number 251, East Flat Rock, North Carolina 28726 (hereinafter "Grantor"), and the **UNITED STATES OF AMERICA**, acting by and through its acquiring agency, the U.S. Army Corps of Engineers, Savannah District, whose address is 100 West Oglethorpe Avenue, Savannah, Georgia 31401 (hereinafter "Grantee");

WITNESSETH: that the Grantor, for and in consideration of the sum of **ONE MILLION FOUR HUNDRED THOUSAND DOLLARS AND NO ONE HUNDREDTHS (\$1,400,000.00)** paid by the Grantee to the Grantor, the receipt whereof is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that following described land, to-wit:

Tract 100

Asheville ARC Project

All that tract or parcel of land lying and being in in Blue Ridge Township, Henderson County, North Carolina and being the tract of land now or formerly

owned by Patricia Ann Jones as described in Deed Book 1038 Page 349 and being the property identified as Henderson County Tax PIN # 958768871 and being more fully described as follows:

Beginning at the **Point of Beginning (POB)** at a magnetic nail set in the centerline of Crest Road (SR1803) at the southwestern corner of the subject property and having (NAD 83/2011) North Carolina grid coordinates of North 578,010.020 feet, East 986,549.356 feet and being located N32°00'04"W and a grid distance of 4,930.99 feet from NGS monument "DEND" (PID:DG4651) with the published (NAD83/2011) North Carolina grid coordinates of North 573827.40 feet, East 989163.05 feet;

thence from the **POB** and with the line of now or formerly (N/F) Bobby Ramey and wife, Wendy H. Ramey (DB 3384, PG 712; DB 1173, PG 1) N06°10'46"E a distance of 707.56 feet to a 3/4" iron pipe found; thence continuing with the Ramey line N53°49'25"W a distance of 314.22 feet to an iron axle found, a common corner between Ramey and N/F Jeffery C. Justus (DB 700, PG 854); thence with Justus line N53°27'04"W a distance of 81.78 feet to an 3/4" iron pipe found beside a stone and being a common corner between Jeffery C. Justus and N/F Boyd L. Hyder (DB 1157, PG 751); thence along the Hyder line N14°35'43"E a distance of 473.78 feet to a 1/2" iron pipe found in a ditch and being also a corner for N/F Henderson County Board of Public Education (DB 824, PG 216) ; thence with the Henderson County Board of Public Education line S65°43'08"E a distance of 1,014.61 feet to a 1/2" iron pipe found; thence continuing and passing through a corner for the Henderson County Board of Public Education and along the line of N/F Douglas Nichols and Cathy Nichols (DB 1165, PG 213) S54°51'37"E a distance of 253.37 feet to a magnetic nail set in the centerline of Crest Road (SR 1804); thence along the centerline of Crest Road the following nine (9) courses:

- (1) S41°25'14"W a distance of 27.75 feet to a computed point,
- (2) thence along a curve to the left with an arc length of 217.51 feet having a radius of 2,065.79 feet and a chord bearing of S38°24'15"W and chord distance of 217.41 feet to a computed point,
- (3) thence along a tangent S35°23'16"W a distance of 295.16 feet to a computed point,
- (4) thence along a tangent S36°18'13"W a distance of 77.31 feet to a computed point,
- (5) thence along a curve to the right and with an arc length of 195.34 feet having a radius of 671.75 feet and a chord bearing of S44°38'11"W and chord distance of 194.65 feet to a computed point,
- (6) thence along a tangent S52°58'01"W a distance of 46.25 feet to a computed point,
- (7) thence along a curve to the right with an arc length of 163.56 feet having a radius of 654.19 feet, and a chord bearing of S60°07'46"W and chord distance of 163.13 feet to a computed point,

(8) thence continuing along a curve to the right with the arc length of 157.98 feet having a radius of 1876.45 feet, and a chord bearing of S69°42'14"W and chord distance of 157.94 feet to a computed point,
(9) thence continuing along a curve to the right with the arc length of 178.98 feet having a radius of 843.77 feet, and a chord bearing of S78°11'34"W and chord distance of 178.65 feet to a magnetic nail set in the centerline of Crest Road (SR1803) and being the **POB** and containing 20.603 acres more or less and more completely shown on a map entitled ALTA/NSPS LAND TITLE SURVEY FOR "UNITED STATES OF AMERICA on the lands of PATRICIA ANN JONES" dated 22NOV2021 by Joyner Keeny, PLLC of Rocky Mount, North Carolina.

The above-described land is conveyed subject to existing easements for public roads and highways, public utilities, railroads, and pipelines.

And for the same consideration, Grantor does hereby REMISE, RELEASE, and forever QUITCLAIM unto the Grantee all their right, title, and interest in and to the banks, beds, and waters of any streams bordering the said land hereby conveyed, and also all interest in the alleys, roads, streets, ways, strips, gores, or railroad rights-of-way abutting or adjoining the said land and in any means of ingress or egress appurtenant thereto.

TO HAVE AND TO HOLD said premises with the privileges and appurtenances thereunto belonging unto the Grantee, the UNITED STATES OF AMERICA and its assigns, forever, subject to the terms, reservations, restrictions, covenants, and conditions set forth in this Deed.

And, the Grantor for itself and its assigns covenants with the Grantee and its assigns, that Grantor is seized of the described property hereby conveyed in fee simple, that title is marketable and free and clear of all encumbrances, and the Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions herein stated.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Grantor has hereunto subscribed its name on the day and year first above written.

GRANTORS

Patricia Ann Jones (SEAL)
Patricia Ann Jones

Donald Neal Jones (SEAL)
Donald Neal Jones

STATE OF NORTH CAROLINA
COUNTY OF Henderson

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:
North Carolina General Warranty Deed

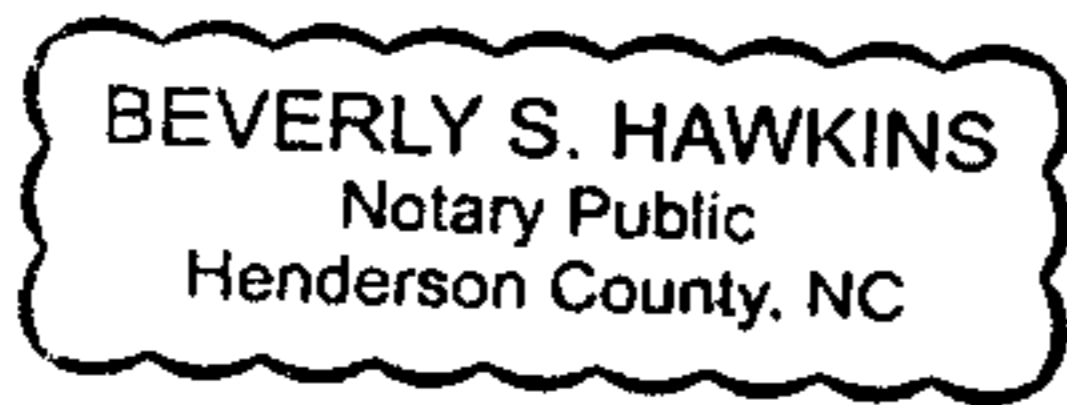
Date: April 26, 2022

Beverly S. Hawkins
Notary Public

PLACE NOTARY SEAL INSIDE THIS BOX ONLY!

Beverly S. Hawkins
(Printed Name of Notary)

My Commission Expires: 04/12/2024





StarNews | The Dispatch | Times-News
 Sun Journal | The Daily News | The Star
 The Free Press | Gaston Gazette
 The Fayetteville Observer

Order Confirmation

Not an Invoice

Section 7, Item A.

Account Number:	488558
Customer Name:	City Of Hendersonville
Customer Address:	City Of Hendersonville 160 6Th AVE E City Clerk Hendersonville NC 28792-3775
Contact Name:	Angela Reece
Contact Phone:	828-697-3005
Contact Email:	areece@hvInc.gov
PO Number:	

Date:	07/08/2022
Order Number:	7516019
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	203.0000
Height in Inches:	0.0000

Print

Product	#Insertions	Start - End	Category
HEN Times-News	1	07/24/2022 - 07/24/2022	Public Notices
HEN blueridgenow.com	1	07/24/2022 - 07/24/2022	Public Notices

Total Order Confirmation	\$29.36
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Resolution #R-22-75

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.2

WHEREAS, a petition requesting annexation of the satellite 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 satellite area described herein will be held at City Operations Center located at 305 William St. Hendersonville NC, 28792 at 5:45 p.m. August 4th, 2022, 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 PIN 9587-68-8771 described in the plat recorded in Book 2022 - ____ [to be inserted at recording of the plat] of the Henderson County Registry, said PIN 9587-68-8771 being described by metes and bounds as follows:

A legal description of an existing tract of land containing 20.603 acres situated in Blue Ridge Township, Henderson County, North Carolina and being the tract of land now or formerly owned by United States of America as described in Deed Book 3904, Pages 139-142 and being the property identified as Henderson County Tax PIN # 9587688771 and being more fully described as follows:

Beginning at the **Point of Beginning (POB)** at a magnetic nail set in the centerline of Crest Road (SR1803) at the southwestern corner of the subject property and having (NAD 83/2011) North Carolina grid coordinates of North 578,010.020 feet, East 986,549.356 feet and being located N32°00'04"W and a grid distance of 4,930.99 feet from NGS monument "DEND" (PID:DG4651) with the published (NAD83/2011) North Carolina grid coordinates of North 573827.40 feet, East 989163.05 feet; thence from the **POB** and with the line of now or formerly (N/F) Bobby Ramey and wife, Wendy H. Ramey (DB 3384, PG 712; DB 1173, PG 1) N06°10'46"E a distance of 707.56 feet to a 3/4" iron pipe found; thence continuing with the Ramey line N53°49'25"W a distance of 314.22 feet to an iron axle found, a common corner between Ramey and N/F Jeffery C. Justus (DB 700, PG 854); thence with Justus line N53°27'04"W a distance of 81.78 feet to a 3/4" iron pipe found beside a stone and being a common corner between Jeffery C. Justus and N/F Boyd L. Hyder (DB 1157, PG 751); thence along the Hyder line N14°35'43"E a distance of 473.78 feet to a 1/2" iron pipe found in a ditch and being also a corner for N/F Henderson County Board of Public Education (DB 824, PG 216); thence with the Henderson County Board of Public Education line S65°43'08"E a distance of 1,014.61 feet to a 1/2" iron pipe found; thence continuing and passing through a corner for the Henderson County Board of Public Education and along the line of N/F Douglas Nichols and Cathy Nichols (DB 1165, PG 213) S54°51'37"E a distance of 253.37 feet to a magnetic nail set in

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- (1) S41°25'14"W a distance of 27.75 feet to a computed point,
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- (5) thence along a curve to the right and with an arc length of 195.34 feet having a radius of 671.75 feet and a chord bearing of S44°38'11"W and chord distance of 194.65 feet to a computed point,
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- (7) thence along a curve to the right with an arc length of 163.56 feet having a radius of 654.19 feet, and a chord bearing of S60°07'46"W and chord distance of 163.13 feet to a computed point,
- (8) thence continuing along a curve to the right with the arc length of 157.98 feet having a radius of 1876.45 feet, and a chord bearing of S69°42'14"W and chord distance of 157.94 feet to a computed point,
- (9) thence continuing along a curve to the right with the arc length of 178.98 feet having a radius of 843.77 feet, and a chord bearing of S78°11'34"W and chord distance of 178.65 feet to a magnetic nail set in the centerline of Crest Road (SR1803) and being the **POB** and containing 20.603 acres more or less and more completely shown on a unrecorded map entitled "Satellite Annexation Plat for: "The City of Hendersonville" dated May 24,2022 by Joyner Keeny, PLLC of Rocky Mount, North Carolina.

All distances are ground horizontal distances in U.S. Survey Feet, unless otherwise noted.

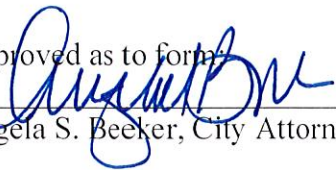
Re: Petition for Satellite Annexation
 Petitioners: United States of America- Ralph J. Werthmann, Army Corps of Engineers-
 Savannah District
 File No. C22-43-ANX

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 7th day of July, 2022.

Attest: 
 Barbara G. Volk, Mayor, City of Hendersonville


 Angela L. Reece, City Clerk

Approved as to form:

 Angela S. Beecker, City Attorney



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY PLANNING DIVISION

SUBMITTER: Matthew Manley, Planning Manager

MEETING DATE: August 4, 2022

AGENDA SECTION: Public Hearing

DEPARTMENT: Community Development

TITLE OF ITEM: Rezoning: Standard Rezoning – Crest Rd – US Army (P22-47-RZO) – *Matthew Manley, AICP – Planning Manager*

SUGGESTED MOTION(S):

For Recommending Approval:

I move City Council **adopt** an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PINS: 9587-68-8771) from Henderson County Industrial Zoning District to City of Hendersonville I-1 (Industrial) Zoning District based on the following:

1. 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 proposed Industrial zoning presents an opportunity to improve the land use balance as called for in Chapter 8 of the City’s 2030 Comprehensive Plan.

2. Additionally, 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 proposed zoning is compatible with surrounding land uses
- 2. The proposed zoning presents an opportunity for additional employment

3. Furthermore, we recommend designating the Future Land Use of the parcel as Regional Activity Center.

[DISCUSS & VOTE]

For Recommending Denial:

I move City Council **deny** an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PINS: 9587-68-8771) from Henderson County Industrial Zoning District to City of Hendersonville I-1 (Industrial) Zoning District based on the following:

1. 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 proposed Industrial zoning presents an opportunity to improve the land use balance as called for in Chapter 8 of the City’s 2030 Comprehensive Plan.

2. We do not 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 proposed zoning would be incompatible with future residential development in the area

[DISCUSS & VOTE]

***SUMMARY:** The City of Hendersonville received an Annexation application from the United States Army Corp of Engineers (owner) for a 19.96 Acre tract along Crest Rd adjacent to Upward Elementary School off of Upward Road. The applicant has not requested zoning, therefore the City is initiating zoning for this parcel from County - Industrial to City of Hendersonville I-1, Industrial.*

I-1 permits a wide range of high intensity commercial and industrial uses along with residential uses. This zoning district is considered to be the City’s most intense zoning district classification and does not include design standards. The I-1 zoning district provides exceptions to the size limitations which trigger CZDs. However, Government Facilities are not one of the uses that are exempted from the 50,000 Sq Ft trigger.

In absence of a Future Land Use Designation, the County’s Future Land Use Designation of Urban Service Area states the following (excerpt):

The Urban Services Area is that area within which most urban services and urban-scale development is currently concentrated, and within which such development should generally be concentrated through the year 2020.

Planning Board voted unanimously to support this item.

PROJECT/PETITIONER NUMBER:	P22-47-RZO
PETITIONER NAME:	City of Hendersonville [applicant] United States of America - Army Corps of Engineers – Savannah District [owner]
ATTACHMENTS:	<ol style="list-style-type: none"> 1. Staff Report 2. Planning Board Summary 3. Draft Ordinance 4. Proposed Zoning Map

Ordinance #O-22-49

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL POSSESSING PIN NUMBERS 9587-68-8771) CHANGING THE ZONING DESIGNATION FROM HENDERSON COUNTY INDUSTRIAL ZONING DISTRICT TO CITY OF HENDERSONVILLE I-1 (INDUSTRIAL) ZONING DISTRICT

IN RE: Parcel Numbers: 9587-68-8771
Crest Rd-US Army (File # P22-47-RZO)

WHEREAS, the Planning Board took up this application at its regular meeting on July 11, 2022; voting 6-0 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

WHEREAS, City Council took up this application at its regular meeting on August 4, 2022, and

WHEREAS, City Council has found that this zoning map amendment is consistent with the City’s comprehensive plan, and that it is reasonable and in the public interest for the reasons stated, and

WHEREAS, City Council has conducted a public hearing as required by the North Carolina General Statutes on August 4, 2022,

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

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Numbers: 9587-68-8771 from Henderson County Industrial Zoning District to City of Hendersonville I-1 (Industrial) Zoning District.
2. Any development of this parcel shall occur in accordance with the Zoning Ordinance of the City of Hendersonville, North Carolina.
3. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 4th day of August 2022.

Attest: Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

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

STANDARD REZONING: CREST RD – ARMY CORP (P22-47-RZO)
CITY OF HENDERSONVILLE - COMMUNITY DEVELOPMENT STAFF REPORT

PROJECT SUMMARY 2

EXISTING ZONING & LAND USE 3

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SITE IMAGES..... 5

SITE IMAGES..... 6

REZONING HISTORY 7

FUTURE LAND USE 8

REZONING ANALYSIS – COMPREHENSIVE PLAN CONSISTENCY (ARTICLE 11-4) 9

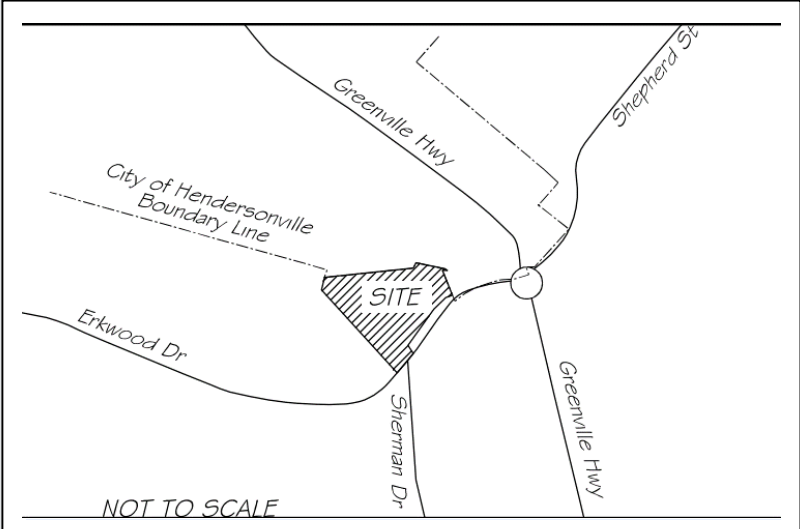
REZONING ANALYSIS – GENERAL REZONING STANDARDS (ARTICLE 11-4) 10

DRAFT COMPREHENSIVE PLAN CONSISTENCY AND REZONING REASONABLENESS STATEMENT 11



PROJECT SUMMARY

- Project Name & Case #:
 - Crest Rd (Army Corp of Engineers)
 - P22-47-RZO
- Applicant & Property Owner:
 - City of Hendersonville [Applicant]
 - United States of America - Army Corps of Engineers – Savannah District [Owner]
- Property Address:
 - No Address Assigned
- Project Acreage:
 - 19.96 Acres
- Parcel Identification (PIN):
 - 9587-68-8771
- Current Parcel Zoning:
 - Industrial (County)
- Proposed Zoning District:
 - I-1 (Industrial)
- Future Land Use Designation:
 - City – Not Mapped (Adjacent to Regional Activity Center)
 - County – Urban Service Area



SITE VICINITY MAP

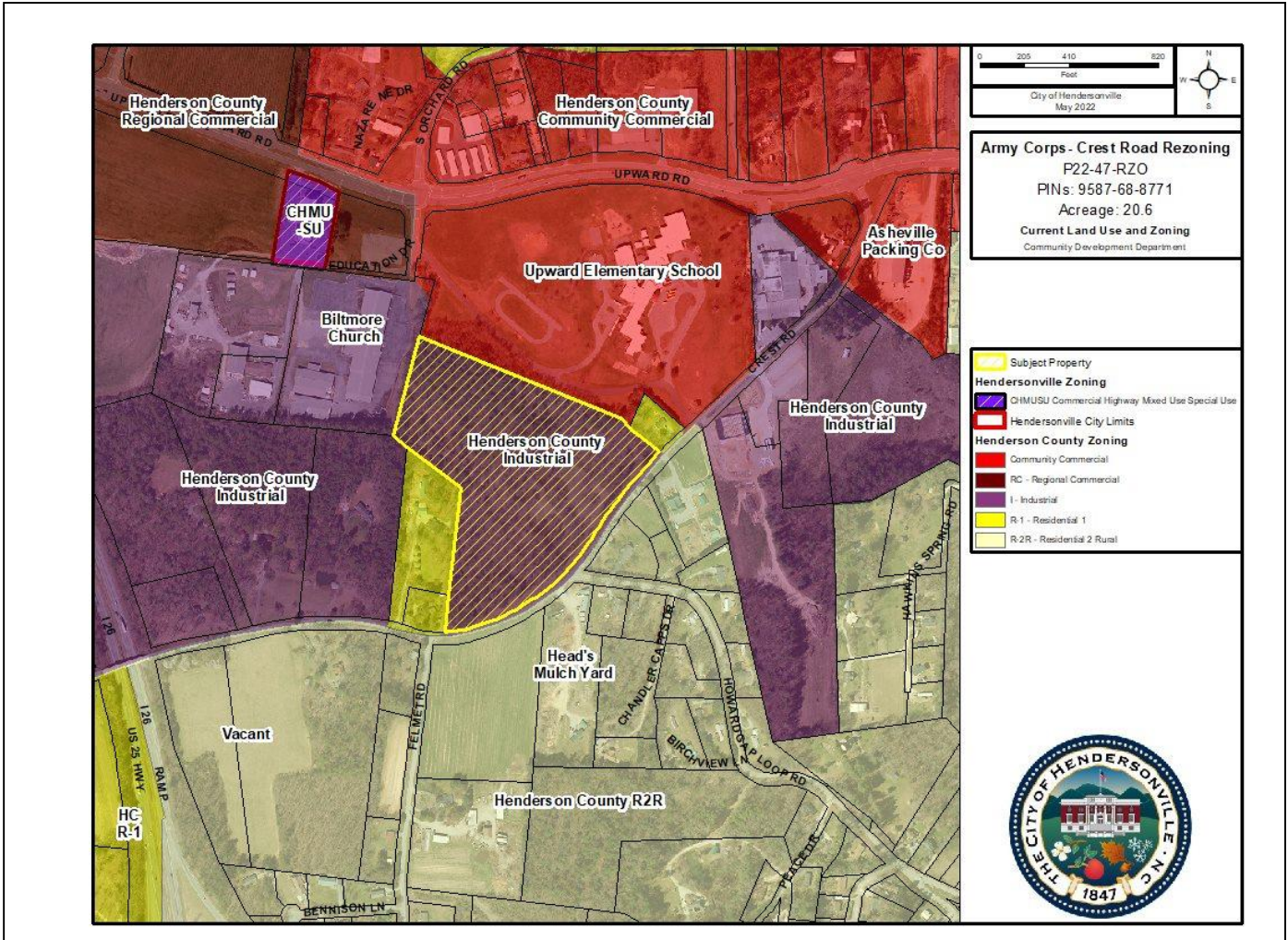
The City of Hendersonville received an Annexation application from the United States Army Corp of Engineers (owner) for a 19.96 Acre tract along Crest Rd adjacent to Upward Elementary School off of Upward Road. The applicant has not requested zoning, therefore the City is initiating zoning for this parcel from County - Industrial to City of Hendersonville I-1, Industrial.

