



CITY OF HENDERSONVILLE CITY COUNCIL REGULAR MEETING

Operations Center - Assembly Room | 305 Williams St. | Hendersonville NC 28792
Wednesday, August 09, 2023 – 5:45 PM

AGENDA

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

A. Adoption of City Council Minutes - *Jill Murray, City Clerk*

June 28, 2023 Second Monthly Meeting

July 6, 2023 Regular Monthly Meeting

July 26, 2023 Second Monthly Meeting

B. Resolution Authorizing the Sale of Two Police Cruisers Equipped for K-9 Use to the Town of Sparta, NC – *Blair Myhand, Chief of Police*

C. Amendments to Chapter 10 - Animals – *Daniel Heyman, Staff Attorney*

D. August 2023 Budget Amendments – *Adam Murr, Budget Manager*

E. Annexation: Certificate of Sufficiency- 2203 and 2205 N. Stoney View Court (Bullets Contracting, LLC) (C23-61-ANX) – *Tyler Morrow, Planner II*

F. Annexation: Certificate of Sufficiency-Townes at Martha Kate (C23-62-ANX) – *Tyler Morrow, Planner II*

G. Utility Extension Agreement for the Orchard View Subdivision – *Brendan Shanahan, Project Division Manager*

H. Utility Extension Agreement for the Park Residences at Highland Lake Village Subdivision – *Brendan Shanahan, Project Division Manager*

- I. Approval of United Financial, a Division of HomeTrust Bank to Provide Installment Financing for Vehicles and Equipment Purchased in Fiscal Year 2023-2024 – *John Buchanan, Finance Director*
- J. Fee Schedule Amendments – *Jenny Floyd, Budget and Management Analyst*
- K. Lower Mud Creek Floodplain Restoration Engineering Services Selection – *Michael Huffman, Stormwater Division Manager*
- L. Comprehensive Stormwater Master Planning Services Contract Amendment – *Michael Huffman, Stormwater Division Manager*
- M. Lower Mud Creek Floodplain Restoration Grant Administration and Project Management Assistance – *Michael Huffman, Stormwater Division Manager*
- N. Grant Agreement for the Lower Mud Creek Restoration Project – *Michael Huffman, Stormwater Division Manager*

6. PRESENTATIONS

- A. Public Art Mural Proposal for Sullivan Park - *Crystal Cauley & Eric Kerchner*
- B. Recognition of Jessica Pomerleau, Recruitment & Retention Officer for obtaining the Society for Human Resources- CP Certification – *Jennifer Harrell, HR Director*
- C. Quarterly MVP Recipients – *John Connet, City Manager*

7. PUBLIC HEARINGS

- A. Street Closure: Order to Close- **Unnamed 20’ alley (between City Hall and N. Edwards Street)** (C23-44-SCL)– *Tyler Morrow, Planner II*

8. UNFINISHED BUSINESS

9. NEW BUSINESS

- A. Parking Changes – *Brian Pahle, Assistant City Manager*
- B. Parking Ordinance Amendments – *Angela Beeker, City Attorney*

10. BOARDS/COMMISSIONS/COMMITTEE APPOINTMENTS

- A. Planning Board Appointment – *Jill Murray, City Clerk*
- B. Formation of Community Advisory Committee (CAC) for Comprehensive Plan - *Lew Holloway, Community Development Director*
- C. Additional Tree Ordinance Committee Appointment Request – *John Connet, City Manager*

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

A. August 2023 Contingency Report – *John Connet, City Manager*

B. Cash and Investment Report – *John Buchanan, Finance Director*

12. CITY COUNCIL COMMENTS

13. CLOSED SESSION

14. ADJOURN

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



MINUTES

June 28, 2023

SECOND MONTHLY MEETING OF THE CITY COUNCIL CITY OPERATIONS CENTER | 305 WILLIAMS ST. | 4:00 p.m.

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

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

1. **CALL TO ORDER**

Mayor Barbara G. Volk called the meeting to order at 4:00 p.m. and welcomed those in attendance. A quorum was established with all members in attendance.

2. **CONSIDERATION OF AGENDA**

Council Member Jerry Smith asked to add one item to the agenda as he had a question from the Parks & Recreation Committee.

Council Member Jennifer Hensley moved to approve the agenda as amended. A unanimous vote of the Council followed. Motion carried.

3. **CONSENT AGENDA**

A. Interlocal Agreement to Provide for Environmental Regulations Governing the Ecusta Trail – Angela S. Beeker, City Attorney

Resolution #23-70

RESOLUTION TO APPROVE INTERLOCAL AGREEMENT FOR ECUSTA TRAIL GOVERNANCE

WHEREAS, Henderson County is the Tenant of the property, owned by the Ecusta Rails2Trail, LLC, a North Carolina nonprofit corporation (“ER2T”), obtained by ER2T by way of that special warranty deed recorded in Book of Record 2764 at Page 590 of the Henderson County Registry, for the development of a greenway along the former railroad corridor, running from Transylvania County to a point in Henderson County (the “R2T Property”); and

WHEREAS, the lease (the “Lease”) between Henderson County and ER2T dated November 1, 2021, for the R2T Property provides that the County will construct and maintain a greenway within the portions of the R2T Property lying in Henderson County (the “R2T Greenway”); and

WHEREAS, Henderson County has requested that the R2T Property be governed by the County’s flood damage prevention (Subpart A of Article VIII of Chapter 42 of the Henderson County Code), stormwater regulation, and water supply watershed protection (both Subpart B of Article VIII of Chapter 42) (the three together, the “Regulations”) and the City of Hendersonville and the Town of Laurel Park have agreed; and

WHEREAS, Henderson County, Laurel Park and the City of Hendersonville wish to enter into an interlocal agreement as allowed by N.C.G.S. Chapter 160A, Article 20, and N.C.G.S. Chapter 160D-202(f) and (i) to carry out these terms as agreed.

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

1. The Interlocal Agreement between Henderson County, the Town of Laurel Park, and the City of Hendersonville providing for the governance of the R2T Property by the Regulations is approved as presented.
2. The Mayor is authorized to sign the Interlocal Agreement.
3. Hendersonville City staff are authorized to take such actions as may be necessary to implement the terms of the Interlocal Agreement.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 28th day of June, 2023.

B. Resolution to accept grant funds – Mark Stierwalt, Public Works

Resolution #R-23-71

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL
ACCEPTING A GRANT FROM THE HENDERSON COUNTY TDA
FOR THE PURPOSE OF CONSTRUCTION OF A DISC GOLF COURSE

WHEREAS, the Henderson County TDA (HCTDA) has established a grant that provides funding for a destination enhancement grant; and

WHEREAS, the City of Hendersonville has within its park system has land suitable and designated for a disc golf course; and

WHEREAS, the City of Hendersonville, in particular its Public Works division applied for a grant from the HCTDA to establish a disc golf venue; and

WHEREAS, the City’s has been awarded \$20,000.00 by the HCTDA to be used for the Allowable Purposes; and

WHEREAS, the City of Hendersonville desires to accept the grant funds, and authorize the execution of the grant funding agreement.

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

- 1. The City hereby accepts the grant from the HCTDA to be used for the Allowable Purposes; and
- 2. The City Manager is authorized to execute the Grant Agreement, with such changes as he deems appropriate, provide they are consistent with the terms of this Resolution;
- 3. City Staff are authorized and directed to proceed with the development of the disc golf course.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 28th day of June, 2023.

Council Member Lyndsey Simpson moved to approve the consent agenda as presented. A unanimous vote of the Council followed. Motion carried.

4. PRESENTATIONS

A. Downtown Parking Update – Brian Pahle, Assistant City Manager

Assistant City Manager Brian Pahle gave a brief update on downtown parking. He talked about the goals, occupancy, citations given, what we’re hearing from business owners and citizens, and potential options.

PARKING IN HENDERSONVILLE

GOALS OF THE PROGRAM

- Create Parking Availability
- Move E’ees off Main St.
- Create Easy to Use System (w/ options)
- More Permit Availability
- Maintain Active Business District

WHY DO WE NEED PARKING MANAGEMENT?

parking demand paradigm by:
WALKER CONSULTANTS

OCCUPANCY TO DATE													
Hist. Occupancy (lots)	28%	22%	25%	36%	28%	20%	15%	15%	22%	28%	28%	28%	25%
Month	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
Actual Occupancy													
Lots													36%
Main/Ave.													39%
Deck													12%
Average													29%
Actual Revenues													
Lots													32,183
Main/Ave.													138,987
Deck													28,250
Total													199,421
Estimated Occupancy	32%	25%	28%	40%	32%	23%	17%	17%	27%	28%	32%	32%	28%
Estimated Revenue	72,028	56,216	63,881	91,324	71,577	51,497	39,171	38,306	62,357	64,589	72,475	72,028	755,448
<div><div><div>• Historical Avg. from Lots</div><div>• Trend is Positive</div><div>• Gard. Jub. Deck Usage + Lessons</div><div>• Revenues on Pace with Model</div></div><div><div>• Rev. Potential Per Space</div><div>• Lots = \$3,010</div><div>• Main/Ave = \$6,020</div><div>• Deck = \$3,650</div></div></div>													

CITATIONS TO DATE					
Month	Total Citations	Actual Citations	Appeals Approved	Appeals Rejected	
March	729	52	5	7	
April	478	41	10	4	
May	858	104	9	11	
June	852	79	15	13	
Total	2,917	276	39	35	
Average	729	69	10	9	
<div><div><div>• Mostly Warnings ~90% of Tickets</div><div>• Appeals are being granted</div><div>• Generating ~\$3k in Rev. per month</div><div>• ~64% Collection Rate</div></div></div>					

BALANCING ACT	
<div>WHAT WE'RE HEARING</div> <div><div><div>• Business is Hurting (H)</div><div>• Other Econ. Factors</div><div>• Parking Stress</div><div>• Most Agree E'ees Off MS (H)</div><div>• Some Disagree</div><div>• First Hour Free is Confusing (H)</div><div>• For Customers, its a Feeling (H)</div><div>• Balance btw Turnover/Leisure (H)</div><div>• Make Payment Easier (H)</div><div>• Volunteer Ambassadors</div><div>• Some Store Owners AAK</div></div><div><div>• Competition with Mall/Online (H)</div><div>• Hurting First Dinner Seating (H)</div><div>• Hurting Breakfast (H)</div><div>• A Lot at Once (H)</div><div>• Age Friendly System (H)</div><div>• Some Businesses Will Go Under (H)</div><div>• Safety For E'ees (H)</div><div>• Tech Errors (H)</div><div>• Can't Extend Time Ex.</div></div></div>	

BALANCING ACT

POTENTIAL OPTIONS

- Remove 30-Minute Zones (ST)
 - ADA Spaces Free (ST)
 - Citation Rates are High (ST)
 - More Signage/Kiosks (ST)
 - Aggressive Marketing (ST)
 - Free Parking
 - How to Pay
 - Permits
 - Parking Validation Setup (ST)
 - Expand Count on Permit (ST)
 - Pay by Half-Hour (ST)
- Enforcement Hours (LT)
 - Resident Discount/Permit (LT)
 - Avenue Rate Diff. (LT)
 - Make Avenues Free
 - Lower Rates (LT)
 - South-end Permits (LT)

ST = Short-term Solution (within 3 months)

LT = Long-term Solution (> 1-year)

BALANCING ACT

POTENTIAL OPTIONS

DAC DIRECTION

- Remove 30-Minute Zones (ST)
 - ADA Spaces Free (ST)
 - Citation Rates are High (ST)
 - More Signage/Kiosks (ST)
 - Aggressive Marketing (ST)
 - Free Parking
 - How to Pay
 - Permits
 - Parking Validation Setup (ST)
 - Expand Count on Permit (ST)
 - Pay by Half-Hour (ST)
- Remove (Unanimous)
 - Keep Paid (8-2)
 - Lower to \$25 (Unanimous)
 - Case by Case (Unanimous)
 - Pursue (Unanimous)
 - Pursue (Unanimous)
 - Pursue to 3 or 4
 - Pursue (5 15 min. | 5 30 min.)