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In absence of a Future Land Use Designation, the County’s Future Land Use Designation of Urban Service Area states the following (excerpt):

The Urban Services Area is that area within which most urban services and urban-scale development is currently concentrated, and within which such development should generally be concentrated through the year 2020.

EXISTING ZONING & LAND USE



City of Hendersonville Current Zoning & Land Use Map

The subject property is currently zoned Industrial under Henderson County’s Zoning Jurisdiction. It is located beyond the corporate City Limits in an area outside of the ETJ and outside the City’s Upward Rd Planning District.

North of Crest Rd, in the area containing the subject property, County zoning allows for higher intensity uses with the predominance of Industrial, Community Commercial and Regional Commercial zoning districts. While some R-1 is present north of Crest Rd (and adjacent to the subject property), a majority of low density Residential zoning (R-2R, Residential 2 – Rural) is found south of Crest Rd. Industrial zoning is also present south of Crest Rd closer to the intersection with Upward Rd.

City zoning in the immediate area is limited to one CHMU-SU parcel north of Biltmore Church fronting Upward Rd.

SITE IMAGES



View facing northeast on Crest Rd from subject property boundary near intersection of Howard Gap Loop Rd



View facing southwest on Crest Rd from subject property boundary near intersection of Howard Gap Loop Rd

SITE IMAGES



View of limited pasture area on the subject property

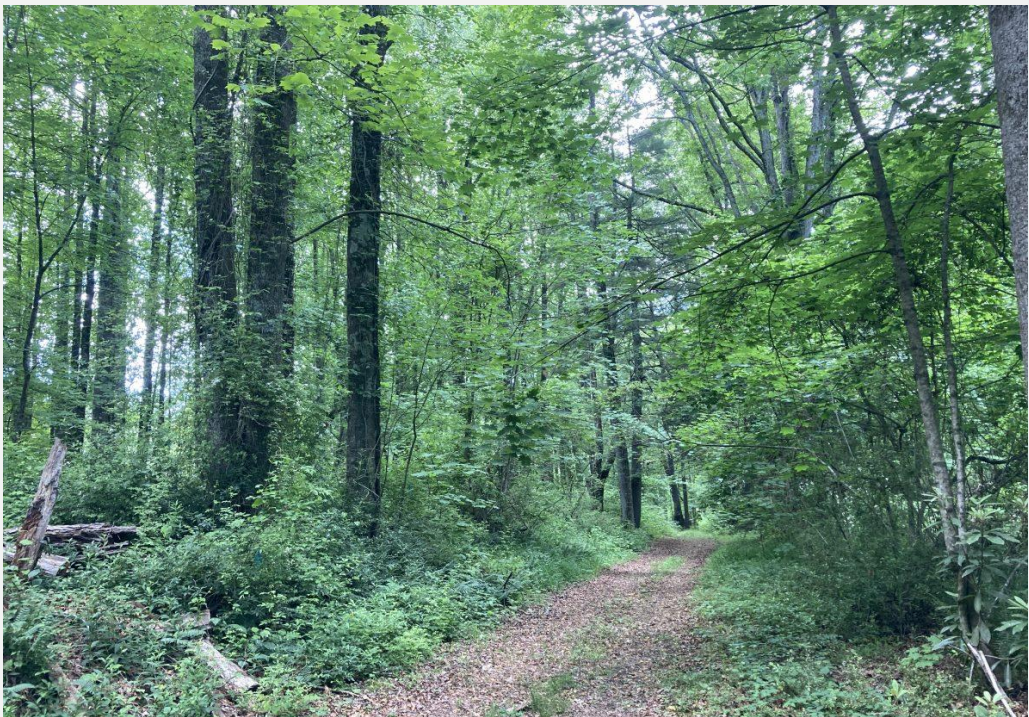


View of limited pasture area on the subject property

SITE IMAGES



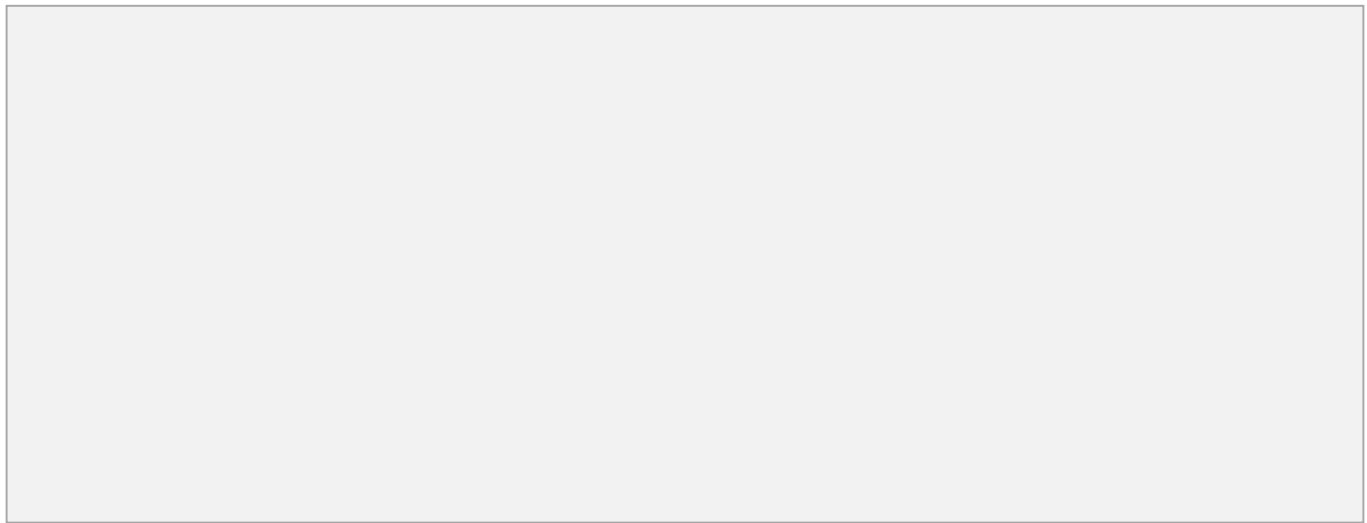
Typical view of woodlands on subject property



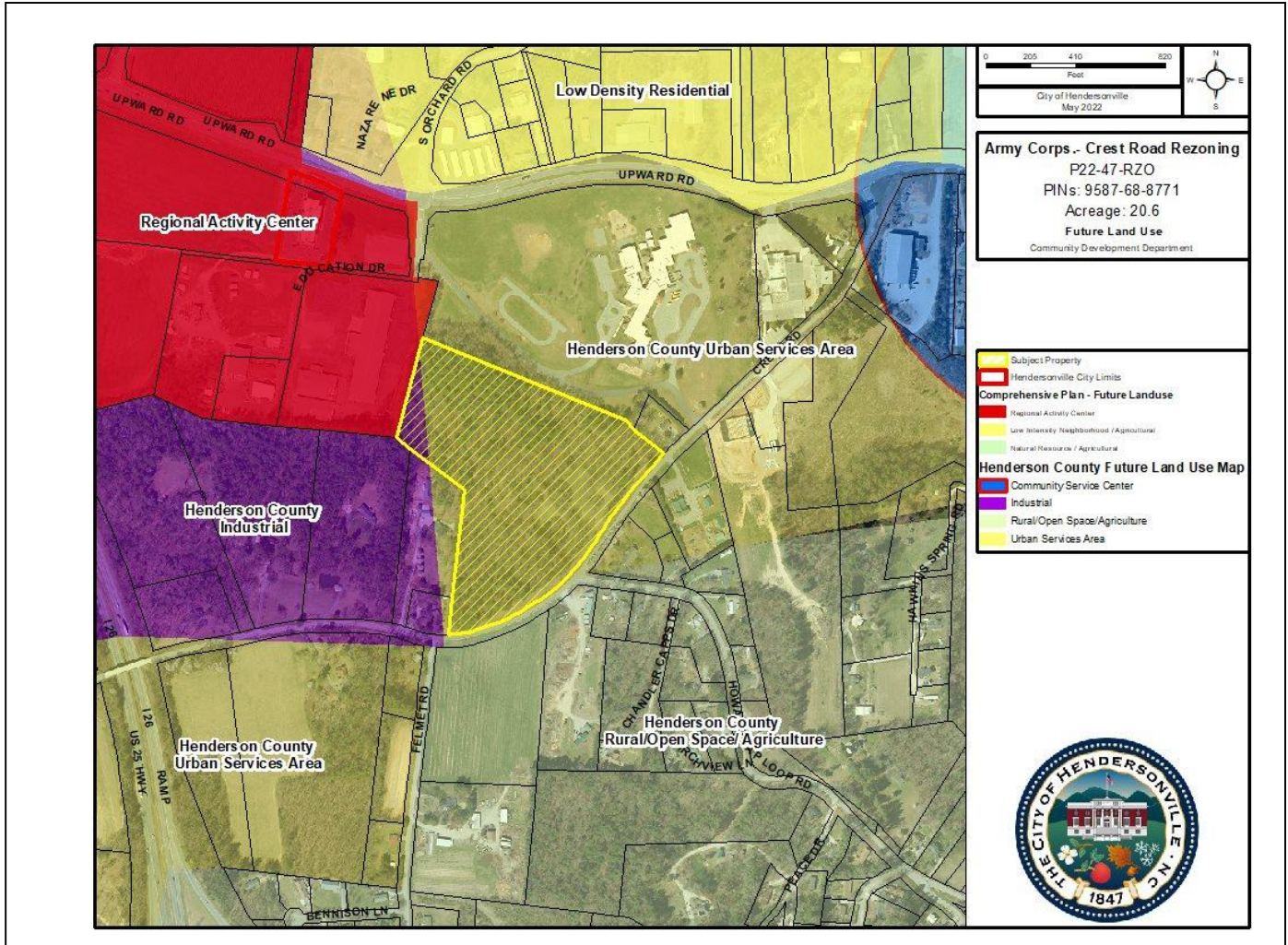
Typical view of woodlands on subject property

REZONING HISTORY

Prior Rezoning	Summary of Prior Petition	Status
Rezoned by County on 10-02-2017	Previous Zoning was RI (County)	Rezoned to Industrial (County)



FUTURE LAND USE



City of Hendersonville Future Land Use Map

The subject property is outside of the boundary of the Future Land Use Map. The City's Future Land Use Map does designate Regional Activity Center for the properties adjacent to the subject property to the northwest. Those same adjacent properties are designated as 'Priority Growth Areas' on the City's Growth Management Map.

The County's Future Land Use Map designates the subject property and properties to the north, east and southwest along Crest Rd as Urban Service Area - where residential density is to be maximized based on the availability of utilities. A small portion of the subject property and parcels to the west are designated as Industrial in the County's Future Land Use Map. Properties east of Crest Rd and to the south of the subject property are designated as Henderson County Rural/Open Space/Agriculture

REZONING ANALYSIS – COMPREHENSIVE PLAN CONSISTENCY (ARTICLE 11-4)

GENERAL REZONING STANDARDS: COMPREHENSIVE PLAN CONSISTENCY	
Future Land Use	N/A – The subject property is not within the boundaries of the <i>Future Land Use Map</i> . It is adjacent to <i>Regional Activity Center</i> .
Land Use & Development	N/A – The subject property is not within the boundaries of the <i>Growth Management Map</i> . It is adjacent to <i>Priority Growth Area</i> .
	N/A – The subject property is not within the boundaries of the <i>Development Framework Map</i> .
	<p>Goal LU-3. Promote orderly development, annexation and expansion of Hendersonville’s Extra-Territorial Jurisdiction (ETJ).</p> <ul style="list-style-type: none"> • Strategy LU-3.1. Expand the City’s ETJ to include land expected to experience significant growth pressure. [CONSISTENT] • Strategy LU-3.2. Annex developed and developing areas in a contiguous manner that promotes fiscal responsibility for the City. [INCONSISTENT] • Strategy LU-3.3. Encourage annexations that improve the land-use balance in the City of Hendersonville [CONSISTENT]
Population & Housing	<ul style="list-style-type: none"> • Strategy PH-1.1. Promote compatible infill
	<ul style="list-style-type: none"> • Strategy PH-3.2. Encourage mixed land use patterns that place residents within walking distance of services.
Natural & Environmental Resources	<ul style="list-style-type: none"> • Strategy NR-1.2. Protect land adjacent to streams in order to protect water quality, reduce erosion, and protect wildlife habitat
	<ul style="list-style-type: none"> • Strategy NR-2.1. Encourage clustered development that preserves open space while allowing a return on investment
	<ul style="list-style-type: none"> • Strategy NR-2.3. Promote preservation of woodlands
Cultural & Historic Resources	No Goals, Strategies or Actions are directly applicable to this project.
Community Facilities	No Goals, Strategies or Actions are directly applicable to this project
Water Resources	No Goals, Strategies or Actions are directly applicable to this project
Transportation & Circulation	No Goals, Strategies or Actions are directly applicable to this project

REZONING ANALYSIS – GENERAL REZONING STANDARDS (ARTICLE 11-4)

GENERAL REZONING STANDARDS	
Compatibility	Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property –
	There are a mix of large parcel developments with significant open space in the vicinity of the subject property. Some of these uses include institutional, religious, wholesale business, veterinarians, and vacant land. Bufferyards required for Industrial uses are the most stringent of any land use.
Changed Conditions	Whether and the extent to which there are changed conditions, trends or facts that require an amendment -
	The nearby Upward Road Corridor has seen continued non-residential growth and development, particularly in vicinity of the I-26 interchange. Residential and non-residential development is likely to continue to grow in this area.
Public Interest	Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare -
	The addition of industrial zoning holds the potential to provide for additional employment opportunities. Additionally, some industrial uses could be considered incompatible with surrounding land uses, particularly residential uses.
Public Facilities	Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment
	The site will be served by City water and sewer service. Crest Road is classified as a Minor Thoroughfare in the Comprehensive Plan’s Transportation Chapter and is maintained by NCDOT. The subject property will be served by City Fire Dept and will also be served by the City of Hendersonville Police.
Effect on Natural Environment	Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands and wildlife -
	The subject property is heavily wooded and features a blue line stream and a wet-weather conveyance along the northern property boundary.

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

The proposed Industrial zoning presents an opportunity to improve the land use balance as called for in Chapter 8 of the City’s 2030 Comprehensive Plan.

We **[find/do not find]** this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

DRAFT [Rationale for Approval]

- *The proposed zoning is compatible with surrounding land uses*
- *The proposed zoning presents an opportunity for additional employment*

DRAFT [Rational for Denial]

- *The proposed zoning would be incompatible with future residential development in the area*



PLANNING BOARD RECOMMENDATION

Project #: P22-47-RZO

Meeting Date: July 11, 2022

PETITION REQUEST: Standard Rezoning – Crest Rd (Army Corp)

APPLICANT/PETITIONER: City of Hendersonville

PLANNING BOARD ACTION SUMMARY:

Staff gave a presentation on the request and reviewed the guidance from the Comprehensive Plan as well as the criteria for considering a rezoning. Planning Board considered this item for 20 minutes.

One member of the public spoke and asked questions related to the development:

- I. Ken Fitch, 1046 Patton St – expressed concerned about development by-right and review of proposed development and landscaping requirements.

The Planning Board also had questions related to by-right development of the parcel under I-I Zoning and the review procedure for a future development on the site.

MOTION:

Mr. Hanley made a motion to approve the petition. The motion passed unanimously with the following language.

COMPREHENSIVE PLAN CONSISTENCY AND REASONABLENESS STATEMENT:

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

The proposed Industrial zoning presents an opportunity to improve the land use balance as called for in Chapter 8 of the City's 2030 Comprehensive Plan

REASONABLENESS STATEMENT

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

[Rationale for Approval]

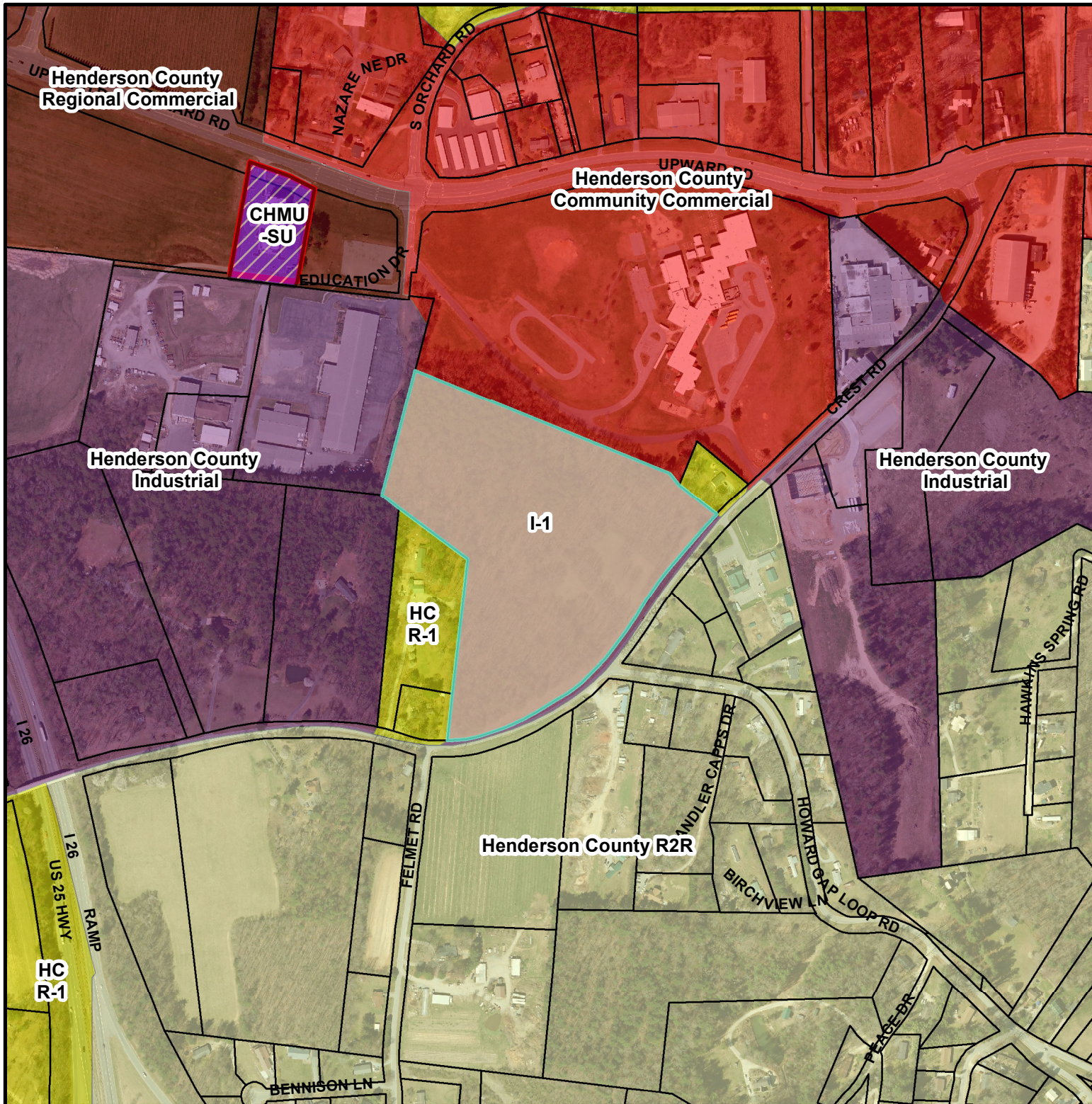
- I. The proposed zoning is compatible with surrounding land uses and the proposed zoning presents an opportunity for additional employment.