ST = Short-term Solution (within 3 months)

BALANCING ACT

POTENTIAL OPTIONS

- Remove 30-Minute Zones (ST)
 - ADA Spaces Free (ST)
 - Citation Rates are High (ST)
 - More Signage/Kiosks (ST)
 - Aggressive Marketing (ST)
 - Free Parking
 - How to Pay
 - Permits
 - Parking Validation Setup (ST)
 - Expand Count on Permit (ST)
 - Pay by Half-Hour (ST)
- Enforcement Hours (LT)
 - Resident Discount/Permit (LT)
 - Avenue Rate Diff. (LT)
 - Make Avenues Free
 - Lower Rates (LT)
 - South-end Permits (LT)

ST = Short-term Solution (within 3 months)

LT = Long-term Solution (> 1-year)

TAKEAWAYS

WHAT’S NEXT

- Focus on UX
 - Continued Listening/Observing
 - Adjust as Necessary
 - Balance Between Priorities
 - Occupancy Study
 - Proactive Approach to Available Parking Resources
-
- Council Direction 06.28.2023

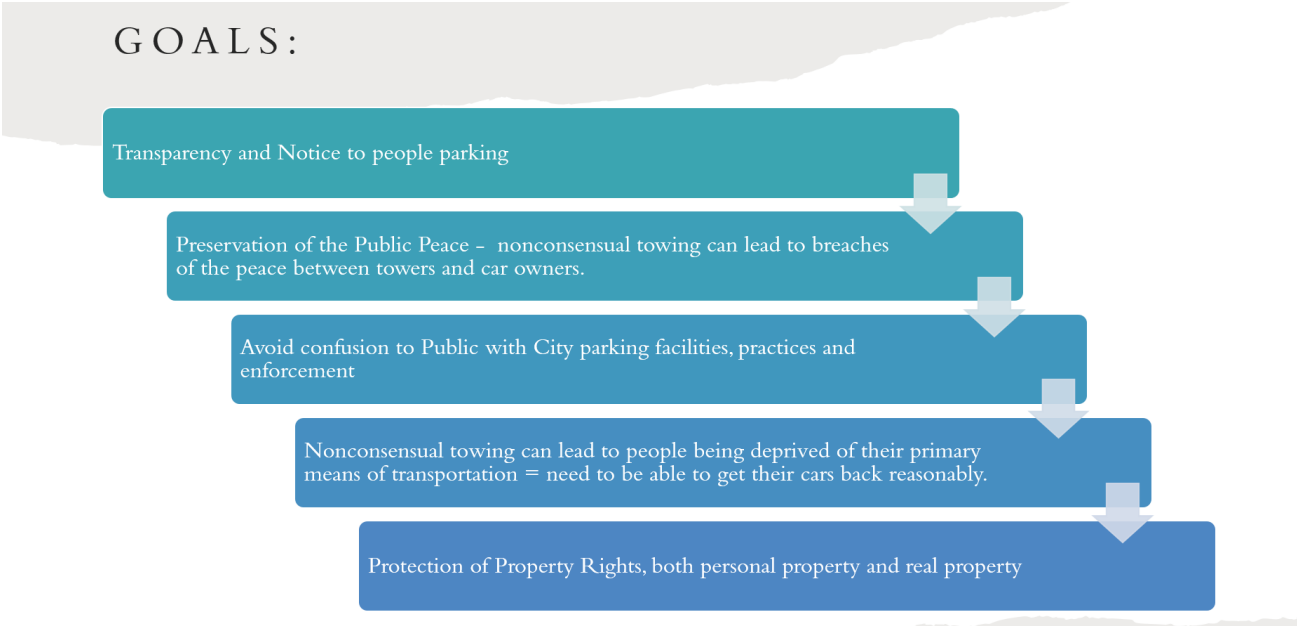
WHY DO WE NEED PARKING MANAGEMENT?



Consensus of Council was that the DAC recommendations are good, i.e., 15 minute increments and look for a solution to resident parking permits.

B. Proposed Regulations related to predatory towing and wheel locks - Daniel Heyman, Staff Attorney

City Attorney Angela Beeker discussed the regulation of involuntary towing and commercial parking lots in the City of Hendersonville. The City Council requested that Legal staff research regulations to protect the public from predatory towing practices on private property. “Predatory towing” commonly refers to practices by motor vehicle tow service providers that are illegal or unethical, but there is no definition for the term in North Carolina. There may also be some disagreement about what towing practices are predatory. Some examples of predatory towing practices may include: (1) charging exorbitant fees for owners to retrieve their vehicles; (2) utilizing spotters to identify vehicles to tow even when there has been no request or complaint from a property owner; and (3) towing a vehicle from a spot that is not clearly marked as being in a potential tow-away zone. The Legal department has researched regulations that North Carolina municipalities are authorized to enact and has prepared a proposed ordinance for City Council’s review. The proposed ordinance is being presented for discussion only at this time. Legal staff will also advise on regulations that are preempted by state and/or federal law, and will discuss comments received from other City staff.



REQUIREMENTS FOR TOWERS AND BOOTERS, REGARDLESS OF WHERE TOWING FROM OR WHERE BOOTING:

- Get a permit from HPD
 - Must be authorized to do business in the State of NC
 - Must have a liability policy in place – copy of Certificate of Insurance to HPD, kept current
 - Must provide information to be kept on file at the HPD:
 - Name, address and phone number of business
 - Name and phone number for managing personnel
 - Addresses where towed vehicles are stored
 - Make, model and tag number for all tow trucks being used in the City. Use of unregistered tow truck is violation of ordinance.
 - Fee schedule (must be kept current) and updated 24 hours before changes go into effect

REQUIREMENTS FOR TOWERS AND BOOTERS, REGARDLESS OF WHERE TOWING FROM OR WHERE BOOTING:

- Must accept payment by cash and at least 2 other nationally recognized CC's
- Must tow to a storage facility not more than 15 driving miles from the tow.
- Must report to HPD before leaving property with the MV that it's being towed
- If booting, immediately upon booting, place orange blaze on windshield or driver's side window informing them of the boot, and that attempting to move the car can damage the car.
- Must allow persons to retrieve personal property from stored car.
- If car owner returns before vehicle towed or booted, can require payment of a release fee.
- Must be able to be reached 24/7; if no answer, callback within 15 minutes
- Make vehicle available within 30 minutes of call being answered or message being left.

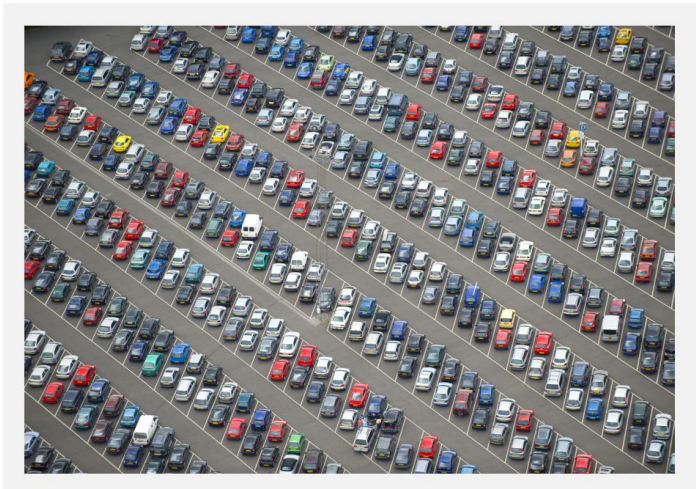
REQUIREMENTS FOR TOWING FROM PRIVATE PROPERTY (REGULATES TOWERS AND PROPERTY OWNERS):

Can't tow (or request that a car be towed) from private property unless property is properly posted per the ordinance. Signs must:

- Meet minimum size requirements, with contrasting letters and background
- Be prominently posted at each vehicular access to property and within 25 feet of every parking space. Visible and legible from all parking spaces.
- State:
 - Tow away zone, or something similar
 - Booting enforced, or something similar if booting used
 - Parking restrictions as applicable
 - Towing company and phone number
 - Max tow fees, booting fees, release fees.
 - Must state methods of payment accepted.
 - Must list City website: "I've been towed."

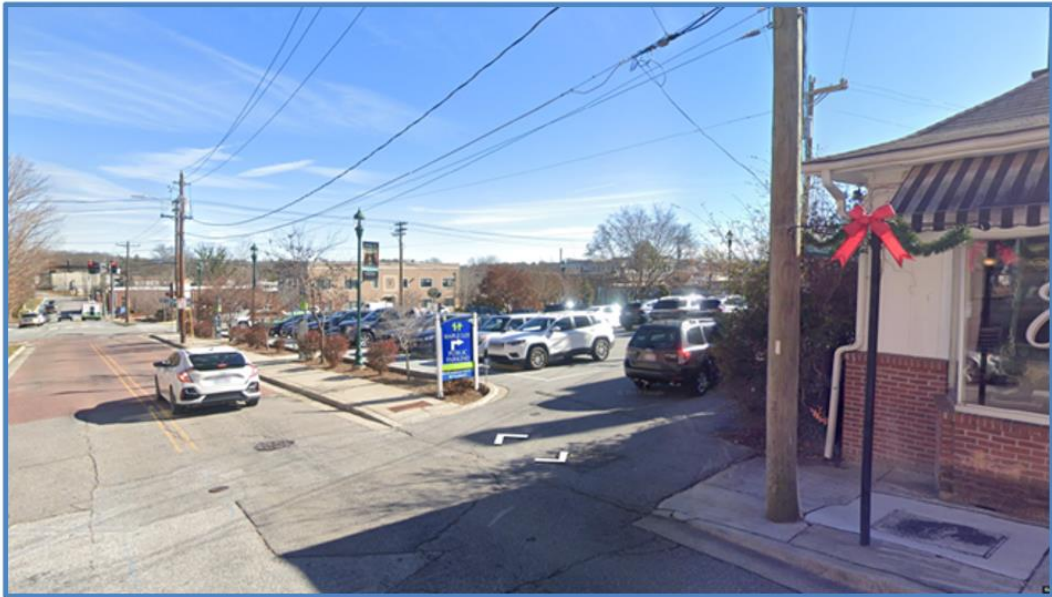


SAMPLE SIGNS:



REGULATION OF
COMMERCIAL
PARKING LOTS IN
THE CITY OF
HENDERSONVILLE
(IN ADDITION TO
POSTING IF
TOWING OR
BOOTING):

SAMPLE LOTS: MAPLE



SAMPLE LOTS: AZALEA



SAMPLE LOTS: DOGWOOD



SAMPLE LOTS: 404 S MAIN



SAMPLE LOTS: SOUTH MAIN



SAMPLE LOTS: KANUGA BEND



REGULATION OF COMMERCIAL PARKING LOTS IN THE CITY OF HENDERSONVILLE (IN ADDITION TO POSTING IF TOWING OR BOOTING):

Site Standards – get/have a zoning compliance permit (require site plan and review)

- Parking spaces of minimum size
- Parking spaces clearly delineated
- Minimum drive aisles
- Landscaping requirements

REGULATION OF COMMERCIAL PARKING LOTS IN THE CITY OF HENDERSONVILLE (IN ADDITION TO POSTING IF TOWING OR BOOTING):

- Operational Standards
- Must be appropriately signed as a private, paid parking lot or other similar language
 - Must be clearly distinguishable from parking lots operated by the City of Hendersonville – signage must clearly indicate it’s a private parking lot.
 - Have a fee schedule; Post rates for parking; if there are surcharges for unpaid parking or overtime parking, must be posted.* *Not attempting to decide if legal.
 - If using a surcharge, cannot use the words “ticket, citation, penalty, fine” or other language tending to create impression that surcharge for unauthorized parking is being issued by the City of Hendersonville.
 - Cannot use coercive tactics to collect payment – misleading or coercive language on invoice
 - Post how to pay
 - Post methods of payment accepted; must accept at least 2 major credit cards.
 - Must post owner or operator of lot, and phone number. Must be available during normal business hours (9-5 M-F).