FUTURE LAND USE DESIGNATION

Furthermore, we recommend designating the Future Land Use of the parcel as Regional Activity Center.

BOARD ACTION

- **Motion/Second:** Hanley / Brown
- **Yeas:** Nace, Hanley, Robertson, Peacock, Glassman, Brown
- **Nays:** N/A
- **Absent:** Cromar, Blatt
- **Recused:** N/A



0 205 410 820 N
 Feet
 Section 7, Item B.
 City of Hendersonville
 May 2022

Army Corps.- Crest Road Rezoning
 P22-47-RZO
 PINs: 9587-68-8771
 Acreage: 20.6
Proposed Zoning
 Community Development Department

- Subject Property
- Hendersonville Zoning**
- CHMUSU Commercial Highway Mixed Use Special Use
- Hendersonville City Limits
- Henderson County Zoning**
- Community Commercial
- RC - Regional Commercial
- I - Industrial
- R-1 - Residential 1
- R-2R - Residential 2 Rural



PUBLIC HEARING NOTICE

Notice is hereby given that the City of Hendersonville City Council will hold three public hearings on Thursday, August 4, 2022, at 5:45 p.m., or as soon thereafter as possible in the City Operations Assembly Room located at 305 Williams Street, Hendersonville NC to consider the following:

- I. **Zoning Map Amendment** – Crest Road-US Army (P22-47-RZO) – Application for a standard rezoning initiated by the City of Hendersonville to rezone the subject property PIN 9587-68-8771, owned by the US Army and located on Crest Road, from Henderson County Industrial to City of Hendersonville I-1, Industrial. The rezoning is attached to a petition for annexation for the subject property.

- II. **Zoning Map Amendment** – 1027 Fleming Street (P22-057-RZO) - Application for a standard rezoning from Andrew Riddle of Riddle Development, LLC, property owner to rezone the subject property PIN 9569-60-2887 and located at 1027 Fleming Street, from MIC SU, Medical, Institutional and Cultural Special Use to MIC, Medical Institutional and Cultural.

- III. **Zoning Text Amendment** – Animal Hospitals and Clinics (P22-058-ZTA) – Application for a Zoning Text Amendment from Andrew Riddle to amend Section 5-10-1 of the City of Hendersonville Zoning Ordinance to allow animal hospitals and clinics to be a permitted use in the MIC, Medical, Institutional and Cultural zoning district.

Digital/written public hearing comments must be received twenty-four hours prior to the meeting (by 5:45 p.m. on Wednesday August 3rd) to be considered by the City Council **and must** comply with security criteria in the Council’s Public Comment Policy, available on the City’s website.

Public hearing comments will also be accepted during the meeting from those attending in person and from those participating live via ZOOM at the designated time at this meeting. For security reasons screen sharing will not be allowed. Anyone wishing to submit written/digital public hearing comments for these public hearings prior to the meeting may visit <https://www.hendersonvillenc.gov/comment> to submit their comment. It is not necessary to submit digital comments if you are planning to address City Council during the meeting.

The meeting instructions to join by Zoom will be available on the City’s website calendar by visiting <https://www.hendersonvillenc.gov/events-calendar> and as follows:

Zoom information for the meeting is: <https://zoom.us/join>
 Dial-in by phone: (646) 558-8656
 Meeting ID: 822 0104 2528
 Passcode: 1847

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 a particular accommodation for this meeting please contact the City Clerk no later than 24 hours in advance of the meeting (828) 697-3005.

Run two times: Sunday, July 24, 2022, Sunday, July 31, 2022



StarNews | The Dispatch | Times-News
 Sun Journal | The Daily News | The Star
 The Free Press | Gaston Gazette
 The Fayetteville Observer

Order Confirmation

Not an Invoice

Account Number:	488558
Customer Name:	City Of Hendersonville
Customer Address:	City Of Hendersonville 160 6Th AVE E City Clerk Hendersonville NC 28792-3775
Contact Name:	Angela Reece
Contact Phone:	828-697-3005
Contact Email:	areece@hvlnc.gov
PO Number:	

Date:	07/13/2022
Order Number:	7531451
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	103.0000
Height in Inches:	0.0000

Print

Product	#Insertions	Start - End	Category
HEN Times-News	2	07/24/2022 - 07/31/2022	Govt Public Notices
HEN blueridgenow.com	2	07/24/2022 - 07/31/2022	Govt Public Notices

Total Order Confirmation

\$29.72



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY PLANNING DIVISION

SUBMITTER: Matthew Manley **MEETING DATE:** August 4, 2022

AGENDA SECTION: Public Hearing **DEPARTMENT:** Community Development

TITLE OF ITEM: Zoning Text Amendment: Animal Hospitals & Clinics in MIC (P22-58-ZTA)
– *Matthew Manley, AICP – Planning Manager*

SUGGESTED MOTION(S):

<p><u>For Recommending Approval:</u></p> <p>I move City Council adopt an ordinance amending the official City of Hendersonville Zoning Ordinance, Article V. – Zoning District Classifications, Section 5-10-1. and Section 5-12-1. ‘Permitted Uses’; And Article XII. – ‘Definition Of Terms’, Section 12.2 – ‘Definition of Commonly Used Terms And Words’, based on the following:</p> <p>1. The petition is found to be <u>consistent</u> with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:</p> <p style="padding-left: 40px;">The 2030 Comprehensive Plan Land Use and Development Chapter calls for the City to consider short- and long-term impacts on compatibility with existing development and further recommends the consideration be given to determine if an application demonstrates a clear public purpose.</p> <p>2. We <u>find</u> this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:</p> <ol style="list-style-type: none"> 1. The petition addresses additional opportunities for the provision of services for pets and other animals within the City of Hendersonville’s zoning jurisdiction. 2. The proposed use aligns with the intent of the MIC Zoning District to serve as a medical district. <p style="text-align: center;">[DISCUSS & VOTE]</p>	<p><u>For Recommending Denial:</u></p> <p>I move City Council deny an ordinance amending the official City of Hendersonville Zoning Ordinance, Article V. – Zoning District Classifications, Section 5-10-1. and Section 5-12-1. ‘Permitted Uses’; And Article XII. – ‘Definition Of Terms’, Section 12.2 – ‘Definition of Commonly Used Terms And Words’, based on the following:</p> <p>1. The petition is found to be <u>consistent</u> with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:</p> <p style="padding-left: 40px;">The 2030 Comprehensive Plan Land Use and Development Chapter calls for the City to consider short- and long-term impacts on compatibility with existing development and further recommends the consideration be given to determine if an application demonstrates a clear public purpose.</p> <p>2. We <u>do not find</u> this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:</p> <ol style="list-style-type: none"> 1. The text amendment would permit an incompatible use in closer proximity to residential uses / residential zoning districts. <p style="text-align: center;">[DISCUSS & VOTE]</p>
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SUMMARY: *The City of Hendersonville is in receipt of an application for a Zoning Text Amendment from Andrew Riddle for an amendment to the list of Permitted Uses in the MIC (Medical, Institutional, & Cultural) Zoning District (Sec. 5-10-1) to include the use of Animal Hospital & Clinic.*

Currently Animal Hospitals & Clinics are not permitted in the MIC Zoning District.

Staff is also proposing to make clarifications and corrections related to Animal Hospitals & Clinics and Animal Boarding Facilities elsewhere in the zoning code.

Planning Board voted unanimously to recommend approval of this item.

PROJECT/PETITIONER NUMBER:	P22-58-ZTA
PETITIONER NAME:	Andrew Riddle
ATTACHMENTS:	<ol style="list-style-type: none"> 1. Staff Report 2. Planning Board Summary 3. Draft Ordinance 4. Application / Amended Application

Ordinance #O-22-50

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND ARTICLE V. – ZONING DISTRICT CLASSIFICATIONS, SECTION 5-10-1. AND SECTION 5-12-1. PERMITTED USES; AND ARTICLE XII. – DEFINITION OF TERMS, SECTION 12.2 – DEFINITION OF COMMONLY USED TERMS AND WORDS OF THE CITY OF HENDERSONVILLE ZONING ORDINANCE TO ADDRESS STANDARDS ANIMAL HOPITALS & CLINICS

WHEREAS, the Planning Board reviewed this petition for a zoning text amendment at its regular meeting on July 11, 2022; voting 6-0 to recommend City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance, and

WHEREAS, City Council took up this application at its regular meeting on August 4, 2022, and

WHEREAS, City Council has found that this zoning text amendment is consistent with the City’s comprehensive plan, and that it is reasonable and in the public interest for the reasons stated, and

WHEREAS, City Council has conducted a public hearing as required by the North Carolina General Statutes on August 4, 2022,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville to amend Article V. – Zoning District Classifications, Section 5-10-1. and Section 5-12-1. ‘Permitted Uses’; And Article XII. – ‘Definition Of Terms’, Section 12.2 – ‘Definition of Commonly Used Terms And Words’ be amended as follows to permit Animal Hospitals & Clinics in the MIC Zoning District and to make additional clarifications and corrections.

ARTICLE V. - ZONING DISTRICT CLASSIFICATIONS

Section 5-10. - Medical, Institutional and Cultural Zoning District Classification (MIC).

5-10-1. Permitted uses.

The following uses are permitted by right in the MIC Medical Institutional Cultural Zoning District Classification, provided they meet all requirements of this section and all other requirements established in this appendix:

Accessory dwelling units subject to supplementary standards contained in section 16-4 below

Accessory uses and structures

Adult care centers registered with the NC Department of Health and Human Services (DHSS)

Adult care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling

Animal hospitals and clinics as long as they contain no outdoor kennels

Banks and other financial institutions

Childcare centers subject to supplementary standards contained in section 16-4, below

Childcare homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling

Congregate care facilities subject to supplementary standards contained in section 16-4, below

Home occupations

Hospitals

Laundries, coin-operated

Music and art studios

Neighborhood community centers

Nursing homes subject to supplementary standards contained in section 16-4, below

Offices, business, professional and public

Parking lots and parking garages

Parks

Personal services consistent with the purposes of this classification, such as barber and beauty shops, medical and dental labs and clinics, opticians and optical services and prosthetics & orthopedics

Planned residential developments (minor)

Progressive care facilities subject to supplementary standards contained in section 16-4, below

Public and semi-public buildings

Religious institutions

Residential care facilities subject to supplementary standards contained in section 16-4, below

Residential dwellings, single-family

Residential dwellings, two-family

Rest homes subject to supplementary standards contained in section 16-4, below

Retail stores consistent within the purposes of this classification, such as gift shops, florist shops and pharmacies

Schools, post-secondary, business, technical and vocational

Signs, subject to the provisions of article XIII

Telecommunications antennas, subject to supplementary standards contained in section 16-4, below

Section 5-12. - I-1 Industrial Zoning District Classification

5-12-1. Permitted uses.

Animal hospitals and clinics ~~subject to supplementary standards contained in section 16-4, below~~ as long as they contain no outdoor kennels

ARTICLE XII. - DEFINITION OF TERMS

Sec. 12-2. - Definition of commonly used terms and words.

Animal boarding facility: A facility whose primary purpose is the boarding of household pets. This term includes animal kennels, which are commercial establishments where the grooming, boarding, training, and selling of animals may be conducted, and animal shelters, which are typically governmental or nonprofit organizations devoted to the welfare, protection and humane treatment of animals. ~~¶~~The term shall not be construed to include facilities where the boarding of animals is an incidental use, such as animal hospitals or clinics and pet stores.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of August, 2022.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

ZONING TEXT AMENDMENT: ANIMAL HOSPITALS & CLINICS IN MIC (P22-58-ZTA)

CITY OF HENDERSONVILLE - COMMUNITY DEVELOPMENT STAFF REPORT

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AMMENDMENT ANALYSIS – AMENDMENT OVERVIEW..... 3

LEGISLATIVE COMMITTEE RECOMMENDATION 4

STAFF ANALYSIS 4

AMENDMENT ANALYSIS – COMPREHENSIVE PLAN CONSISTENCY (ARTICLE 11-4) 6

DRAFT COMPREHENSIVE PLAN CONSISTENCY AND REZONING REASONABLENESS STATEMENT 7



PROJECT SUMMARY

- Project Name & Case #:
 - Animal Hospitals & Clinics in MIC
 - P22-58-ZTA

- Applicant:
 - Andrew Riddle

- Articles Amended:
 - Section 5-10-1 Permitted Uses
 - Section 5-12-1 Permitted Uses
 - Section 12-2. - Definition of commonly used terms and words.

- Applicable Zoning District(s):
 - The petition proposes to add this use to the Medical, Institutional, Cultural (MIC) Zoning District.
 - Other districts which currently permit this use:
 - CMU / CMU-CZD
 - C-2 / C-2-CZD
 - C-3 / C-3-CZD
 - I-1 / I-1-CZD
 - PMD (CZD)
 - RCT / RCT-CZD
 - PCD (CZD)
 - HMU / HMU-CZD
 - Urban Village (CZD)
 - CHMU / CHMU-CZD



Summary of Amendment Petition:

The City of Hendersonville is in receipt of an application for a Zoning Text Amendment from Andrew Riddle for an amendment to the list of Permitted Uses in the MIC (Medical, Institutional, & Cultural) Zoning District (Sec. 5-10-1) to include the use of Animal Hospital & Clinic.

Currently Animal Hospitals & Clinics are not permitted in the MIC Zoning District.

Staff is also proposing to make clarifications and corrections related to Animal Hospitals & Clinics and Animal Boarding Facilities elsewhere in the zoning code.

AMMENDMENT ANALYSIS – AMENDMENT OVERVIEW

Animal Hospitals & Clinics are a permitted use in 10 zoning districts within the City of Hendersonville’s zoning jurisdiction. In all cases, but one, the permitted use of *Animal Hospital & Clinics* is limited by “*having no outdoor kennels*”. It is currently not a permitted use in the MIC (Medical, Institutional, & Cultural) Zoning District.

Article XII of the Zoning Code does not define *Animal Hospitals & Clinics*. However, the use is referenced in the definition for *Animal Boarding Facilities* as follows:

Animal boarding facility: *A facility whose primary purpose is the boarding of household pets. This term includes animal kennels, which are commercial establishments where the grooming, boarding, training, and selling of animals may be conducted, and animal shelters, which are typically governmental or nonprofit organizations devoted to the welfare, protection and humane treatment of animals. The term shall not be construed to include facilities where the boarding of animals is an incidental use, such as animal hospitals or clinics and pet stores.*

Furthermore, the stated use is not subject to Supplementary Standards (though it is incorrectly referenced in the I-1 Zoning District as being subject to supplementary standards). *Animal boarding facilities*, however, are subject to Supplementary Standards. Under Section 16-4-4 *Animal boarding facilities*, the text states: *It shall not apply to boarding facilities incidental to the operation of an animal hospital or clinic or to pet stores.*

As part of the analysis, Staff gave consideration to the following:

- *Animal Hospitals & Clinics* is a medical use with similar impacts as a medical office (personal services), hospitals, and other permitted uses within the MIC;
- There are ten other zoning districts which permit *Animal Hospitals & Clinics*; and
- There are a number of similarities in the mix of permitted uses when comparing the MIC Zoning District and the other ten zoning districts where *Animal Hospitals & Clinics* are permitted.

LEGISLATIVE COMMITTEE RECOMMENDATION

The Legislative Committee of the Planning Board met to discuss this petition at their recurring meeting on Tuesday, June 21, 2022. The members of the committee that were present were: Jim Robertson and Neil Brown. The petitioner was also present for the discussion. In general, the Committee members were supportive of the proposed text revisions with no proposed alterations. A primary consideration was ensuring that no outdoor kennels were permitted.

STAFF ANALYSIS

After additional review and consideration Staff is recommending the following revisions to the zoning code. The following amendments and revisions reflect these proposed changes:

ARTICLE V. - ZONING DISTRICT CLASSIFICATIONS

Section 5-10. - Medical, Institutional and Cultural Zoning District Classification (MIC).

5-10-1. Permitted uses.

The following uses are permitted by right in the MIC Medical Institutional Cultural Zoning District Classification, provided they meet all requirements of this section and all other requirements established in this appendix:

Accessory dwelling units subject to supplementary standards contained in section 16-4 below

Accessory uses and structures

Adult care centers registered with the NC Department of Health and Human Services (DHSS)

Adult care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling

[Animal hospitals and clinics as long as they contain no outdoor kennels](#)

Banks and other financial institutions

Child care centers subject to supplementary standards contained in section 16-4, below

Child care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling

Congregate care facilities subject to supplementary standards contained in section 16-4, below

Home occupations

Hospitals

Laundries, coin-operated

Music and art studios

Neighborhood community centers

Nursing homes subject to supplementary standards contained in section 16-4, below

Offices, business, professional and public

Parking lots and parking garages

Parks

Personal services consistent with the purposes of this classification, such as barber and beauty shops, medical and dental labs and clinics, opticians and optical services and prosthetics & orthopedics

Planned residential developments (minor)

Progressive care facilities subject to supplementary standards contained in section 16-4, below

Public and semi-public buildings

Religious institutions

Residential care facilities subject to supplementary standards contained in section 16-4, below

Residential dwellings, single-family

Residential dwellings, two-family

Rest homes subject to supplementary standards contained in section 16-4, below

Retail stores consistent within the purposes of this classification, such as gift shops, florist shops and pharmacies

Schools, post-secondary, business, technical and vocational

Signs, subject to the provisions of article XIII

Telecommunications antennas, subject to supplementary standards contained in section 16-4, below

Section 5-12. - I-1 Industrial Zoning District Classification

5-12-1. Permitted uses.

* Animal hospitals and clinics ~~subject to supplementary standards contained in section 16-4, below~~ as long as they contain no outdoor kennels

ARTICLE XII. - DEFINITION OF TERMS

Sec. 12-2. - Definition of commonly used terms and words.

Animal boarding facility: A facility whose primary purpose is the boarding of household pets. This term includes animal kennels, which are commercial establishments where the grooming, boarding, training, and selling of animals may be conducted, and animal shelters, which are typically governmental or nonprofit organizations devoted to the welfare, protection and humane treatment of animals. ~~€~~The term shall not be construed to include facilities where the boarding of animals is an incidental use, such as animal hospitals or clinics and pet stores.