OVERTIME PARKING NOTICE/CITATION



OVERTIME PARKING NOTICE/CITATION

VIOLATION

You have been charged with the parking or vehicle code violation indicated on the front side of this citation.

You must do one of the following:

1. **Pay the fine.** To avoid further penalties and resolve this citation, you must pay the fine by the fine due date. There are 3 ways to pay:

- a. Pay in person at Hendersonville City Hall.
- b. Mail the citation and your check or money order to the address on bottom front side of the citation. DO NOT MAIL CASH.
- c. Pay online at hendersonville.thepemistore.com

2. **Appeal the Citation.** The appeal must be made with the city within 5 days of the issuance of the citation. There are 2 ways to appeal:

- a. In person at the issuing department office.
- b. Online at hendersonville.thepemistore.com

Additional late penalties apply if not paid within 15 days of the violation date:

- a. \$25 late fee on the 15th day
- b. \$50 late fee on the 30th day
- c. After 30 days a Magistrate Summons will be issued and/or you may be submitted to debt collection/offset.
- d. More than 3 citations within 30 days will result in Habitual Violation with a \$100 fine.

NOTICE

You must do one of the following:

1. **Pay the fine.** To avoid future penalties and resolve this, you must pay the fine by the fine due date. Pay **ONLINE** at the website listed on the front.

2. **Contest.** Wait 24 hrs. from time of issue, then you must do the following by the due date on the front.

a. Go online to the website on front and fill out the special form. You will receive a conformation of your appeal filing and decision via email.

If you fail to respond. One or more of the following actions will occur:

- a. A withholding of your next vehicle registration.
- b. A civil judgment issued against you.
- c. An additional fine/penalty will be added to the original fine/penalty amount.

CIVIL PENALTIES

\$300 first offense

\$600 second offense in 12-month period.

\$1,200 third or subsequent offense in 12-month period.

Consensus of Council was to prepare an ordinance sooner than later and it can have a grace period to give people time to comply with it.

C. Amendments to Chapter 10, Animals - Daniel Heyman, Staff Attorney

Staff Attorney Daniel Heyman explained that the Animal Services Advisory Committee (ASAC) was created in 2020 to, among other duties, “make recommendations to the City Council and staff regarding the Animal Ordinance, policies and procedures, and any other issues requested by the City Council.” ASAC and Police Department staff have spent significant time since then reviewing Chapter 10 of the Code of Ordinances and have proposed a reorganized Chapter relating to animals. The proposed ordinance is being presented for discussion only at this time. Based on direction from City Council, City Staff and ASAC will bring the ordinance back to the City Council at a regular meeting for a vote. Because the proposed ordinance includes criminal penalties, it will require two votes to become effective.

CURRENT ORDINANCE:

- Last major revision was February 2020 coinciding with City’s enforcement of animal services (previously enforced/partially enforced by Henderson County).
- Animal Services Advisory Committee also created.
- Based heavily on Henderson County ordinance.



Hendersonville Police Department NC Facebook page

SINCE FEB 2020:

- City has been through process of declaring a dog dangerous, ASAC has heard two appeals.
- City created and hired a civil Animal Services Officer.
- Discovered that state law preemption makes enforcement of certain provisions difficult.
- Experience enforcing the ordinance has revealed that more detail is needed in places.
- Civil penalties don’t account for every situation.

SECTIONS PROPOSED TO REMAIN:

(Existing cite in parentheses)

- Sec 10-92 (10-1, 10-2) Protection of birds
- Sec 10-93 (10-3) Protection of squirrels
- Sec 10-94 (10-6) Fouling public grounds – includes all animals
- Sec 10-95 (10-152(c)) – Restraint of Animals
- Sec 10-62 (10-42) Swine – (but see G.S. 160A-203.1)
- Sec 10-66 (10-71) Disposal of dead poultry
- Sec 10-186 (10-111) Destruction of animals that cannot be seized or confined

SECTIONS PROPOSED TO BE REVISED:

(Existing cite in parentheses)

- Sec 10-91 (10-4) Running at large - Dangerous dog running at large is a misdemeanor
- Sec 10-63 (10-43) Keeping of other farm animals – previously “milking cows, milking goats, and horses” now “other farm animals. Can be kept w/in 150 ft. of owner’s residence.
- Sec 10-64 (10-66) Keeping of poultry – (previously fowl) limit of 20 birds.
- Sec 10-65 (10-70) Requirements for poultry enclosures – deleted requirements to whitewash and line regularly, specified that “adequate shelter” applies.
- Sec 10-2 (10-106) Definitions – moved out of Dogs article, added many definitions
- Sec 10-182 et. al. (10-110) Dangerous dogs restricted – removed “potentially dangerous,” personal service allowed, insurance required for dangerous dogs, dangerous dog sign to be provided by the City.
- 10-151 et al. (10-113) Rabies vaccination – Clarified that cats must have vaccine as well, clarified enforcement procedure and bite notification requirement.
- 10-121 et. al. (10-121) Mistreatment of animals – Clarifying standards added to adequate shelter.

SECTIONS PROPOSED TO BE DELETED:

- (Sec 10-5) Fowl running at large – poultry included in general prohibition on animals at large, and requirements for keeping poultry.
- (Sec 10-41) Compliance with article (keeping of livestock subject to Article) – replaced by specific prohibition.
- (Sec 10-44) Location restrictions – moved to 10-63, and clarified whose residence.
- (Sec 10-45) – Maintenance of stables... - preempted
- (Sec 10-107) Running at large – (dog specific) combined with definition of “at large” and general at large prohibition.
- (Sec 10-109) Mischievous dogs. – replaced with Public Nuisance Animal

NEW PROPOSED SECTIONS:

- Sec 10-31 through 10-34 – Animal Services Officer duties, authority, inspection, and ASAC.
- Sec 10-61 – Keeping of certain animals prohibited – prohibition on keeping oxen, bison, roosters, and wolf hybrids (see G.S. 160A-203.1)
- Sec. 10-96 – Giveaways in public spaces
- Sec. 10-97 – Excessive noises
- Sec. 10-122 – Abandonment – prohibition and procedure.
- Sec 10-123 – Transport of Animals – Animals in open truck beds to be secured by a tether. Exceptions for law enforcement, search and rescue, hunting, and farm dogs.
- Sec 10-124 – Confinement of Animals in Motor Vehicles – prohibitions, ASO authorized to impound animal if safety concern.
- Sec 10-125 – Animals used in entertainment, shows, and for exhibition – “unnatural behavior in which the animals is wrestled, fought, harassed, or displayed in such a way that the animal is abused or stressed.”
- Sec 10-181 – Public Nuisance animals – prohibition and procedure.

D. Edwards Park Update - Brian Pahle, Assistant City Manager

Assistant City Manager Brian Pahle gave a brief update of Edwards Park and showed what has been done to date.

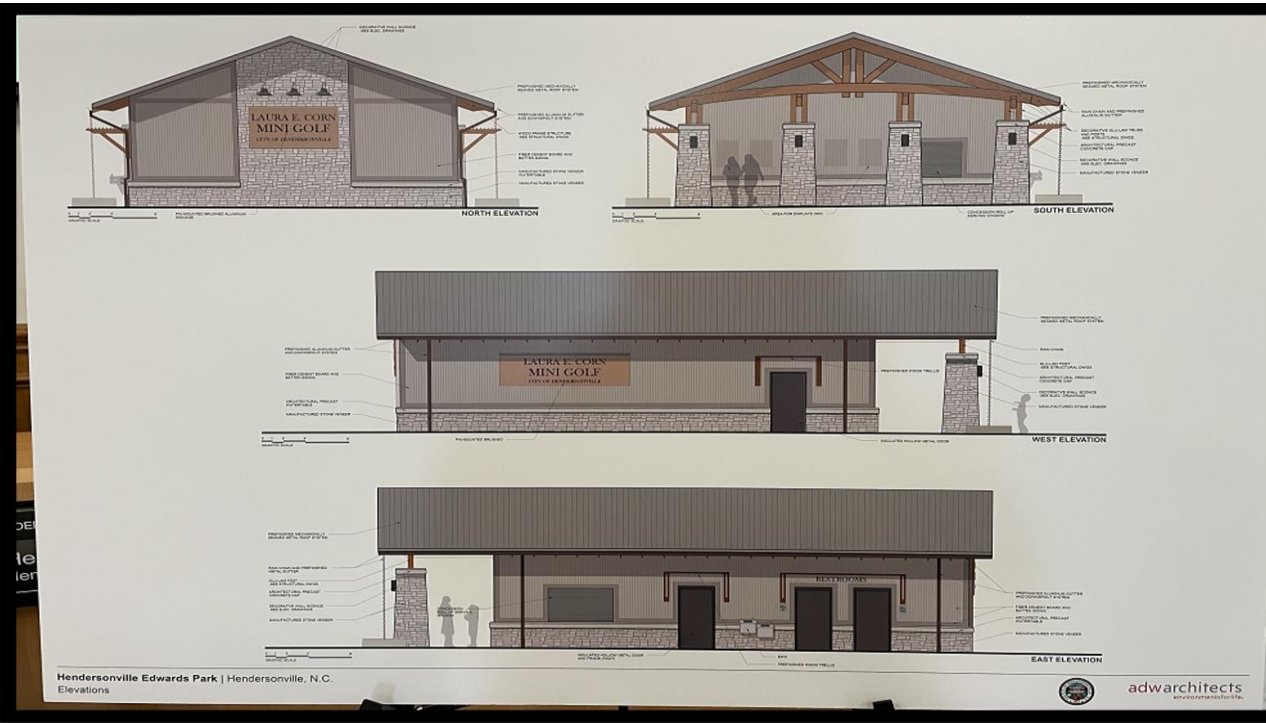
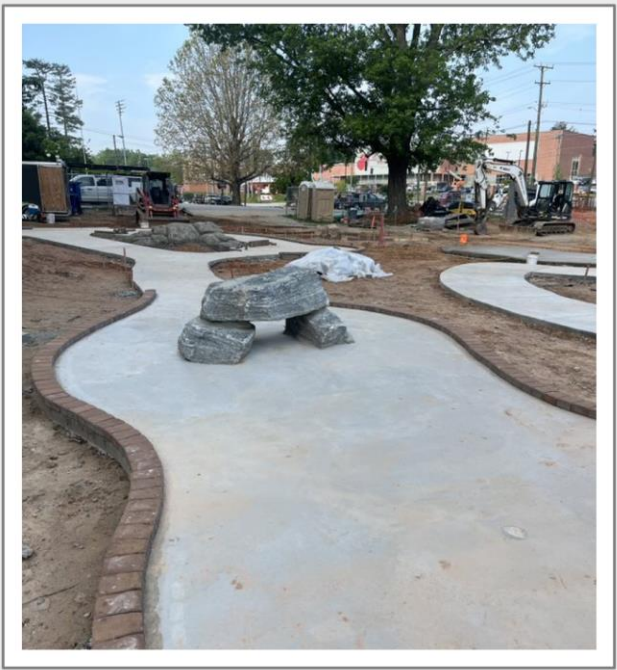
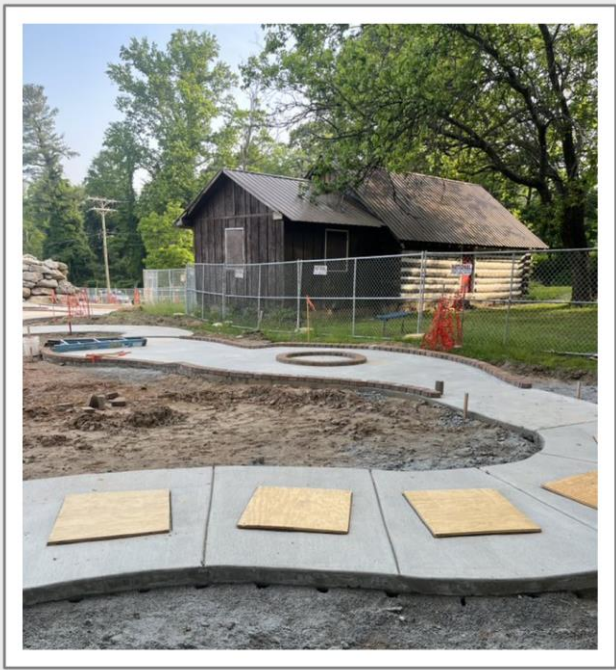
Project Status