** It should be noted that the I-1 Zoning District states that ‘Animal Hospitals & Clinics’ are permitted subject to supplementary standards. However, there are no supplementary standards for ‘Animal Hospitals & Clinics’. It should also be noted that while the text amendment clarifies that ‘Animal Hospitals & Clinics’ would be permitted in I-1 as long as they do not include outdoor kennels, ‘Animal Board Facilities’ are a Special Use in the I-1 which can be permitted by the Board of Adjustment as long as specific supplementary standards are satisfied.*

AMENDMENT ANALYSIS – COMPREHENSIVE PLAN CONSISTENCY (ARTICLE 11-4)

COMPREHENSIVE PLAN CONSISTENCY	
Land Use & Development	<p><i>Strategy LU-1.1. Encourage infill development and redevelopment in areas planned for high-intensity development.</i> <i>Action LU-1.1.1. Review zoning standards and revise as necessary to enable compatible infill projects. [CONSISTENT]</i></p>
	<p><i>Strategy LU-3.5 Minimize negative impacts from growth and land use changes on existing land uses. Some zoning map changes and other development applications may create short-term incompatibilities with existing neighborhoods, even if they are consistent with the Future Land Use Plan. It is critical that City officials consider the full range of impacts of all development applications, in addition to conformance with the Future Land Use Plan.</i> <i>Action LU-3.5.1 Consider a full range of short- and long-term impacts when reviewing zone change applications and other proposals that introduce land use changes. When reviewing zone change applications, the City should consider whether applications demonstrate a clear public purpose as well as the criteria listed in Figure 8.3a.[CONSISTENT]</i></p>
	<p><i>Strategy LU-3.6. - Update the Zoning Code to ensure conformance with the Comprehensive Plan. The Zoning Code is the City’s primary regulatory tool in implementing the Comprehensive Plan. Amendments to the Zoning Code and Map will be necessary to reflect Comprehensive Plan recommendations and ensure orderly growth and development.[CONSISTENT]</i></p>
Population & Housing	<p><i>Strategy PH-1.1 – Promote compatible infill development</i></p>
	<p><i>Strategy PH-3.2 - Encourage mixed land use patterns that place residents within walking distance of services.</i></p>
Natural & Environmental Resources	<p>There are no Goals, Strategies, or Actions that are directly applicable to this petition.</p>
Cultural & Historic Resources	<p>There are no Goals, Strategies, or Actions that are directly applicable to this petition.</p>
Community Facilities	<p>There are no Goals, Strategies, or Actions that are directly applicable to this petition.</p>
Water Resources	<p>There are no Goals, Strategies, or Actions that are directly applicable to this petition.</p>
Transportation & Circulation	<p><i>Strategy TC-1.1. Encourage mixed-use, pedestrian-friendly development that reduces the need to drive between land uses.</i></p>

GENERAL REZONING STANDARDS	
Compatibility	Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property -
	Given that 'Animal Hospitals & Clinics' is a medical use with similar impacts as a medical office (personal services), hospitals, and other permitted uses within the MIC; and considering the range of zoning districts which permit this use; and further considering the similarities between the MIC Zoning District and the ten other zoning districts where 'Animal Hospitals & Clinics' are permitted, staff finds that adding this use to the MIC Zoning District's list of permitted uses would be appropriate and in alignment with other aspects of the zoning ordinance.
Changed Conditions	Whether and the extent to which there are changed conditions, trends or facts that require an amendment -
	Population within the City of Hendersonville and the surrounding area has steadily increased is expected to continue to grow. As population growth occurs, so does the demand for services such as veterinarians.
Public Interest	Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare -
	The expansion of Animal Hospitals & Clinics to the MIC would place the use within an area already serving medical needs for humans. The location of the MIC would place this use in close walkable proximity to residential uses and other services.
Public Facilities	Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment
	The MIC Zoning District is in an urban location that is well served by public facilities.
Effect on Natural Environment	Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands and wildlife -
	There are no known or anticipated negative environmental impacts associated with the petition.

DRAFT COMPREHENSIVE PLAN CONSISTENCY AND REZONING REASONABLENESS STATEMENT

The petition is found to be [consistent] with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:

The 2030 Comprehensive Plan Land Use and Development Chapter calls for the City to consider short- and long-term impacts on compatibility with existing development and further recommends the consideration be given to determine if an application demonstrates a clear public purpose.

We [find] this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

DRAFT [Rationale for Approval]

- The petition addresses additional opportunities for the provision of services for pets and other animals within the City of Hendersonville’s zoning jurisdiction.*
- The proposed use aligns with the intent of the MIC Zoning District to serve as a medical district.*

DRAFT [Rational for Denial]

- The text amendment would permit an incompatible use in closer proximity to residential uses / residential zoning districts.*



PLANNING BOARD RECOMMENDATION

Project #: P22-58-ZTA

Meeting Date: July 11, 2022

PETITION REQUEST: Zoning Text Amendment – Animal Hospitals in MIC

APPLICANT/PETITIONER: Andrew Riddle

PLANNING BOARD ACTION SUMMARY:

Staff gave a presentation on the request and reviewed the guidance from the Comprehensive Plan as well as the criteria for considering a rezoning. Planning Board considered this item for 15 minutes.

One member of the public spoke and asked questions related to the development:

1. Ken Fitch, 1046 Patton St – expressed concerns about buffering this use when adjacent to residential districts

The Planning Board also had questions about outdoor use areas associated with Animal Hospitals & Clinics.

MOTION:

Mr. Hanley made a motion to approve the petition. The motion passed unanimously with the following language.

COMPREHENSIVE PLAN CONSISTENCY AND REASONABLENESS STATEMENT:

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

The 2030 Comprehensive Plan Land Use and Development Chapter calls for the City to consider short-and long-term impacts on compatibility with existing development and further recommends the consideration be given to determine if an application demonstrates a clear public purpose

REASONABLENESS STATEMENT

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

[Rationale for Approval]

1. The petition addresses additional opportunities for the provision of services for pets and other animals within the City of Hendersonville's zoning jurisdiction.
2. The proposed use aligns with the intent of the MIC Zoning District to serve as a medical district.

BOARD ACTION

- **Motion/Second:** Hanley / Brown
- **Yeas:** Nace, Hanley, Robertson, Peacock, Glassman, Brown
- **Nays:** N/A
- **Absent:** Cromar, Blatt
- **Recused:** N/A

PUBLIC HEARING NOTICE

Notice is hereby given that the City of Hendersonville City Council will hold three public hearings on Thursday, August 4, 2022, at 5:45 p.m., or as soon thereafter as possible in the City Operations Assembly Room located at 305 Williams Street, Hendersonville NC to consider the following:

- I. **Zoning Map Amendment** – Crest Road-US Army (P22-47-RZO) – Application for a standard rezoning initiated by the City of Hendersonville to rezone the subject property PIN 9587-68-8771, owned by the US Army and located on Crest Road, from Henderson County Industrial to City of Hendersonville I-1, Industrial. The rezoning is attached to a petition for annexation for the subject property.

- II. **Zoning Map Amendment** – 1027 Fleming Street (P22-057-RZO) - Application for a standard rezoning from Andrew Riddle of Riddle Development, LLC, property owner to rezone the subject property PIN 9569-60-2887 and located at 1027 Fleming Street, from MIC SU, Medical, Institutional and Cultural Special Use to MIC, Medical Institutional and Cultural.

- III. **Zoning Text Amendment** – Animal Hospitals and Clinics (P22-058-ZTA) – Application for a Zoning Text Amendment from Andrew Riddle to amend Section 5-10-1 of the City of Hendersonville Zoning Ordinance to allow animal hospitals and clinics to be a permitted use in the MIC, Medical, Institutional and Cultural zoning district.

Digital/written public hearing comments must be received twenty-four hours prior to the meeting (by 5:45 p.m. on Wednesday August 3rd) to be considered by the City Council **and must** comply with security criteria in the Council’s Public Comment Policy, available on the City’s website.

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Run two times: Sunday, July 24, 2022, Sunday, July 31, 2022



StarNews | The Dispatch | Times-News
Sun Journal | The Daily News | The Star
The Free Press | Gaston Gazette
The Fayetteville Observer

Order Confirmation

Not an Invoice

Account Number:	488558
Customer Name:	City Of Hendersonville
Customer Address:	City Of Hendersonville 160 6Th AVE E City Clerk Hendersonville NC 28792-3775
Contact Name:	Angela Reece
Contact Phone:	828-697-3005
Contact Email:	areece@hvlnc.gov
PO Number:	

Date:	07/13/2022
Order Number:	7531451
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	103.0000
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Print

Product	#Insertions	Start - End	Category
HEN Times-News	2	07/24/2022 - 07/31/2022	Govt Public Notices
HEN blueridgenow.com	2	07/24/2022 - 07/31/2022	Govt Public Notices

Total Order Confirmation

\$29.72



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY PLANNING DIVISION

SUBMITTER: Matthew Manley, Planning Manager

MEETING DATE: August 4, 2022

AGENDA SECTION: Public Hearing

DEPARTMENT: Community Development

TITLE OF ITEM: Rezoning: Standard Rezoning – 1027 Fleming St-Riddle (P22-57-RZO) – Matthew Manley, AICP – Planning Manager

SUGGESTED MOTION(S):

For Recommending Approval:

I move City Council **adopt** an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PINS: 9569-60-2887) from MIC-SU (Medical, Institutional & Cultural – Special Use) zoning district to MIC (Medical, Institutional & Cultural) zoning district based on the following:

1. 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 Goals & Strategies of LU-12 – ‘Urban Institutional’ calls for primary recommended land uses which align with the proposed MIC zoning.

2. 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. MIC is the zoning district established for the area surrounding Pardee Hospital
2. The property is located in an area designated as a “Priority Infill Area” according to the City’s Comprehensive Plan
3. The subject property contains an existing office building and is well-suited to house a range of uses permitted in the MIC.

[DISCUSS & VOTE]

For Recommending Denial:

I move City Council **deny** an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PINS: 9569-60-2887) from MIC-SU (Medical, Institutional & Cultural – Special Use) zoning district to MIC (Medical, Institutional & Cultural) zoning district based on the following:

1. 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 Goals & Strategies of LU-12 – ‘Urban Institutional’ calls for primary recommended land uses which align with the proposed MIC zoning.

2. We do not 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 rezoning would permit a greater number of uses than those approved as part of the Special Use Permit

[DISCUSS & VOTE]

SUMMARY: The City of Hendersonville is in receipt of a Zoning Map Amendment petition from Andrew Riddle of Riddle Development, LLC for the subject property (PIN: 9569-60-2887) located at 1027 Fleming St to rezone the property from MIC-SU to the base MIC zoning district.

The subject property was a part of a 3.33 acre development which received Special Use zoning (zoning for large-scale projects which predated what is now known as Conditional Zoning) and was approved in 2006 and modified in 2008 for the construction of professional office and retail uses. The existing building at this site was already constructed and zoned C-3 prior to the approval of the Special Use zoning. The remainder of the proposed development was never constructed. The 2008 Site Plan approved for this development is now voided.

The .98 acre subject property, that was part of the larger 3.33 acre parcel, was part of a minor subdivision approved in late 2021. The effect of the proposed standard rezoning would be to place only the .98 acre parcel back into a base zoning which would allow for all by-right uses and development permitted in the MIC. The remaining 2.35 acres would still be subject to the process for modifying a Special Use / Conditional Zoning District should development be desired on this remaining land.

Planning Board voted unanimously to recommend approval of this item.

PROJECT/PETITIONER NUMBER:	P22-57-RZO
PETITIONER NAME:	Andrew Riddle [applicant] Riddle Development, LLC. [Owner]
ATTACHMENTS:	<ol style="list-style-type: none"> 1. Staff Report 2. Planning Board Summary 3. Draft Ordinance 4. Proposed Zoning Map

Ordinance #O-22-51

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL POSSESSING PIN NUMBER: 9569-60-2887 BY CHANGING THE ZONING DESIGNATION FROM MIC-SU (MEDICAL, INSTITUTIONAL & CULTURAL – SPECIAL USE) ZONING DISTRICT TO MIC (MEDICAL, INSTITUTIONAL & CULTURAL) ZONING DISTRICT

IN RE: Parcel Number: 9569-60-2887
1027 Fleming St-Riddle (File # P22-57-RZO)

WHEREAS, the Planning Board took up this application at its regular meeting on July 11, 2022; voting 5-0 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

WHEREAS, City Council took up this application at its regular meeting on August 4, 2022, and

WHEREAS, City Council has found that this zoning map amendment is consistent with the City’s comprehensive plan, and that it is reasonable and in the public interest for the reasons stated, and

WHEREAS, City Council has conducted a public hearing as required by the North Carolina General Statutes on August 4, 2022,

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

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Number: 9569-60-2887 from MIC-SU (Medical, Institutional & Cultural – Special Use) Zoning District To MIC (Medical, Institutional & Cultural) Zoning District.
2. Any development of this parcel shall occur in accordance with the Zoning Ordinance of the City of Hendersonville, North Carolina.
3. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 4th day of August 2022.

Attest: Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

STANDARD REZONING: 1027 FLEMING ST-RIDDLE (P22-57-RZO)
CITY OF HENDERSONVILLE - COMMUNITY DEVELOPMENT
STAFF REPORT

PROJECT SUMMARY 2

EXISTING ZONING & LAND USE 3

SITE IMAGES..... 4

SITE IMAGES..... 5

SITE IMAGES..... **Error! Bookmark not defined.**

REZONING HISTORY 6

FUTURE LAND USE 7

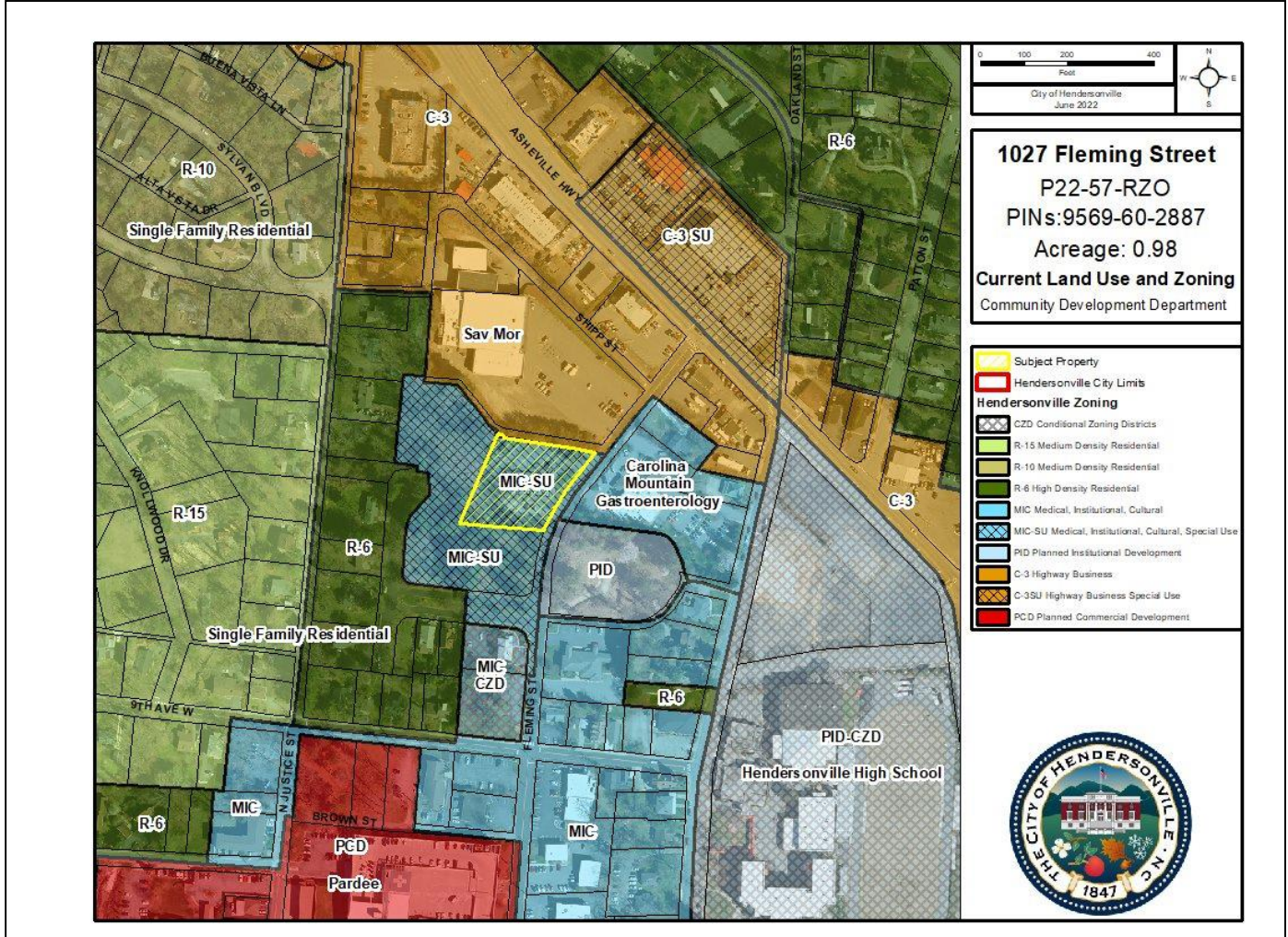
REZONING ANALYSIS – COMPREHENSIVE PLAN CONSISTENCY (ARTICLE 11-4) 8

REZONING ANALYSIS – GENERAL REZONING STANDARDS (ARTICLE 11-4) 9

DRAFT COMPREHENSIVE PLAN CONSISTENCY AND REZONING REASONABLENESS STATEMENT 10



EXISTING ZONING & LAND USE



City of Hendersonville Current Zoning & Land Use Map

Parcels to the north of the subject property are mostly zoned C-3 Highway Business. The C-3 zoning district follows the commercial corridor along Asheville Highway (US Hwy 25). Asheville Highway is a major artery and gateway to the City and provides frontage for a wide range of businesses with varying types of goods and services. To the west, the parcel is bordered by the remaining tract of the MIC-SU district which was approved in 2008 and never constructed. Further to the west are residential uses zoned R-6, High Density Residential and R-15 and R-10, Medium Density Residential. Most of the residential uses in this area are comprised of single-family dwellings on small lots.

Parcels to the east and south are zoned MIC (Medical, Institutional and Cultural) and PID (Planned Institutional Development). The majority of uses in this area are professional and medical offices. To the east is Hendersonville High School. To the south is Pardee Hospital. The surrounding area contains uses which supports Pardee Hospital. Directly to the south, at the corner of 9th Ave & Fleming St, is an approved Conditional Zoning District known as "Fleming Street Medical Office Building" which has not been constructed.

SITE IMAGES



View of south side of existing building on subject property looking towards Fleming St



View of rear (west facing) side of the existing building

SITE IMAGES



View facing north from subject property parking lot towards Sav-Mor Grocery



View of 1 of 2 access points to the subject property from Fleming St

REZONING HISTORY

Prior Rezoning	Summary of Prior Petition	Status
C-3, R-6 & MIC-SU to MIC-SU	Below	Voided as of 12/12/2015

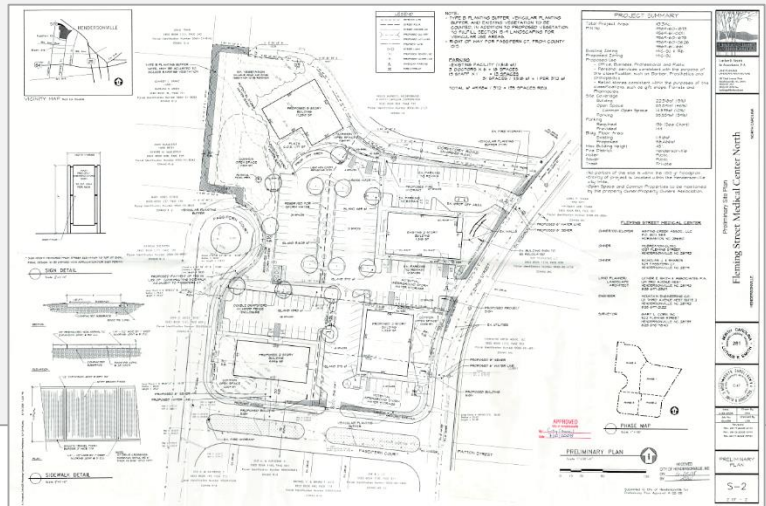
The subject property was part of a group of parcels that were rezoned to a Special Use district in 2006 and later amended in 2008. Due to changes made in G.S. 160D, Special Use Districts are now converted to Conditional Zoning Districts and must follow the City’s requirements for Conditional Zoning Districts and any amendment thereto.

The existing medical office building on the site today, which is the subject of this rezoning, existed prior to the Special Use and was previously zoned C-3. The Special Use Permit for this property was established on December 7th, 2006. The subject property was 1 of 4 individual parcels which were later combined. The properties were zoned C-3 Highway Business (subject property), R-6 High Density Residential and MIC-SU Medical, Institutional, Cultural-Special Use (this Special Use was specific to a property at Fassifern Ct & Fleming St was for a medical office that was never constructed). The 2006 Special Use permit allowed for the construction of 2 medical office buildings totaling 28,470 Sq Ft. In 2008, the property owners petitioned City Council to amend their Special Use permit. The amendment was approved on July 10th, 2008 allowing for inclusion of an additional parcel and the construction of 3 medical office buildings totaling 38,466 Sq Ft. The deadline for completing construction on this project was December 12, 2015. The development was never constructed. Any new development or use of this property would require one of the following:

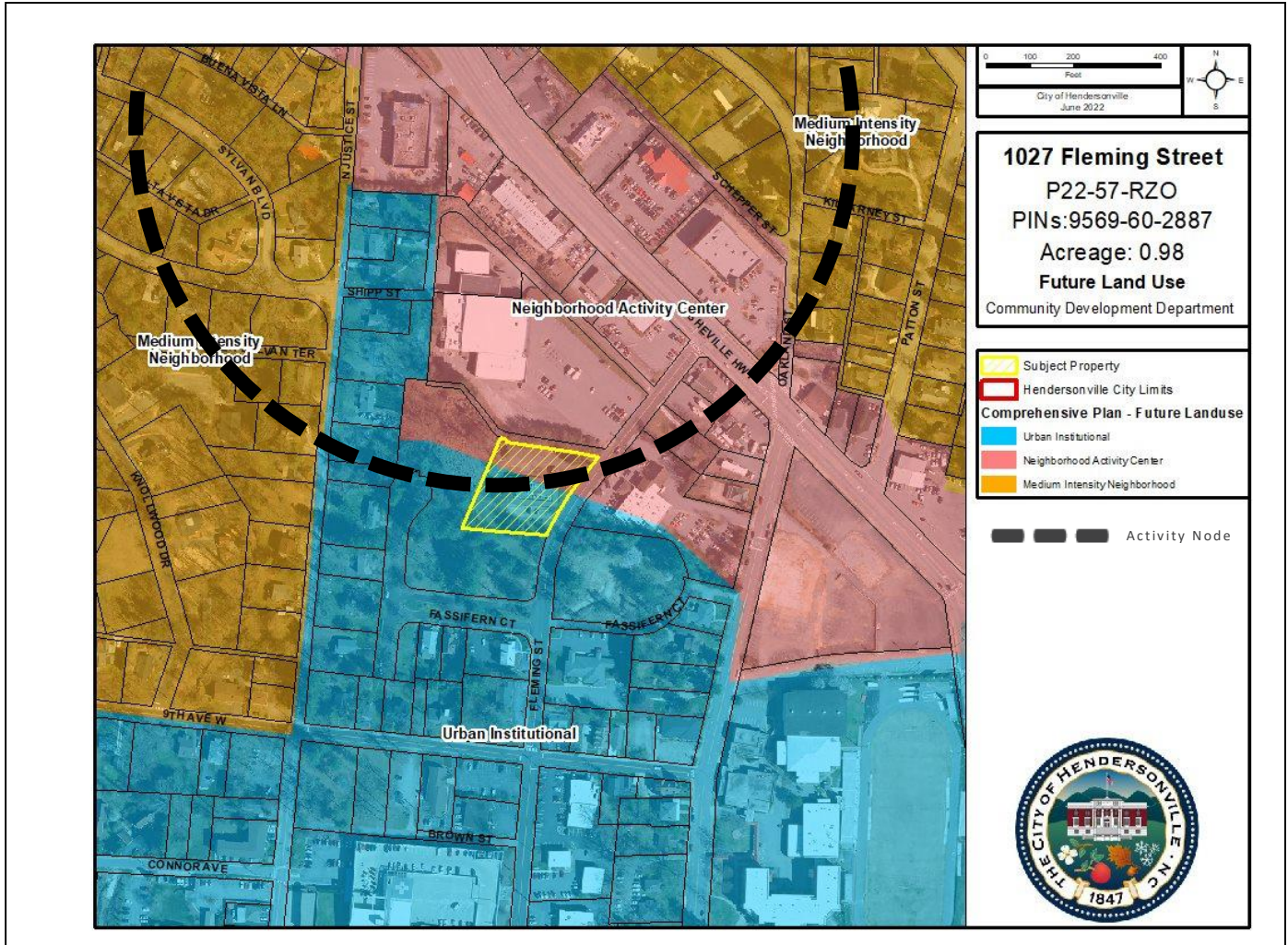
- 1) A CZD amendment to the site-specific approval and/or the list of stated uses through the Conditional Zoning District process under the City’s current zoning standards, or
- 2) A Zoning Map Amendment whereby the property is rezoned to a base zoning district which permits all uses within the approved zoning district and would allow by-right development in conformity with the zoning code.

The 2008 Special Use Permit was issued for the following uses:

1. Offices, businesses, professional and public
2. Personal Services- consistent with the purpose of this classification
3. Retail Stores- consistent with the purposes of this classification.



FUTURE LAND USE



City of Hendersonville Future Land Use Map

The 2030 Comprehensive Plan’s Future Land Use Map designates this parcel as Urban Institutional and Neighborhood Activity Center and it is located at the fringe of an Activity Node. Parcels located to the north, east and south are also designated Urban Institutional and Neighborhood Activity Center. The Urban Institutional is in this area due to its proximity to downtown and the prevalence of medical and educational institutions in the area; the most prominent being Pardee Hospital and Hendersonville High School.

The Neighborhood Activity Center designation follows the entry corridor along Asheville Highway which is a major commercial hub for the City.

The parcels to the west are designated as Urban Institutional and Medium Intensity Neighborhood. The majority of this area is comprised of single-family dwellings which is a primary recommended land use under this designation. Some of the existing single-family residences are located in the Urban Institutional designation.

REZONING ANALYSIS – COMPREHENSIVE PLAN CONSISTENCY (ARTICLE 11-4)

GENERAL REZONING STANDARDS: COMPREHENSIVE PLAN CONSISTENCY	
Future Land Use	Goal LU-12 - Urban Institutional: Create a cohesive, well-defined urban campus for medical and educational institutions, with supportive office, service and residential uses, that is integrated with Downtown [CONSISTENT]
	Strategy LU-12.1. Locations: • Area surrounding Pardee Memorial Hospital [CONSISTENT]
	Strategy LU-12.2. Primary recommended land uses: • Public and institutional uses [CONSISTENT] • Offices [CONSISTENT] • Structured or underground parking [CONSISTENT]
	Strategy LU-12.3. Secondary recommended land uses: • Single-family attached residential [CONSISTENT] • Multi-family residential [INCONSISTENT] • Live-work units [INCONSISTENT] • Limited retail and services [CONSISTENT]
	Strategy LU-12.4. Development guidelines: • Similar development standards to Downtown Support • Encouragement of neighborhood master-planning that links hospital with offices, services and Downtown [INCONSISTENT] Strategy LU-11.4 (Downtown Support) Development Guidelines: • Minimal front setback [INCONSISTENT] • Rear or limited side parking only [INCONSISTENT] • Façade articulation [INCONSISTENT] • Ground-floor storefronts and/or architectural detailing on parking structures [INCONSISTENT]
	Growth Management (Map 8.3a): Designated as a “ Priority Infill Area ” - Areas that are considered a high priority for the City to encourage infill development on remaining vacant lots and redevelopment of underutilized or underdeveloped properties [CONSISTENT]
Land Use & Development	Goal LU-1. Encourage infill development that utilizes existing infrastructure in order to maximize public investment...
Population & Housing	Strategy PH-1.1. Promote compatible infill
	Strategy PH-3.2. Encourage mixed land use patterns that place residents within walking distance of services.
Natural & Environmental Resources	No Goals, Strategies or Actions are directly applicable to this project.
Cultural & Historic Resources	No Goals, Strategies or Actions are directly applicable to this project.
Community Facilities	No Goals, Strategies or Actions are directly applicable to this project.
Water Resources	No Goals, Strategies or Actions are directly applicable to this project.
Transportation & Circulation	Strategy TC-1.1. - Encourage mixed-use, pedestrian-friendly development that reduces the need to drive between land uses.

REZONING ANALYSIS – GENERAL REZONING STANDARDS (ARTICLE 11-4)

GENERAL REZONING STANDARDS	
Compatibility	Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property -
	MIC Zoning permits a range of uses that are existing in the surrounding area. The subject property is adjacent to retail uses and C-3 zoning. The subject property is buffered from and not contiguous to residential uses. Other properties adjacent to and in vicinity of the subject property are vacant and classified as Special Use Districts. These vacant properties are likely to require a rezoning in order to be developed.
Changed Conditions	Whether and the extent to which there are changed conditions, trends or facts that require an amendment -
	The subject property and the area immediately surrounding it have seen little change in recent years. While there have been proposals for development adjacent to and in vicinity of the subject property, these proposals have not been constructed.
Public Interest	Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare -
	Establishment of MIC zoning on the subject property would reestablish base zoning and remove the restrictions of the Special Use currently associated with the property. The rezoning would serve to expand the existing MIC zoning that is present in the area of town surrounding Pardee Hospital and Hendersonville High School. The expanded number of uses made available to the subject property presents opportunities for additional employment and provision of services.
Public Facilities	Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment
	The site will be served by City water and sewer service. Fleming St is designated as a Local Street on the comprehensive transportation plan and is maintained by the City of Hendersonville. The subject property is serviced by the City of Hendersonville Fire Dept and Police.
Effect on Natural Environment	Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands and wildlife -
	There are no anticipated environmental impacts associated with the petition.

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

The Goals & Strategies of LU-12 - 'Urban Institutional' calls for primary recommended land uses which align with the proposed MIC zoning.

We **[find/do not find]** this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

DRAFT [Rationale for Approval]

- *MIC is the zoning district established for the area surrounding Pardee Hospital*
- *The property is located in an area designated as a "Priority Infill Area" according to the City's Comprehensive Plan*
- *The subject property contains an existing office building and is well-suited to house a range of uses permitted in the MIC.*

DRAFT [Rational for Denial]

- *The rezoning would permit a greater number of uses than those approved as part of the Special Use Permit.*



PLANNING BOARD RECOMMENDATION

Project #: P22-57-RZO

Meeting Date: July 11, 2022

PETITION REQUEST: Standard Rezoning – 1027 Fleming St (Riddle)

APPLICANT/PETITIONER: Andrew Riddle

PLANNING BOARD ACTION SUMMARY:

Staff gave a presentation on the request and reviewed the guidance from the Comprehensive Plan as well as the criteria for considering a rezoning. Planning Board considered this item for 18 minutes.

One board member, Tamara Peacock, was formally recused from the meeting for this item due to a potential conflict of interest.

The Applicant had a representative, Matthew Rogers, speak on behalf of the petition.

No members of the public spoke and asked questions related to the development:

The Planning Board had questions related to clarifying that only the 1 acre parcel was being considered for rezoning and not the remainder of the Special Use district.

MOTION:

Mr. Hanley made a motion to approve the petition. The motion passed unanimously with the following language.

COMPREHENSIVE PLAN CONSISTENCY AND REASONABLENESS STATEMENT:

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

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REASONABLENESS STATEMENT

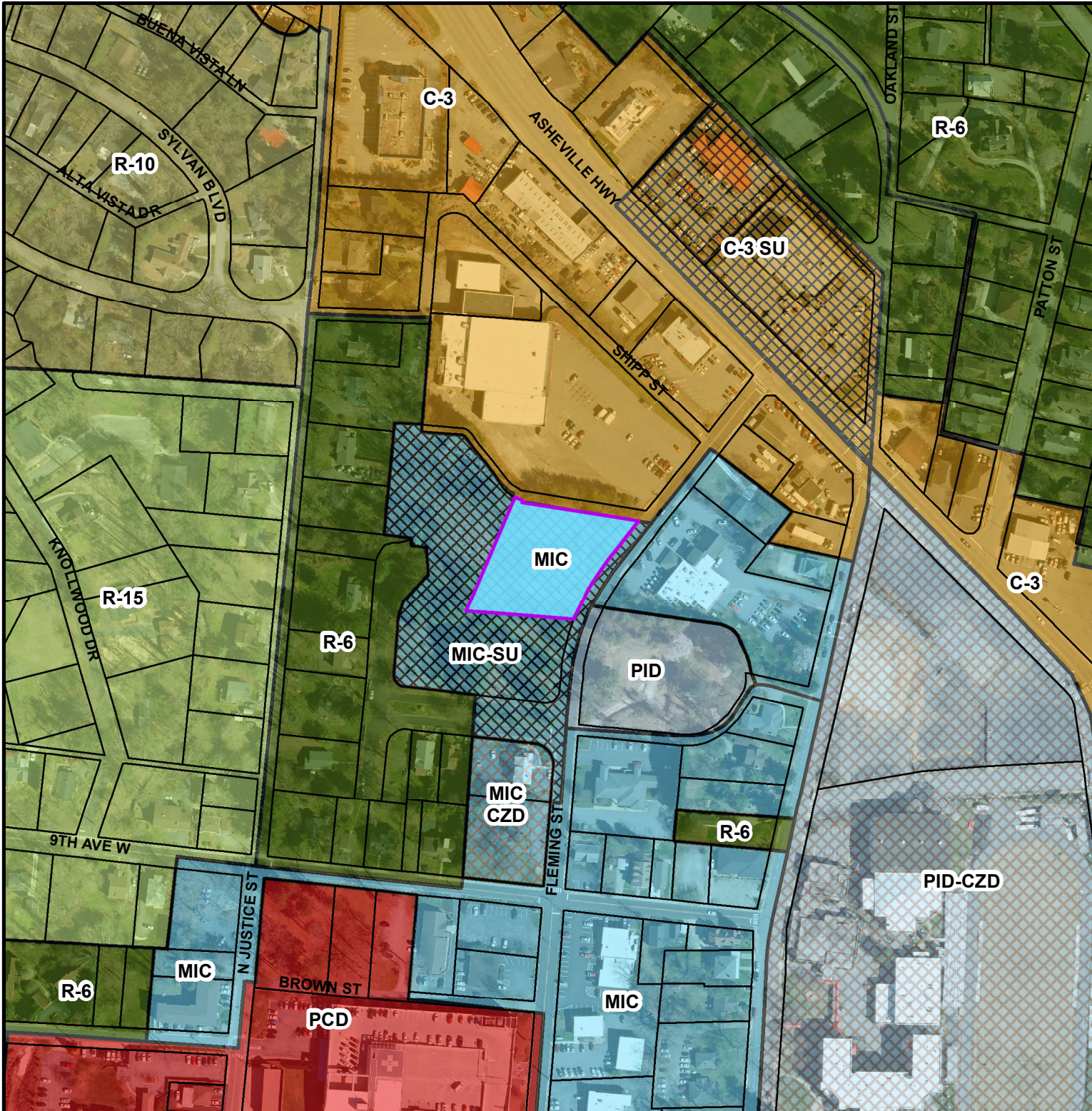
We find this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

[Rationale for Approval]













1. MIC is the zoning district established for the area surrounding Pardee Hospital.
2. The property is located in an area designated as a “Priority Infill Area” according to the City’s Comprehensive Plan.
3. The subject property contains an existing office building and is well-suited to house a range of uses permitted in the MIC district

BOARD ACTION

- **Motion/Second:** Hanley / Glassman
- **Yeas:** Nace, Robertson, Glassman, Brown, Hanley
- **Nays:** N/A
- **Absent:** Cromar, Blatt
- **Recused:** Peacock



1027 Fleming Street
 P22-57-RZO
 PINs:9569-60-2887
 Acreage: 0.98
Proposed Zoning
 Community Development Department

-  Subject Property
-  Hendersonville City Limits
- Hendersonville Zoning**
-  CZD Conditional Zoning Districts
-  R-15 Medium Density Residential
-  R-10 Medium Density Residential
-  R-6 High Density Residential
-  MIC Medical, Institutional, Cultural
-  MIC-SU Medical, Institutional, Cultural, Special Use
-  PID Planned Institutional Development
-  C-3 Highway Business
-  C-3SU Highway Business Special Use
-  PCD Planned Commercial Development



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Run two times: Sunday, July 24, 2022, Sunday, July 31, 2022



StarNews | The Dispatch | Times-News
Sun Journal | The Daily News | The Star
The Free Press | Gaston Gazette
The Fayetteville Observer

Order Confirmation

Not an Invoice

Account Number:	488558
Customer Name:	City Of Hendersonville
Customer Address:	City Of Hendersonville 160 6Th AVE E City Clerk Hendersonville NC 28792-3775
Contact Name:	Angela Reece
Contact Phone:	828-697-3005
Contact Email:	areece@hvlnc.gov
PO Number:	

Date:	07/13/2022
Order Number:	7531451
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
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Height in Inches:	0.0000

Print

Product	#Insertions	Start - End	Category
HEN Times-News	2	07/24/2022 - 07/31/2022	Govt Public Notices
HEN blueridgenow.com	2	07/24/2022 - 07/31/2022	Govt Public Notices

Total Order Confirmation

\$29.72

Resolution #R-22-95

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA,
AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT AND PROVIDING
FOR CERTAIN OTHER RELATED MATTERS THERETO**

WHEREAS, the City of Hendersonville, North Carolina (the “*City*”) is a municipal corporation existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the “*State*”);

WHEREAS, the City has the power, pursuant to the General Statutes of North Carolina to (1) enter into installment contracts in order to purchase, or finance or refinance the purchase of, real or personal property and to finance or refinance the construction or repair of fixtures or improvements on real property and (2) create a security interest in some or all of the property financed or refinanced to secure repayment of the purchase price;

WHEREAS, the City Council of the City (the “*City Council*”) hereby determines that it is in the best interest of the City to (1) enter into an installment financing contract (the “*Contract*”) with a financial institution to be determined (the “*Bank*”) in order to pay the costs of (a) constructing and improving fire and emergency services facilities, including (i) demolishing, clearing and grading the existing fire station site of Fire Station 1 and constructing and furnishing a new fire station on the site and (ii) renovating a facility to relocate the fire department staff and administration to serve as temporary space for emergency service use (the “*Fire Facilities Projects*”), (b) relocating the Laura-Corn mini-golf course to Edwards Park, including constructing the new mini-golf course and upgrading public restrooms, concession and playground facilities and installing public art (the “*Parks and Recreation Project*” and collectively with the Fire Facilities Projects, the “*Projects*”) and (c) the acquisition of new fire fighting vehicles and equipment, including new fire ladder and fire engine vehicles (the “*Vehicles*” and together with the Projects, the “*2022 Projects*”) and (2) in order to provide security for the City’s obligations under the Contract, grant to the Bank a security interest under a deed of trust, security agreement and fixture filing (the “*Deed of Trust*”) on all or a portion of the sites of the Projects and improvements thereon and a security interest in the Vehicles as may be required by the Bank;

WHEREAS, the City staff has retained (1) Parker Poe Adams & Bernstein LLP, as special counsel (“*Special Counsel*”) and (2) First Tryon Advisors, as financial advisor, in connection with the proposed installment financing;

WHEREAS, the City Council hereby determines that the 2022 Projects are essential to the City’s proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the 2022 Projects will provide an essential use and will permit the City to carry out public functions that it is authorized by law to perform; and that entering into the Contract and Deed of Trust is necessary and expedient for the City by virtue of the findings presented herein;

WHEREAS, the City Council hereby determines that such cost of the 2022 Projects exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the City in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;

WHEREAS, although the cost of financing the 2022 Projects pursuant to the Contract and the Deed of Trust is expected to exceed the cost of financing the 2022 Projects pursuant to a bond financing for the same undertaking, the City hereby determines that the cost of financing the 2022 Projects pursuant to the Contract and Deed of Trust and the obligations of the City thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of the 2022 Projects; and (3) insufficient revenues are produced by the 2022 Projects so as to permit a revenue bond financing;

WHEREAS, the City Council hereby determines that the estimated cost of financing the 2022 Projects pursuant to the Contract and the Deed of Trust allows the City to finance the 2022 Projects at a favorable interest rate currently available in the financial marketplace and on terms advantageous to the City and reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

WHEREAS, the City does not anticipate a future property tax increase to pay installment payments falling due under the Contract but an increase in taxes, if any, necessary to meet the sums to fall due under the Contract will not be excessive.