- Mini-Golf Concrete Complete
- Building Construction On-Going
- Art Installation Mobilization
- Playground Equipment in Sep.

Next Steps

- Landscaping
- Mini-Golf Carpeting
- Playground/Signage Installation
- Building Construction
- October Opening



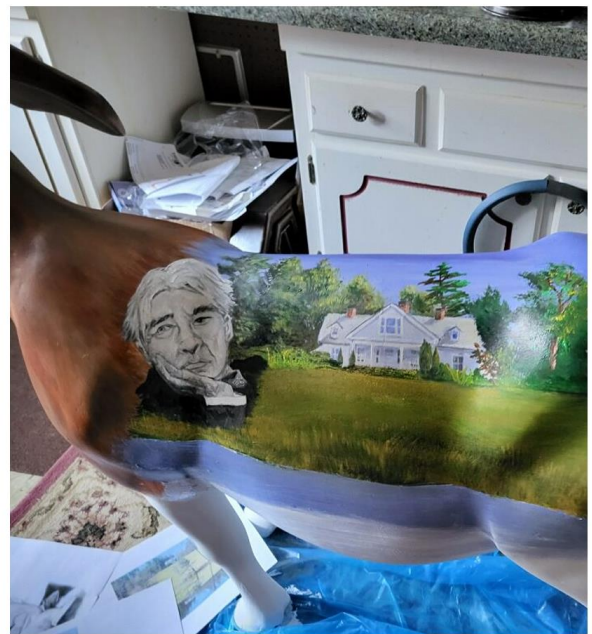




A Community Project

- Apple Country Woodcrafters
- Artist Judy Dempsey
- Artist Diamond Cash
- Artist Dee Ballenger
- Artist Bethany Joy
- Blue Ridge Bicycle Club
- Henderson Co. Public Library
- Henderson Co. Genealogical Society
- The Corn Family
- The Community Foundation
- The Shipman Family





Project Status

- Mini-Golf Concrete Complete
- Building Construction On-Going
- Art Installation Mobilization
- Playground Equipment in Sep.

Next Steps

- Landscaping
- Mini-Golf Carpeting
- Playground/Signage Installation
- Building Construction
- October Opening



E. Parks & Recreation Committee - Jerry Smith, Council Member

Jerry Smith said he attended a recent Parks & Recreation Committee meeting and the committee asked if recreational programming is something that City Council is interested in having as part of the plan? Consensus of Council was that if they wanted to put on an “event” once in a while, for example, a kid’s triathlon, which would be fine, but not an ongoing recreational calendar.

4. ADJOURN

There being no further business, the meeting was adjourned at 5:39 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST:

Jill Murray, City Clerk



MINUTES

July 6, 2023

REGULAR MEETING OF THE CITY COUNCIL

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

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

Staff Present: City Manager John F. Connet, City Attorney Angela Becker, City Clerk Jill Murray, Communications Manager Allison Justus, Budget Manager Adam Murr, and others

Late Arrival: Council Member Jerry Smith arrived late at 6:41 p.m.

1. CALL TO ORDER

Mayor Volk called the meeting to order at 5:46 p.m. and welcomed those in attendance. A quorum was established, although Jerry Smith was running late to the meeting.

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.*

General Public Comment

Lyra Prickett of Hendersonville spoke against DEI;

Tom Appleby from Bat Cave, addressed City Council regarding paid parking and is against the kiosks.

Corrine Mandell of Hendersonville spoke against DEI;

Cher Silvius from Hendersonville spoke against DEI;

Clifford Meeks of Hendersonville spoke about getting passenger transportation in Hendersonville;

Ken Fitch spoke via Zoom electronic software regarding the retirement of Lee Smith. He congratulated Lee and wished him well.

CONSIDERATION OF AGENDA

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

4. CONSENT AGENDA

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

A. Adoption of City Council Minutes – Jill Murray, City Clerk
June 1, 2023

B. Street Closure: Resolution of Intent-Unnamed 20' Alley (between City Hall & N. Edwards Street) (C23-44-SCL) – Tyler Morrow, Planner II

Resolution #R-23-73

**RESOLUTION OF INTENT TO CLOSE AN
UNNAMED 20' ALLEY (BETWEEN CITY HALL AND N. EDWARDS STREET)**

WHEREAS, NC General Statute (G.S.) 160A-299 authorizes the City Council to close public streets and alleys; and

WHEREAS, John Connet, City Manager of the City of Hendersonville has petitioned the City of Hendersonville City Council to close an unnamed 20' alley (between City Hall and N. Edwards Street), located between PINs 9568-88-0780, 9568-88-1652, 9568-88-0650 and 9568-88-0670; and

WHEREAS, NC General Statute 160A-299 requires that City Council conduct a public hearing for the purpose of giving consideration to the petition; and

WHEREAS, At the public hearing, any person may be heard on the question of whether or not the closing would be detrimental to the public interest, or the property rights of any individual; and

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

1. City Council herewith calls a public hearing to be held at 5:45 p.m. (or as soon thereafter as it may be heard) on the 9th day of August 2023, in the Assembly Room of the City Operations Center to consider closing an unnamed 20' alley (between City Hall and N. Edwards Street) located between PINs 9568-88-0780, 9568-88-1652, 9568-88-0650 and 9568-88-0670. Persons shall be allowed to attend and comment in person or via Zoom at the following address:

<https://zoom.us/join>

Dial-in by phone: (646) 558-8656
Meeting ID: 822 0104 2528
Passcode: 1847

Digital public hearing comments may be submitted prior to the public hearing on the City's webpage at www.hendersonvillenc.gov/public-comment or directly to the City Clerk, Jill Murray, jmurray@hvlnc.gov, 160 6th Avenue East, Hendersonville, NC 28792.