WHEREAS, Special Counsel will render an opinion to the effect that entering into the Contract and the transactions contemplated thereby are authorized by law;

WHEREAS, no deficiency judgment may be rendered against the City in any action for its breach of the Contract, and the taxing power of the City is not and may not be pledged in any way directly or indirectly or contingently to secure any money due under the Contract;

WHEREAS, the City is not in default under any of its debt service obligations;

WHEREAS, the City's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the City has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget Ordinance;

WHEREAS, past audit reports of the City indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the City has not been censured by the Local Government Commission of North Carolina (the "LGC"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies;

WHEREAS, a public hearing on the Contract, the Deed of Trust and the 2022 Projects, after publication of a notice with respect to such public hearing, was held on August 4, 2022 and approval of the LGC with respect to entering the Contract must be received; and

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

Section 1. **Authorization to Negotiate the Contract and the Deed of Trust.** That the City Manager, the Assistant City Manager and the Finance Director (the “Authorized Officers”), individually or collectively, with advice from the City Attorney, Special Counsel and the City’s financial advisor, are hereby authorized and directed to negotiate on behalf of the City (1) the financing of the 2022 Projects for a principal amount of approximately \$18,500,000.00 under the Contract to be entered into with the Bank in accordance with the provisions of Section 160A-20 of the General Statutes of North Carolina, as amended, and (2) the provision of a security interest in the Vehicles and/or under the Deed of Trust in the City’s fee simple interest on all or a portion of the sites of the Projects, together with all improvements and fixtures located thereon, as may be required by the Bank providing the funds to the City under the Contract to secure the City’s obligations thereunder.

Section 2. **Application to LGC.** The Finance Director or his designee is hereby directed to file with the LGC an application for its approval of the Contract and all relevant transactions contemplated thereby on a form prescribed by the LGC and to state in such application such facts and to attach thereto such exhibits regarding the City and its financial condition as may be required by the LGC.

Section 3. **Approval of the Financing Team.** Parker Poe Adams & Bernstein LLP has been retained by the City to serve as special counsel and First Tryon Advisors been retained to serve as financial advisor. The Authorized Officers, with advice from the City Attorney and Special Counsel, are hereby authorized to retain the assistance of other professionals as they deem necessary and desirable to carry out the intention of this Resolution.

Section 4. **Ratification.** All actions of the City and its officials, whether previously or hereafter taken in effectuating the proposed financing as described herein, are hereby ratified, authorized and approved.

Section 5. **Repealer.** All motions, orders, resolutions and parts thereof in conflict herewith are hereby repealed.

Section 6. **Effective Date.** This Resolution is effective on the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of August, 2022.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:_____

Angela S. Beeker, City Attorney



StarNews | The Dispatch | Times-News
 Sun Journal | The Daily News | The Star
 The Free Press | Gaston Gazette
 The Fayetteville Observer

Order Confirmation

Not an Invoice

Section 7, Item E.

Account Number:	488558
Customer Name:	City Of Hendersonville
Customer Address:	City Of Hendersonville 160 6Th AVE E City Clerk Hendersonville NC 28792-3775
Contact Name:	Angela Reece
Contact Phone:	828-697-3005
Contact Email:	areece@hvInc.gov
PO Number:	

Date:	07/20/2022
Order Number:	7560837
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	139.0000
Height in Inches:	0.0000

Print

Product	#Insertions	Start - End	Category
HEN Times-News	2	07/24/2022 - 07/31/2022	Public Notices
HEN blueridgenow.com	2	07/24/2022 - 07/31/2022	Public Notices

Total Order Confirmation	\$38.36
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Section 7, Item E.

That the City Council (the "City Council") of the City of Hendersonville, North Carolina (the "City") will hold their regular monthly meeting on Thursday, August 4, 2022, at 5:45 p.m., in the City Operations Assembly Room located at 305 Williams Street, Hendersonville NC to consider the following:

Installment Financing Contract. – Pursuant to Sections 160A-20 of the General Statutes of North Carolina, the City Council is considering entering into an installment financing contract (the "Contract"), in a principal amount of approximately \$18,500,000, under which the City will make certain installment payments, in order to pay the costs of (1) constructing and improving fire and emergency services facilities, including (a) demolishing, clearing and grading the existing fire station site of Fire Station 1 and constructing and furnishing a new fire station on the site located at 851 N. Main St, Hendersonville, North Carolina and (b) renovating a facility to relocate the fire department staff and administration to serve as temporary space for emergency service use (the "Fire Facilities Projects"), (2) relocating the Laura-Corn mini-golf course to Edwards Park located at 1001 N. Main St, Hendersonville, North Carolina, including constructing the new mini-golf course and upgrading public restrooms, concession and playground facilities and installing public art (the "Parks and Recreation Project" and collectively with the Fire Facilities Projects, the "Projects"), (3) the acquisition of new fire fighting vehicles and equipment, including new fire ladder and fire engine vehicles (the "Vehicles" and together with the Projects, the "2022 Projects") and (4) entering into the Contract. In connection with the Contract, the City will grant a security interest in all or a portion of the sites of the Projects and improvements thereon and the Vehicles to be financed with the proceeds of the Contract as may be required for the benefit of the entity providing the funds to the City under the Contract. The Contract will permit the City to enter into amendments to finance additional projects and refinance projects using the 2022 Projects as collateral and the City may or may not grant additional collateral in connection with such amendments. On payment by the City of all installment payments due under the Contract the lien created in the 2022 Projects will terminate and the City's title will be unencumbered.

Digital/written public hearing comments must be received twenty-four hours prior to the meeting (by 5:45 p.m. on Wednesday August 3rd) to be considered by the City Council and must comply with security criteria in the Council's Public Comment Policy, available on the City's website.

Public hearing comments will also be accepted during the meeting from those attending in person and from those participating live via ZOOM at the designated time at this meeting. For security reasons screen sharing will not be allowed. Anyone wishing to submit written/digital public hearing comments for these public hearings prior to the meeting may visit <https://www.hendersonville.nc.gov/comment> to submit their comment. It is necessary to submit digital comments if you are planning to address City Council during the meeting.

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<p><i>Section 7, Item E.</i></p>	<p>ons to ailable</p>
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on the City's website calendar
by visiting

<https://www.hendersonvillenc.gov/events-calendar> and as

follows:

Zoom information for the meet-

ing is: <https://zoom.us/join>

Dial-in by phone: (646) 558-8656

Meeting ID: 822 0104 2528

Passcode: 1847

The City of Hendersonville is

committed to providing acces-

sible facilities, programs, and

services for all people in

compliance with the Ameri-

cans with Disabilities Act

(ADA). Should you need assis-

tance or a particular accom-

modation for this meeting

please contact the City Clerk

no later than 24 hours in

advance of the meeting (828)

697-3005.

7/24/2022, 7/31/2022 7560837

PUBLIC NOTICE

Notice is hereby given that the City Council (the “*City Council*”) of the City of Hendersonville, North Carolina (the “*City*”) will hold their regular monthly meeting on Thursday, August 4, 2022, at 5:45 p.m., in the City Operations Assembly Room located at 305 Williams Street, Hendersonville NC to consider the following:

Installment Financing Contract. – Pursuant to Sections 160A-20 of the General Statutes of North Carolina, the City Council is considering entering into an installment financing contract (the “*Contract*”), in a principal amount of approximately \$18,500,000, under which the City will make certain installment payments, in order to pay the costs of (1) constructing and improving fire and emergency services facilities, including (a) demolishing, clearing and grading the existing fire station site of Fire Station 1 and constructing and furnishing a new fire station on the site located at 851 N. Main St, Hendersonville, North Carolina and (b) renovating a facility to relocate the fire department staff and administration to serve as temporary space for emergency service use (the “*Fire Facilities Projects*”), (2) relocating the Laura-Corn mini-golf course to Edwards Park located at 1001 N. Main St, Hendersonville, North Carolina, including constructing the new mini-golf course and upgrading public restrooms, concession and playground facilities and installing public art (the “*Parks and Recreation Project*” and collectively with the Fire Facilities Projects, the “*Projects*”), (3) the acquisition of new fire fighting vehicles and equipment, including new fire ladder and fire engine vehicles (the “*Vehicles*” and together with the Projects, the “*2022 Projects*”) and (4) entering into the Contract. In connection with the Contract, the City will grant a security interest in all or a portion of the sites of the Projects and improvements thereon and the Vehicles to be financed with the proceeds of the Contract as may be required for the benefit of the entity providing the funds to the City under the Contract. The Contract will permit the City to enter into amendments to finance additional projects and refinance projects using the 2022 Projects as collateral and the City may or may not grant additional collateral in connection with such amendments. On payment by the City of all installment payments due under the Contract the lien created in the 2022 Projects will terminate and the City’s title will be unencumbered.

Digital/written public hearing comments must be received twenty-four hours prior to the meeting (by 5:45 p.m. on Wednesday August 3rd) to be considered by the City Council **and must** comply with security criteria in the Council’s Public Comment Policy, available on the City’s website.

Public hearing comments will also be accepted during the meeting from those attending in person and from those participating live via ZOOM at the designated time at this meeting. For security reasons screen sharing will not be allowed. Anyone wishing to submit written/digital public hearing comments for these public hearings prior to the meeting may visit <https://www.hendersonvillenc.gov/comment> to submit their comment. It is not necessary to submit digital comments if you are planning to address City Council during the meeting.

The meeting instructions to join by Zoom will be available on the City’s website calendar by visiting <https://www.hendersonvillenc.gov/events-calendar> and as follows:

Zoom information for the meeting is: <https://zoom.us/join>
Dial-in by phone: (646) 558-8656
Meeting ID: 822 0104 2528
Passcode: 1847

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 a particular accommodation for this meeting please contact the City Clerk no later than 24 hours in advance of the meeting (828) 697-3005.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Angela Reece, *MPA, CMC, NCCMC* **MEETING DATE:** August 4, 2022

AGENDA SECTION: BOARD/COMMISSION/COMMITTEE APPOINTMENTS **DEPARTMENT:** ADMINISTRATION

TITLE OF ITEM: Board & Commission Vacant Seat Appointments – *Angela L. Reece, City Clerk*

SUGGESTED MOTION(S):

SUMMARY: The City of Hendersonville has vacancies on various Boards and Committees. The City Clerk has received applications for consideration of appointment and disseminated to City Council. Information is detailed in the attached memo.

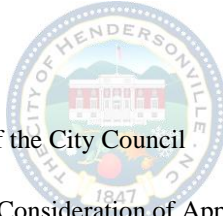
ATTACHMENTS:
Memo

CITY COUNCIL:
BARBARA G. VOLK
Mayor
LYNDSEY SIMPSON
Mayor Pro Tem
DR. JENNIFER HENSLEY
DEBBIE O'NEAL ROUNDTREE
JERRY A. SMITH, JR., J.D.

CITY OF HENDERSONVILLE

The City of Four Seasons

Office of the City Clerk



Section 8, Item A.

City Manager
ANGELA S. BEEKER
City Attorney
ANGELA REECE
City Clerk

To: The Honorable Mayor and Members of the City Council
From: Angela L. Reece, City Clerk
Subject: Board and Commission Vacancies for Consideration of Appointment
Date: August 4, 2022

Honorable Mayor and Members of City Council:

I am providing you with information and applications regarding the vacant Board of Adjustment seats. Terms are 3 years.

Appointments to Boards/Commissions Committees

A. Board of Adjustment

**CITY SEATS: (2 vacancies/ ending June 30, 2025)
(1 vacancy/ unexpired term ending June 30, 2023)**

You have received 4 applications:

1. Laura Flores * Current member of the Planning Board
2. Neil Brown * Current member of the Planning Board
3. Frederick Nace * Current member of the Planning Board
4. Peter Hanley * Current member of the Planning Board

There is an additional vacant seat which is appointed by the County for a person who resides in the ETJ. This seat was vacated by Jay Angel sometime in **2018** leaving an unexpired term that ended in 2020. The seat has remained unfilled since. The term continues to roll to new terms to keep the staggering accurate.

COUNTY SEAT – ETJ (1 vacancy/ unexpired term ending June 30, 2023)

s:/Angela L. Reece, MPA, CMC, NCCMC
City Clerk, City of Hendersonville



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Connet **MEETING DATE:** 8/4/2022

AGENDA SECTION: NEW BUSINESS **DEPARTMENT:** Administration

TITLE OF ITEM: Proposal to Adjust Second Monthly Meeting Agenda Rules – *John Connet, City Manager*

SUGGESTED MOTION(S):

I move that City Council allow administrative matters to be placed on the second monthly meeting agenda for City Council discussion and action.

SUMMARY:

Over the last several months members of City Council have asked if we could vote on administrative matters during the second monthly City Council meeting with the hopes that this would shorten the regular meeting. I would like to propose that City Council amend your rules for the secondly monthly meeting to allow action on the following topics:

Board and Commission Appointments

Financial and Bidding Items

Internal Policy Amendments

Non-Controversial Contract Matters

BUDGET IMPACT: \$NA

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

If no, describe how it will be funded. NA

ATTACHMENTS:

None

City Council has set the following rules to govern their second monthly meetings:

- The meeting will last no more than two hours.
- No formal action/votes will be taken.
- If there is nothing to discuss, the meeting will be canceled.
- The meeting will be held at a regularly scheduled date/time.

[Second monthly meetings are held on the fourth Wednesday of each month at 4:00 p.m. at the City Operations Center Assembly Room located at 305 Williams St.]



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Connet **MEETING DATE:** 8/4/2022
AGENDA SECTION: NEW BUSINESS **DEPARTMENT:** Legal
TITLE OF ITEM: Update Regarding Remote Meetings – Angie Beeker, City Attorney

SUGGESTED MOTION(S):

NA

SUMMARY:

The Governor’s State of Emergency is set to expire August 15, 2022. This will limit the City Council’s ability to conduct remote meetings. City Attorney will discuss your current policy and the UNC School of Government’s position that City Council’s do not have the authority to meet remotely once the State of Emergency has expired.

BUDGET IMPACT: \$ NA

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

If no, describe how it will be funded. NA

ATTACHMENTS:

Current Remote Participation Policy

School of Government Advisory Document

Resolution #R-21-01

A RESOLUTION AMENDING THE CITY'S POLICY RESPECTING ELECTRONIC ATTENDANCE AT CITY COUNCIL MEETINGS

WHEREAS, the City Council determines that the greatest reasonable participation by Council Members at Council meetings is desirable, and

WHEREAS the Council wishes to balance ease of Board member access to and participation in orderly proceedings, especially where there are occurrences that pose impediments to physical attendance; and

WHEREAS the Council wishes to follow North Carolina General Statutes Chapter 143 Article 33C as amended from time to time and any applicable City ordinances as amended from time to time; and

WHEREAS the Council wishes to encourage City Council members to physically attend meetings whenever practicable; and

WHEREAS the Council recognizes that in states of emergency, 48 hours advance notice of remote participation by a Council member may not be practical and Council wishes to remove this requirement;

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

1. The City Does hereby amend as follows its policy for attendance of City Council meetings electronically:

1. Subject to the provisions of paragraph (14) below, electronic attendance at a City Council meeting shall not constitute any part of a quorum for any portion of such meeting.

2. Subject to the provisions of paragraph (14) below, either the Mayor or Mayor Pro Tem must be physically present at the place of the meeting.

~~3. A City Council member wishing to attend a meeting via electronic means shall notify the Mayor and the City Manager no later than 48 hours before the scheduled start of the City Council meeting.~~

4. A City Council member participating in a meeting electronically may do so by any method of communication that allows for simultaneous communication and is capable of being heard specifically by all other Council members attending the meeting (whether in person or electronically) and generally by the public attending the meeting, if any, and recorded by the Clerk.

5. A City Council member participating in a meeting electronically pursuant to this Policy is not required to do so in a setting that is open to the public.

6. The City Manager, is delegated to supervise and coordinate electronic participation by

City Council members pursuant to this Policy.

7. A City Council member participating via electronic means pursuant to this Policy is considered present at the City Council meeting and may vote at the City Council meeting on any matter except as otherwise provided herein.

8. A City Council member participating via electronic means may cast the deciding vote on any matter properly before the City Council except as otherwise provided herein.

9. Where at least one City Council member is participating via electronic means pursuant to this Policy, all votes of the City Council will be taken by roll call.

10. This Policy does not create a right for the public to observe and record any closed session of the City Council conducted pursuant to law.

11. Participation in the hearing, deliberation and decision of any quasi-judicial matter is not permitted under this policy. If a single agenda item contains both quasi-judicial and non-quasi-judicial components, participation in the hearing, deliberation and decision of any part of such agenda item is not permitted by this policy.

12. Participation in a closed session is discouraged but permitted by this policy. No vote by a person attending a closed session electronically is permitted in that closed session unless the measure being voted upon is passed regardless of the votes of any persons attending electronically. A person attending the closed session electronically may participate in a vote taken out of closed session without this restriction.

13. In order to be permitted to participate in a vote electronically the voter shall have attended (whether electronically or in person or both) the entire hearing and deliberation of the matter voted on.

14.

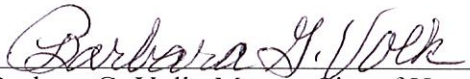
(a) In the event of a duly authorized governmental declaration of emergency of a jurisdiction including the City of Hendersonville, the requirements of paragraphs (1) and (2) above shall not apply. In such case the person presiding shall note at the meeting the particulars (issuer, date and general description) of the declaration(s) relied upon, and shall state why such declaration(s) applies to current conditions in the City of Hendersonville, but failure to do these things shall not affect the application of paragraphs (1) and (2).

(b) In the event that, for any reason, no physical location is established for any Council meeting, the city manager shall establish one or more locations where the public may electronically view, attend, and participate in such meeting, to the greatest extent practicable approximating viewing, attendance, and participation in a physical meeting. Notice of such location(s) and how one may attend shall be sent as part of any notice required by NCGS § 143-318.12 as amended from time to time.

II. This amendment shall take effect upon adoption of this resolution.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 7th day of January 2021.

Attest:



Barbara G. Volk, Mayor, City of Hendersonville



Angela L. Reece, City Clerk

Approved as to form:



Angela S. Beeker, City Attorney

<https://canons.sog.unc.edu/2021/07/public-meetings-after-the-lifting-of-the-state-level-state-of-emergency/>



Coates' Canons NC Local Government Law

Public Meetings After the Lifting of the State-Level State of Emergency

Published: 07/06/21

Author Name: Frayda Bluestein

In May of 2020, early in the pandemic, the legislature enacted a new law setting out provisions for remote meetings during a state-level state of emergency. See my [blog post here](#), to see a review the statute, and my [blog post here](#), to see a summary of the recent clarifying amendments to the new law – I'll call it the "SOE law." The Governor's state of emergency is still in effect, and so is the SOE law, but it's not too soon to think about the conduct of meetings after the state of emergency ends. For example, before the SOE law, there were no specific rules about board members participating remotely. The SOE law set out specific rules for remote participation, and the use of remote meetings has become a regular practice during the pandemic. Remote public access to meetings in many places has increased. But those SOE law rules expire when the state of emergency ends.

Once the state of emergency ends what will the rules be? They will be what they were before the adoption of the SOE law. For a summary of the law on remote participation before the SOE law see my bulletin and [blog post here](#). This blog post sets out the things that local government boards can continue to do after the SOE law expires and the things that boards can't continue do without obtaining legislative authority.

Here are things that I think boards *can* continue to do:

<https://canons.sog.unc.edu/2021/07/public-meetings-after-the-lifting-of-the-state-level-state-of-emergency/>

- **Streaming meetings:** Many local government boards were streaming meetings before the pandemic. The open meetings law allows recording meetings and allows a recording to serve as minutes. *See GS 143-318.143(a), 143-318.10(c)*. The *requirement* under the SOE law to stream meetings if one or more members are participating remotely will no longer apply, but streaming, while not required, will still be permitted. Notice of the meeting should state that the meeting will be streamed and should set out how the public can access the meeting remotely, as required under *GS 143-318.13*.
- **Public Comments/Public Hearings:** Under existing statutes boards have the authority to allow people to provide comments remotely or in writing, before or after the hearing. I don't think boards can require that people put forward their comments remotely or in writing. Boards must return to allowing in-person comments during public comment periods, unless there is a reason that in-person comments are not possible.

Here are some things that I think that boards *won't* have authority to do when the SOE law is no longer in effect:

<https://canons.sog.unc.edu/2021/07/public-meetings-after-the-lifting-of-the-state-level-state-of-emergency/>

- **Ban the public from attending meetings when the board is meeting in person:** Boards will have no authority to ban the public from attending meetings when the board is meeting in person. The SOE law didn't address this issue, but the statutory authority was found under local state of emergency powers exercised by cities and counties. Under local emergency declarations the unit has the power to restrict or prohibit "the movement of persons" within emergency areas, as well as the "operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate." *G.S. 166A-19.31(b)*. Cases have held that the public's right to attend meetings isn't absolute. Where there is a reasonable basis, a board may ban the public from a meeting. See [Trey Allen's discussion](#) about the limited authority to restrict in-person access to meetings. The pandemic provided such a reasonable basis, but with the end of the state of emergency, that basis will no longer apply. Members of the public must be permitted to attend meetings after the local state of emergency expires.
- **Remote participation:** The SOE law specifically allows remote board member participation in meetings and provides that elected city and county board members who are participating remotely count toward the establishment of a quorum and may vote and have their votes counted, as long as they are connected. Although the open meetings law recognizes electronic meetings as official meetings, before the SOE law there was no clear statutory authority for elected board members to participate remotely. In the [bulletin available here](#) I explained why a court might find that there is no authorization for local government boards to meet electronically. The city council and county commissioners voting and quorum statutes make reference to members having to be "present" and "physically present." That fact suggests that remote participation is not authorized. Further, there is the fact that the SOE law specifically provides that board members participating remote count toward a quorum and when voting. There would be no need for these provisions if these boards already had that authority under the existing law. **Taking all of this into consideration, it seems to me that after the SOE law expires, city and county governing boards will have no clear authority to participate in remote meetings at all.** For appointed and other boards there might still be an argument that they have authority for remote meetings under the electronic meetings provision in the open meetings law.
- **Quasi-judicial hearings:** The requirements in the SOE law will no longer apply to quasi-judicial hearings. The provisions in 160D-406 will apply for land development matters. See [Adam Lovelady's blog](#) summarizing the case law that would apply to other types of quasi-judicial hearings.
- **Last Minute Notice Changes:** The SOE law was amended to make it easier for one or more members to participate remotely and give notice that the meeting will be therefore streamed. This will no longer apply. Under the open meetings law, for electronic meetings, the notice must specify a location and means whereby member of the public may listen to the meeting. See, *GS 143-318.13*. It seems to me that if a board has authority to meet remotely (not a certainty for elected boards, as set out above), the board must provide the required information about the remote meeting in the notice, and not any later than that.

Have I left anything out? Feel free to post a comment!

<https://canons.sog.unc.edu/2021/07/public-meetings-after-the-lifting-of-the-state-level-state-of-emergency/>

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CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Connet **MEETING DATE:** 08/4/2022

AGENDA SECTION: NEW BUSINESS **DEPARTMENT:** Administration

TITLE OF ITEM: Pickleball Court Discussion – *Tom Wooten, Public Works Director and Mark Stierwalt, Public Works Superintendent*

SUGGESTED MOTION(S):

I move that the City Council direct staff to move forward with the development of pickleball courts in the following manner _____.

SUMMARY:

This is a continuation of the discussion from the July 7, 2022, meeting.

Staff had originally proposed to relocate the Boyd Park tennis courts to Patton Park. However, we have received feedback that there is a need for pickleball courts instead of tennis courts. The Public Works Department will present potential options to the City Council.

BUDGET IMPACT: \$ TBD

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

If no, describe how it will be funded. NA

ATTACHMENTS:

None

Resolution #R-22-96

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE EXCHANGE OF PROPERTY BETWEEN CITY OF
HENDERSONVILLE AND HENDERSON COUNTY BOARD OF PUBLIC EDUCATION**

WHEREAS, the Henderson County Board of Public Education, hereinafter “Board of Education,” is the owner of that property, commonly known as Edwards Park, being that +/- 1.47 acre parcel of property shown on plat slide 13621 of the Henderson County Registry, having acquired it by that deed recorded in Book 825 at Page 670 of the Henderson County Registry, said 1.47 acre parcel being hereinafter referred to as “Edwards Park”;

WHEREAS, the City of Hendersonville, hereinafter “City,” is the owner of that property, commonly known as “Berkely Park, being that property shown on Plat Slide 7333 of the Henderson County Registry, having acquired it by that deed recorded in Deed Book 1363 at Page 221 of the Henderson County Registry, said property being hereinafter referred to as “Berkely Park,”; and

WHEREAS, the City of Hendersonville wishes to acquire Edwards Park, for the relocation of the Laura Corn Mini-Golf; and

WHEREAS, Board of Education wishes to acquire approximately 16 acres of Berkeley Park, including the historic baseball stadium, for Hendersonville High School athletic facilities, the approximate 16 acres being substantially shown and identified as “+/- 16.0-acre parcel” on Exhibit A, attached hereto and incorporated herein by reference, said +/- 16.0 acre parcel being hereinafter referred to the “+/- 16.0 Acre Tract; and

WHEREAS, the City of Hendersonville is willing to convey the +/- 16.0 Acre Tract and pay \$250,000, to the Board of Education in exchange for the Board of Education’s conveyance of Edwards Park to the City; and

WHEREAS, the City of Hendersonville is willing to give the Board of Education a right of first refusal for the +/- 21.34 acre remaining portion of Berkely Park located on the north side of Balfour Road if not used or conveyed by the City for economic development purposes, upon the terms set forth hereinbelow, said +/- 21.34 acres being shown and identified on the attached Exhibit A as “+/- 21.34 acre parcel,” and referred to hereinafter as the “Berkely Remainder Parcel”; and

WHEREAS, NCGS 160A-274 authorizes the City to sell, lease convey or exchange properties with the Board of Education upon such terms as City Council deems advisable.

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

1. The proposed property exchange with the Board of Education is approved upon the following terms and conditions:
 - a. The City will convey the +/- 16.0 Acre Tract to the Board of Education.

- b. The City will pay \$250,000 to the Board of Education.
 - c. The Board of Education will convey Edwards Park to the City.
 - d. The City will grant an option to the Board of Education for the Berkely Remainder parcel upon the following terms:
 - i. The option shall only be effective if the Berkely Remainder Parcel is not used or conveyed by the City for economic development purposes within a reasonable time from the date of closing on the property exchange approved by this Resolution (+/- 16.0 Tract plus \$250,000.00 for Edwards Park), and once effective, the option shall be valid for a term of one year;
 - ii. The price for the Board of Education's exercise of the option (i.e. the purchase of the Berkely Remainder Parcel) shall be the payment to the City of \$350,000, plus the conveyance to the City of a +/- 1.0 acre tract that is a portion of the Board of Education administrative offices property, located at 414 4th Avenue West, Hendersonville, NC, having a PIN of 9568676778, said 1.0 acre tract being substantially as shown on Exhibit B, attached hereto and incorporated by reference.
 - e. If conveyed to the City of Hendersonville, the +/- 1.0 acre tract shown on Exhibit B shall be restricted to use as a park or green space available for public use between the hours of 7am and 7 pm only. The City of Hendersonville may hold supervised events after 7 pm upon advanced notice to the Superintendent.
 - f. The City of Hendersonville will reserve an easement around the perimeter of the +/- 16.0 Acre Tract, and if conveyed to the Board of Education, the Berkely Remainder Parcel for the purposes of a greenway, and for the future installation of utilities (water & sewer) and stormwater improvements, as may be required. Said easement shall have a minimum width of 20 feet.
 - g. At no cost to the public, the Board of Education will grant the public access to the +/- 16.0 Acre tract, and if conveyed, the Berkely Remainder Parcel, including but not limited to any tennis courts constructed, but specifically excluding the historic baseball stadium and any athletic fields constructed by or on behalf of the Board of Education.
 - h. The City will grant a right of first refusal to the Board of Education for Edwards Park and the 1.0 acre tract shown on Exhibit B.
 - i. The Board of Education will grant a right of first refusal to the City for the +/- 16.0 acre tract and, if conveyed, the Berkely Remainder Parcel. Any right of first refusal granted by the Board of Education will be subject to Henderson County's statutory right of first refusal.
2. The Mayor, City Manager and City Attorney are authorized to negotiate, make, enter into, and execute contracts, deeds, easements, boundary line agreements, the right of first refusal,

and any and all other documents, and to take any and all actions, reasonably necessary to carry out the terms of this Resolution, including but not limited to making conveyances and reasonable expenditures for costs and expenses for the purposes stated herein.

3. Notwithstanding the foregoing, the adoption of this Resolution shall not be considered as a contract, nor as a legally binding obligation of the City of Hendersonville, but this Resolution shall serve as the authority for the Mayor, City Manager, City Attorney to enter into legally binding obligations on behalf of the City of Hendersonville, consistent with the terms of this Resolution.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of August, 2022.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney



- Legend:**
- Water Valve
 - Existing Iron Pipe
 - Existing Iron Stake
 - Iron Pipe Set
 - Right of Way Line
 - Right of Way Line
 - Existing Concrete Monument
 - Fire Hydrant
 - Sewer Manhole
 - Light Pole
 - Electric Pole
 - Gas Line
 - Railroad Tracks
- Building Setbacks as per:
 - File # 35 Hendersonville L1 Zoning
 - Slater 20

C3 is A Tie Line

Curve	Radius	Length	Chord	Chord Bear.
C1	140.00'	64.95'	67.46'	S 48°25'02" W
C2	1500.00'	245.79'	245.52'	S 71°18'50" W
C3	1000.00'	39.06'	38.06'	S 74°55'06" W
C4	382.34'	361.18'	347.90'	S 46°45'56" W
C5	275.00'	140.11'	136.60'	N 21°15'01" W

L1-L5, L9-L12 & C1-C4 Are Old Lines (to be Abandoned)
L6-L8 Are New Lines
L13 is A Tie Line

Course	Bearing	Distance
L1	S 66°37'11" W	182.74'
L2	S 76°00'29" W	179.99'
L3	S 73°49'39" W	78.97'
L4	S 79°40'05" W	41.97'
L5	S 71°17'23" W	50.63'
L6	S 55°56'15" E	57.12'
L7	S 69°24'01" E	289.86'
L8	S 59°52'54" W	108.18'
L9	S 59°35'25" W	87.01'
L10	S 69°19'32" W	181.33'
L11	N 06°39'18" W	217.16'
L12	N 35°15'02" W	28.07'
L13		

+/- 16.0 acre parcel

+/- 21.34 acre parcel

**Tract B
0.20 Acre
To Be Recombined With D.B. 247, Pg. 226
Area By Coordinate Computation**

**Tract A
21.34 Acres
To Be Recombined With D.B. 247, Pg. 226
Area By Coordinate Computation**

State of North Carolina
County of Henderson
I, _____ Review Officer of Henderson County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Register of Deeds of Henderson County
By: _____ Deputy

Exhibit A

I hereby certify that this plat meets applicable requirements as contained in the zoning ordinance and subdivision ordinance of the city of Hendersonville, North Carolina.

Framing Director _____ Date _____



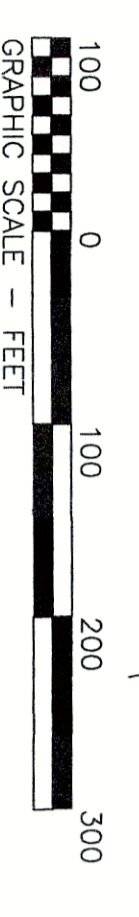
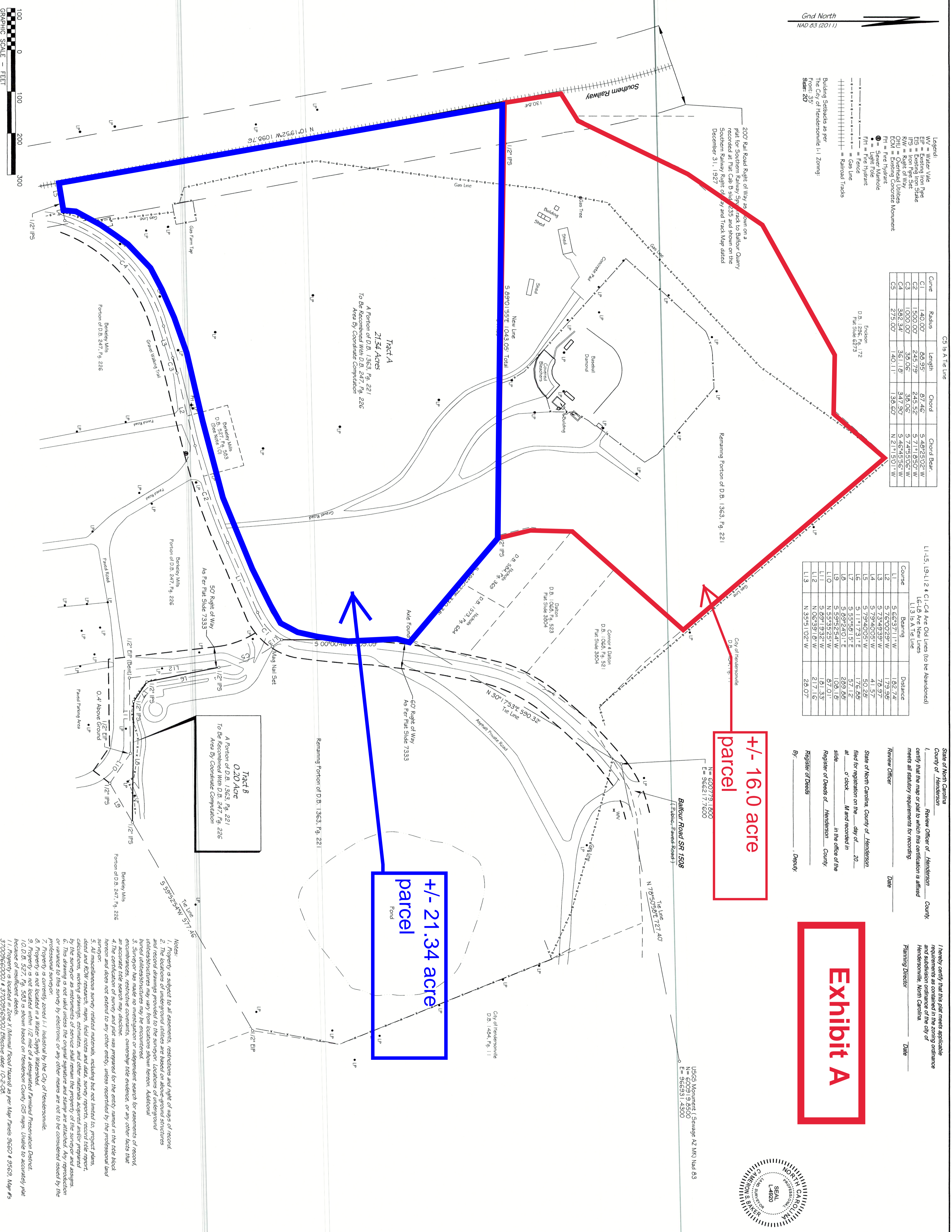
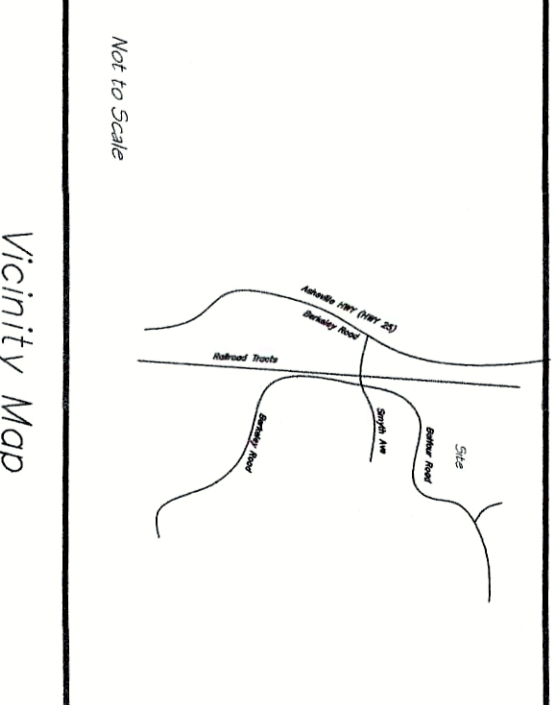
I, Cameron S. Baker, certify that this plat was drawn under my supervision from an actual survey using my Page 221, (based on) that the ratio of precision as calculated by latitudes and departures does not exceed 1:10,000 and that this map was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, license number and seal this _____ day of _____, 2012.

Professional Land Surveyor No. L-4920

I, Cameron S. Baker, certify that this survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision such as split easement.

Professional Land Surveyor No. L-4920

Global Positioning System Certification (RTK)
The Positional Accuracy Of The RTK Derived Positional Information Is 0.03' Horizontal & 0.03' Vertical
Horizontal Positioning Are Referenced to NAD 83 (NAD83 2011)
Vertical Positioning Are Referenced to NAD 83 (Geoid 12)
Combined Factor 0.89877821 (Ground To Grid)
Equipment Used: Carlson GPS-BRX6



- Notes:**
1. Property is subject to all easements, restrictions and right of ways of record.
 2. The locations of underground utilities are based on above-ground structures and record drawings provided to the surveyor. Locations of underground utilities/structures may vary from location shown hereon. Additional buried utilities/structures may be encountered.
 3. A diligent search for easements of record, encroachments, restrictive covenants, easements, or any other facts that an accurate title search may disclose.
 4. The certification of survey and plat was prepared for the entity named in the title block hereon and does not extend to any other entity, unless recited by the professional land surveyor.
 5. All miscellaneous survey-related materials, including but not limited to project plans, deed and R/W, records, maps, field notes and data, survey reports, record title reports, and other documents, shall remain the property of the surveyor and assigns. By the surveyor, an instrument of service shall remain the property of the surveyor and assigns.
 6. This drawing is not valid unless the original signature and stamp are attached. Any reproduction or variance to this survey by electronic or any other means are not to be considered issued by the professional surveyor.
 7. Property is currently zoned I-1 Industrial by the City of Hendersonville.
 8. Property is not located in a Water Supply Watershed.
 9. Property is not located within 1/2 mile of a designated Flood Preservation District.
 10. D.B. 247, Pg. 226 is a plat of record based on Henderson County GIS maps. Unable to accurately plat because of insufficient details.
 11. Property is located in Zone X (Minimal Flood Hazard) as per Map Frauds 96C0 & 95C9, Map #s 37009660001 & 37009660002 Effective date 10-2-08.

Property as shown on this Map of Division for the City of Hendersonville Recorded at Plat Slide 7353

Map of Recombination Survey for
The City of Hendersonville

D.B. 1363 Pg. 221

Pin: 9660-50-2982

Hendersonville Township Henderson County, NC

ASSOCIATED LAND SURVEYORS & PLANNERS P.C.
P.O. BOX 578 * HORSE SHOES, NC 28742
(828) 890-3507

Scale: 1 Inch = 100 Feet Date: January 4, 2012
SAS No. S-21-854

Bd of Ed Admin Bldg

Section 9, Item D.

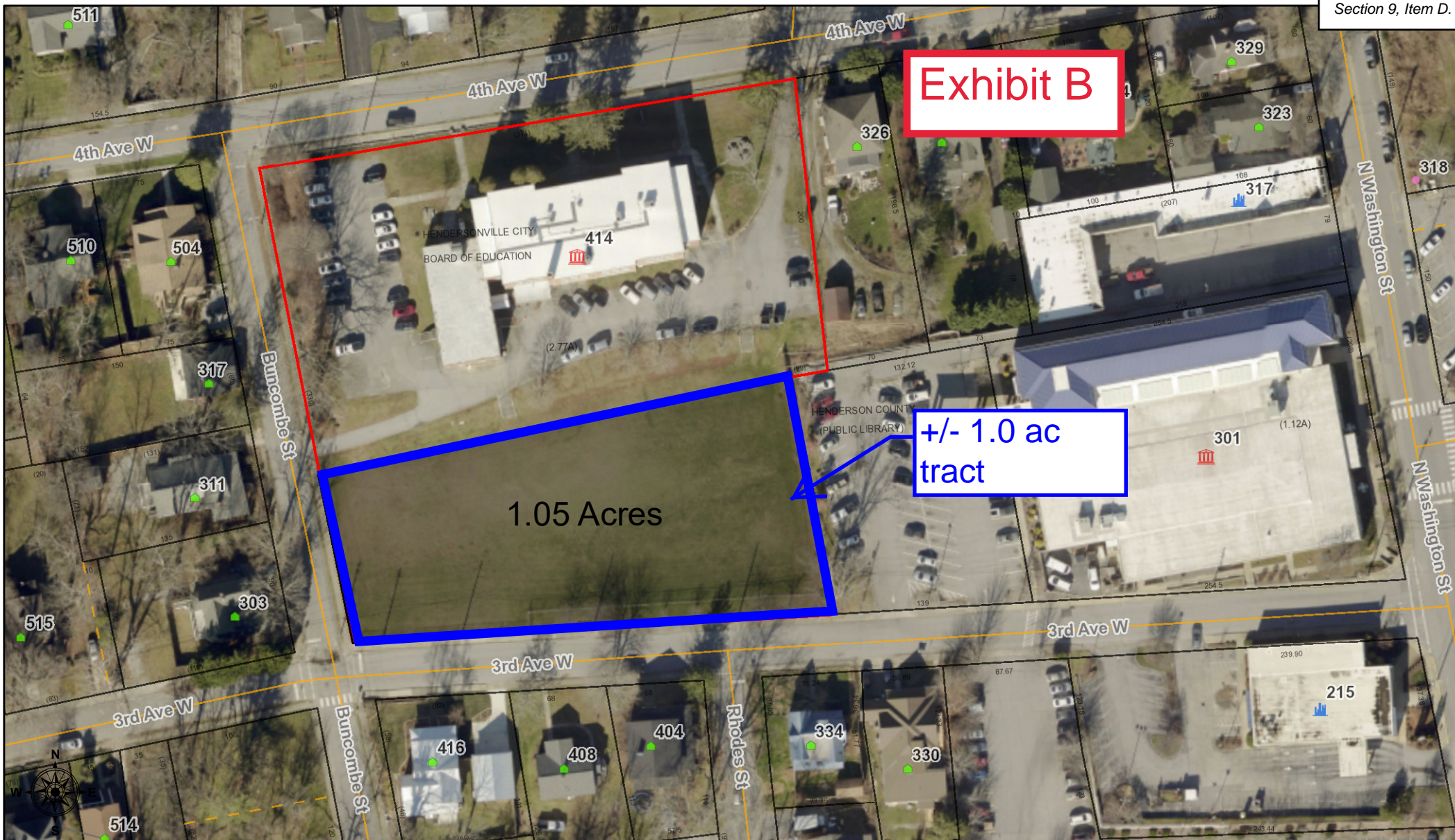


Exhibit B

+/- 1.0 ac tract

1.05 Acres

July 27, 2022

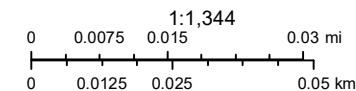
Streets and Highways

- FREEWAY
- INTERSTATE
- BOULEVARD

- THOROUGHFARE
- COLLECTOR
- Local Roads
- Parcels

THIS IS NOT A SURVEY.

All information or data provided, whether subscribed, purchased or otherwise distributed, whether in hard copy or digital media, shall be at the user's own risk. Henderson County makes no warranties or guarantees, including the warranties of merchantability or of fitness for a particular purpose. Map data is not appropriate for, and is not to be used as, a geodetic, legal, or engineering base system. The data is not intended as a substitute for surveyed locations such as can be determined by a registered Public Land Surveyor, and does not meet the minimum accuracy standards of a Land Information System/Geographic Information System Survey in North Carolina (21 NCAC 56.1608).





CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Connet **MEETING DATE:** 8/4/2022
AGENDA SECTION: NEW BUSINESS **DEPARTMENT:** Administration
TITLE OF ITEM: Resolution Authorizing the Installation of a Stop Sign at the Intersection of Maple Street and 8th Avenue East – *John Connet, City Manager*

SUGGESTED MOTION(S):

I move that the City Council adopt the resolution authorizing the Director of Public Works to install a stop sign in the north bound lane of Maple Street at the intersection of Maple Street and 8th Avenue East.

SUMMARY:

City staff has been working to resolve a traffic issue associated with student pick up at Bruce Drysdale Elementary School. A proposed solution is to utilize Maple Street and 8th Avenue to stage parents as they wait to for dismissal of school. To facilitate this proposed solution, we need to install a new stop sign at the intersection of Maple Street and 8th Avenue East.

BUDGET IMPACT: \$NA

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

If no, describe how it will be funded. NA

ATTACHMENTS:

Proposed Resolution

Resolution #R-22-97

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL AUTHORIZING THE PUBLIC WORKS DIRECTOR TO INSTALL A STOP SIGN AT THE INTERSECTION OF 8TH AVENUE AND MAPLE STREET

WHEREAS, Sec. 50-181 of the Hendersonville City Code authorizes the director of public works to install traffic control devices with the approval of the City Council; and

WHEREAS, the intersection of Maple Street and 8th Avenue East only has stop signs on 8th Avenue East and the south bound lane of Maple Street; and

WHEREAS, Maple Street is a narrow residential street and being used by cut through traffic and is proposed to be utilized for the Bruce Drysdale Elementary School parent pick up line; and

WHEREAS, there is a need to create a three-way stop at the intersection of Maple Street and 8th Avenue East.

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

1. The Director of Public Works is authorized to install a traffic control device (Stop Sign) in the north bound lane of Maples Street at the intersection of Maple Street and 8th Avenue East.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of August 2022.

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 AGENDA ITEM SUMMARY

SUBMITTER: Adam Murr **MEETING DATE:** 08/04/2022

AGENDA SECTION: New Business **DEPARTMENT:** Administration

TITLE OF ITEM: Fire Station 1 and Edwards Park Guaranteed Maximum Price (GMP)
- Adam Murr, Budget Manager

SUGGESTED MOTION(S):

I move City Council adopt the *Resolution Authorizing the City Manager to Execute a Contract Amendment with Edifice, LLC. For a Guaranteed Maximum Price (GMP) not to exceed \$____,____,____ and Authorize the City Manager to Make Change Orders for the Fire Station 1 and Edwards Park Project (#19019)* as presented.

SUMMARY:

Edifice, the City’s contracted Construction Manager at Risk, has bid the construction and trades related to the Fire Station 1 and Edwards Park project (#19019). Edifice has provided the City a guaranteed maximum price (GMP) of \$____,____,____. There may be opportunities to manage costs and lower the GMP. The Edifice team will be available either in-person or virtually to present details on the GMP and answer any questions Council may have.

Also included in City Council’s 08/04/2022 agenda packet for related consideration is a not to exceed (NTE) amount for an installment financing contract (IFC) – which is the financing method recommended by staff to fund the Fire Station 1, Edwards Park, Fire Ladder, and Fire Engine projects. Board approval of the GMP is an important step in the Local Government Commission’s (LGC) debt issuance process.

BUDGET IMPACT: \$____,____,____

Is this expenditure approved in the current fiscal year budget? CPO #19019.

If no, describe how it will be funded. The purchase will be covered by a planned 2022 installment financing for the Fire Station 1, Edwards Park, Fire Ladder, and Fire Engine projects.

ATTACHMENTS:
Resolution
Edifice Presentation

Resolution #R-22=98

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH EDIFICE, LLC. FOR A GUARANTEED MAXIMUM PRICE (GMP) NOT TO EXCEED \$_____ AND AUTHORIZE THE CITY MANAGER TO MAKE CHANGE ORDERS FOR THE FIRE STATION 1 AND EDWARDS PARK PROJECT (#19019)

WHEREAS, the North Carolina General Assembly allows for construction management at risk contracts under G.S. 143-64.31; and

WHEREAS, the City of Hendersonville entered into a contract with Edifice, LLC. For construction manager at risk services for the Fire Station 1 and Edwards Park Project (#19019); and

WHEREAS, Edifice General Contractors have proposed a contract amendment to establish the guaranteed maximum price (GMP) for the project; and

WHEREAS, subsequent change orders made to the project after award of the GMP are not subject to competitive bidding requirements as the original contract GMP was competitively bid and there is no limitation on the dollar amount of change order work under G.S. 143-129(e)(4); and

WHEREAS, there is a list of unforeseen circumstances in the design of the project that require changes to deliver a quality construction project.

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

- 1. The City Manager is authorized to execute the guaranteed maximum price contract amendment for the Fire Station 1 and Edwards Park Project (#19019) in an amount not to exceed \$_____
- 2. The City Manager is authorized to approve any changes orders that include deductive changes, and any change orders that do not require a project budget ordinance amendment.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 4th day of August, 2022.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney



StarNews | The Dispatch | Times-News
 Sun Journal | The Daily News | The Star
 The Free Press | Gaston Gazette
 The Fayetteville Observer

Order Confirmation

Not an Invoice

Section 9, Item F.

Account Number:	488558
Customer Name:	City Of Hendersonville
Customer Address:	City Of Hendersonville 160 6Th AVE E City Clerk Hendersonville NC 28792-3775
Contact Name:	Angela Reece
Contact Phone:	828-697-3005
Contact Email:	areece@hvInc.gov
PO Number:	

Date:	07/20/2022
Order Number:	7560837
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	139.0000
Height in Inches:	0.0000

Print

Product	#Insertions	Start - End	Category
HEN Times-News	2	07/24/2022 - 07/31/2022	Public Notices
HEN blueridgenow.com	2	07/24/2022 - 07/31/2022	Public Notices

Total Order Confirmation	\$38.36
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Section 9, Item F.

That the City Council (the "City Council") of the City of Hendersonville, North Carolina (the "City") will hold their regular monthly meeting on Thursday, August 4, 2022, at 5:45 p.m., in the City Operations Assembly Room located at 305 Williams Street, Hendersonville NC to consider the following:

Installment Financing Contract. – Pursuant to Sections 160A-20 of the General Statutes of North Carolina, the City Council is considering entering into an installment financing contract (the "Contract"), in a principal amount of approximately \$18,500,000, under which the City will make certain installment payments, in order to pay the costs of (1) constructing and improving fire and emergency services facilities, including (a) demolishing, clearing and grading the existing fire station site of Fire Station 1 and constructing and furnishing a new fire station on the site located at 851 N. Main St, Hendersonville, North Carolina and (b) renovating a facility to relocate the fire department staff and administration to serve as temporary space for emergency service use (the "Fire Facilities Projects"), (2) relocating the Laura-Corn mini-golf course to Edwards Park located at 1001 N. Main St, Hendersonville, North Carolina, including constructing the new mini-golf course and upgrading public restrooms, concession and playground facilities and installing public art (the "Parks and Recreation Project" and collectively with the Fire Facilities Projects, the "Projects"), (3) the acquisition of new fire fighting vehicles and equipment, including new fire ladder and fire engine vehicles (the "Vehicles" and together with the Projects, the "2022 Projects") and (4) entering into the Contract. In connection with the Contract, the City will grant a security interest in all or a portion of the sites of the Projects and improvements thereon and the Vehicles to be financed with the proceeds of the Contract as may be required for the benefit of the entity providing the funds to the City under the Contract. The Contract will permit the City to enter into amendments to finance additional projects and refinance projects using the 2022 Projects as collateral and the City may or may not grant additional collateral in connection with such amendments. On payment by the City of all installment payments due under the Contract the lien created in the 2022 Projects will terminate and the City's title will be unencumbered.

Digital/written public hearing comments must be received twenty-four hours prior to the meeting (by 5:45 p.m. on Wednesday August 3rd) to be considered by the City Council and must comply with security criteria in the Council's Public Comment Policy, available on the City's website.

Public hearing comments will also be accepted during the meeting from those attending in person and from those participating live via ZOOM at the designated time at this meeting. For security reasons screen sharing will not be allowed. Anyone wishing to submit written/digital public hearing comments for these public hearings prior to the meeting may visit <https://www.hendersonville.nc.gov/comment> to submit their comment. It is necessary to submit digital comments if you are planning to address City Council during the meeting.

TI
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Section 9, Item F.

ons to
ailable

on the City's website calendar
by visiting

<https://www.hendersonvillenc.gov/events-calendar> and as

follows:

Zoom information for the meet-

ing is: <https://zoom.us/join>

Dial-in by phone: (646) 558-8656

Meeting ID: 822 0104 2528

Passcode: 1847

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 a particular accommodation for this meeting please contact the City Clerk no later than 24 hours in advance of the meeting (828) 697-3005.

7/24/2022, 7/31/2022 7560837

PUBLIC NOTICE

Notice is hereby given that the City Council (the “*City Council*”) of the City of Hendersonville, North Carolina (the “*City*”) will hold their regular monthly meeting on Thursday, August 4, 2022, at 5:45 p.m., in the City Operations Assembly Room located at 305 Williams Street, Hendersonville NC to consider the following:

Installment Financing Contract. – Pursuant to Sections 160A-20 of the General Statutes of North Carolina, the City Council is considering entering into an installment financing contract (the “*Contract*”), in a principal amount of approximately \$18,500,000, under which the City will make certain installment payments, in order to pay the costs of (1) constructing and improving fire and emergency services facilities, including (a) demolishing, clearing and grading the existing fire station site of Fire Station 1 and constructing and furnishing a new fire station on the site located at 851 N. Main St, Hendersonville, North Carolina and (b) renovating a facility to relocate the fire department staff and administration to serve as temporary space for emergency service use (the “*Fire Facilities Projects*”), (2) relocating the Laura-Corn mini-golf course to Edwards Park located at 1001 N. Main St, Hendersonville, North Carolina, including constructing the new mini-golf course and upgrading public restrooms, concession and playground facilities and installing public art (the “*Parks and Recreation Project*” and collectively with the Fire Facilities Projects, the “*Projects*”), (3) the acquisition of new fire fighting vehicles and equipment, including new fire ladder and fire engine vehicles (the “*Vehicles*” and together with the Projects, the “*2022 Projects*”) and (4) entering into the Contract. In connection with the Contract, the City will grant a security interest in all or a portion of the sites of the Projects and improvements thereon and the Vehicles to be financed with the proceeds of the Contract as may be required for the benefit of the entity providing the funds to the City under the Contract. The Contract will permit the City to enter into amendments to finance additional projects and refinance projects using the 2022 Projects as collateral and the City may or may not grant additional collateral in connection with such amendments. On payment by the City of all installment payments due under the Contract the lien created in the 2022 Projects will terminate and the City’s title will be unencumbered.

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Public hearing comments will also be accepted during the meeting from those attending in person and from those participating live via ZOOM at the designated time at this meeting. For security reasons screen sharing will not be allowed. Anyone wishing to submit written/digital public hearing comments for these public hearings prior to the meeting may visit <https://www.hendersonvillenc.gov/comment> to submit their comment. It is not necessary to submit digital comments if you are planning to address City Council during the meeting.

The meeting instructions to join by Zoom will be available on the City’s website calendar by visiting <https://www.hendersonvillenc.gov/events-calendar> and as follows:

Zoom information for the meeting is: <https://zoom.us/join>
Dial-in by phone: (646) 558-8656
Meeting ID: 822 0104 2528
Passcode: 1847

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 a particular accommodation for this meeting please contact the City Clerk no later than 24 hours in advance of the meeting (828) 697-3005.

CITY COUNCIL:
BARBARA G. VOLK
Mayor
LYNDSEY SIMPSON
Mayor Pro Tem
DR. JENNIFER HENSLEY
DEBBIE O'NEAL-ROUNDTREE
JERRY A. SMITH, JR.

CITY OF HENDERSONVILLE

The City of Four Seasons

PUBLIC WORKS DEPARTMENT
Tom Wooten, Director

Section 11, Item A.

JOHN F. CONNET
City Manager
ANGELA BEEKER
City Attorney
ANGELA REECE
City Clerk

To: John Connet, City Manager
Through: Tom Wooten, Public Works Director
From: Andy Brogden, Fleet Manager
Date: July 15, 2022
Subject: Private sale of Surplus Assets

APPROVED

By John Connet at 12:52 pm, Jul 17, 2022

Mr. Connet,

The City of Hendersonville, Fleet Maintenance division currently has several assets that were recently determined to be at the end of their service life and therefore replaced. Listed below are four items that Fleet Maintenance is requesting permission to engage in a trade-in (private sale) for their disposal.

1. One (1) 2010 Dodge Challenger, 101,000 miles
 - a. Kelly Blue Book TRADE-IN value \$12,206.00 (see attached)
 - b. Kelly Blue Book PRIVATE SALE value \$12,923.00 (see attached)
2. One (1) 2012 Bend Pak 40,000 LB 4-post lift – Estimated value \$5000 - \$7,000
3. Two (2) Year unknown Rotary 9,000 LB, asymmetrical 2-post Lifts Estimated value \$400-\$800

Autostar Automotive Group has offered \$13,000 trade-in allowance on the 2010 Challenger toward the purchase of a new Ram 3500.

B & W Auto Supply has offered \$7500 trade-in allowance for the Bend Pak 4-post lift and \$1000 EACH for the Rotary 2-post lifts toward the purchase of four (4) new mobile lift columns.

As you know, prices for new vehicles and equipment have increased dramatically. Even though we tried to anticipate rising costs when preparing our capital budget, we did not anticipate such huge increases. Trading these assets will offset the increases and allow us to keep on track and within our approved budget. Fleet Maintenance staff has thoroughly researched the current value of these assets and firmly believes trade-in to be the most beneficial means of disposal.

I appreciate your careful consideration of this request.

CITY OF HENDERSONVILLE
FIRST CITIZENS CUSTODIAN ACCOUNT

INVESTMENT REPORT

June 22

Investment Name	Rating	Cusip	Price	Coupon	YTM	Purchased Date	Issued Date	Maturity Date	Callable	Cost Basis	Coupon Date	Annual Interest \$
TREASURY AND FEDERAL AGENCIES												
Federal Home Loan Bks Cons Bds	FHL	3130ALLN2	99.825	0.50%	0.50%	3/24/2021	3/24/2021	3/24/2026	NO	499,125.00		
Federal Home Loan Mtg Corp	FHLM	3137EAF2	99.91	0.25%	0.25%	3/24/2021	12/4/2020	12/4/2023	No	999,100.00		
Federal Farm Credit	FFCB	Aaa AA+ / 3133EL7EB	99.975	0.22%	0.23%	9/29/2020	9/15/2020	3/15/2023	Yes	1,999,500.00		
US Treasury Note	USTN	912828M80	101.05	2.00%	1.64%	12/11/2019	11/30/2015	11/30/2022	NO	606,328.13		
US Treasury Bill	USTB	912796V71	99.456	0.54%	0.63%	6/27/2022	6/30/2022	10/27/2022	NO	1,491,840.00		
										5,595,893.13		
COMMERCIAL PAPER/CASH EQUIVALENT												
Ing US Fdg LLC Disc Coml Paper	ecdc	4497W1G59	99.875		0.25%	1/5/2022	1/6/2022	7/5/2022	NO	998,750.00		
										998,750.00		
OTHER INVESTMENTS (MUNI/BABS/)												
										0.00		
Total Securities										6,594,643.13		
NC Capt Management	Cash									3,994,277.02		
Total Security - Cost Basis										10,588,920.15	-	

Portfolio Allocation - by Security Type		Cash	% of Total
Fannie Mae	FNMA	-	0.00%
Federal Home Loan bank	FHLB	1,498,225.00	13.05%
Freddie Mac	FHLMC	-	0.00%
Federal Farm Credit Bank	FFCB	\$ 1,999,500.00	17.41%
US Treasury Note	USTN	-	0.00%
US Treasury Note	USTN	606,328.13	5.28%
US Treasury Bill	USTB	1,491,840.00	12.99%
Total GOVERNMENT AGENCIES		\$ 5,595,893.13	
Commercial Paper	Ing	998,750.00	8.70%
MUNI/OTHER		-	
Cash		3,994,277.02	
		\$ 10,588,920.15	

Portfolio Allocation - by Maturity Date:			
2022	\$	2,098,168.13	37.5%
2023	\$	2,998,600.00	53.6%
2024	\$	-	0.0%
2025	\$	-	0.0%
2026	\$	499,125.00	8.9%
		\$5,595,893.13	