2. The legal description for the unnamed 20' alley proposed for closing is as follows:

Lying and being in the City of Hendersonville, Henderson County, North Carolina, and consisting of the following:

Being a portion of a 20' Alley adjacent to the southernmost line of that parcel identified as Parcel B1 on that plat recorded in Plat Book 2023 at page 14832 of the Henderson County registry;

And being that real property having the following metes and bounds description:

BEGINNING at a point being the northwestern most corner of that parcel shown as Parcel C on that plat recorded in Plat Book 2023 at Page 14832 of the Henderson County registry ("Parcel C"), said beginning point being located N 44° 25' 51" E a grid distance of 894.30' and N 08° 37' 31" W 100.39' and S 81° 42' 21" W 132.35' from that NCGS monument bearing the title "POST OFFICE", having N.C. GRID NAD83 (2011) coordinates of: N:587,993.41', E: 967,676.31' (by static GNSS observation), and proceeding from said beginning point the following courses and distances: S 81° 42' 22" W a distance of 50.45' to a point, said point being in the easternmost margin of Edward Street and being also the northwestern most corner of the Michaelian Home, Inc. property described in Deed Book 1110 at page 193, Henderson County registry, and thence proceeding along with the eastern margin of Edwards Street N 08° 18' 31" W a distance of 20' to the southwestern most corner of that parcel identified as Parcel B1 on that plat recorded in Plat Book 2023 at page 14832 of the Henderson County registry ("Parcel B1"), thence proceeding with the southernmost boundary of Parcel B1 N 81° 42' 21" E a distance of 50.64' to the southeasternmost corner of Parcel B1, thence leaving the boundary of Parcel B1 and proceeding S 07° 45' 55" E a distance of 20' to the point and place of beginning.

3. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks.
4. The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of the Resolution of Intent.
5. The City Clerk is further directed to cause adequate notices of the Resolution of Intent and the scheduled public hearing to be prominently posted in at least two along the unnamed 20' alley proposed for closure as required by G.S. 160A-299.
6. The City Council herewith declares its intent to close the street as described above.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 6th day of July, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

C. Compromise, Adjustment and Settlement of Discovery Bills– *Angela Beeker, City Attorney*

Resolution #R-23-74

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
COMPROMISE CERTAIN PROPERTY TAX DISCOVERY BILLS**

WHEREAS, in 2001, the City of Hendersonville acquired a 75% ownership interest in and to that property described in Deed Book 1053 at page 97 of the Henderson County Registry, having a parcel number of 10010707, (the “Property”) with a 25% interest remaining owned by the Kathryn and Arthur B. Shepherd, unbeknownst to the heirs; and;

WHEREAS, based on the City’s occupation and use for the public benefit of the Property since 2001 to the exclusion of the Shepherd heirs, the property was incorrectly listed as exempt and no tax bills were generated after that date ; and

WHEREAS, the County has generated discovery bills for the property for the allowable period of 2018-2023; and

WHEREAS the Shepherd heirs have requested that the discovery bills be compromised, settled and adjusted to \$0.00 based on the fact that they were unaware of the inherited 25% interest, and that 100% of the use of the property has been by the City of Hendersonville for the public benefit;

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
HENDERSONVILLE, NORTH CAROLINA** that:

7. The Whereas statements are incorporated herein as findings of City Council.
8. The discovery tax bills for the Property for the years 2018-2023 are hereby compromised, settled and adjusted to a balance of \$0.00 as allowed by NCGS § 105-312.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 6th day of July, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

**D. Tentative Contract Award WWTF Aeration Basin No. 2 Repairs & Rehabilitation
Project – *Adam Steurer, Utilities Engineer***

Resolution #R-23-75

**RESOLUTION BY THE CITY OF HENDERSONVILLE OF TENTATIVE AWARD AND
AUTHORIZATION FOR THE CITY MANAGER TO ENTER INTO A CONTRACT FOR
THE CONSTRUCTION OF THE WWTF AERATION BASIN NO. 2 REPAIR AND
REHABILITATION PROJECT**

WHEREAS, the north wall of aeration basin No. 2 at the City’s wastewater treatment facility (WWTF) is bowing outwards and showing signs of stress fractures; and

WHEREAS, the project generally provide structural support against further deflection/bowing, repair existing concrete cracking and failing pipe penetrations, and coating system within the basin; and

WHEREAS, on June 20, 2023, formal bids for construction of the project were due, however three sealed bids were not received so the project was re-advertised, and bids opened on June 28, 2023 as follows:

IPC Structures, LLC: \$1,290,945 with selected bid alternate

Turner Murphy Company, Inc.: \$1,391,464 with selected bid alternate

WHEREAS, formal bids were reviewed for completeness and accuracy. IPC Structures, LLC is the lowest responsive, responsible bidder; and

WHEREAS, the final contract award is tentative and is contingent on approval from the North Carolina Department of Environmental Quality, which is administering the grant funding for the 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 award and execute a contract for the construction of the WWTF Aeration Basin No. 2 Repairs and Rehabilitation Project upon approval from the North Carolina Department of Environmental Quality to IPC Structures, LLC, the lowest responsive and responsible bidder in the total amount of \$1,290,945.
2. The City Manager is authorized to approve change orders which cumulatively do not exceed 5% of the approved contract amount of \$1,290,945, provided however that any necessary budget ordinance or project ordinance amendments must be brought back to the City Council for approval.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 6th day of July,

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

E. Contract Award Bearcat Blvd. and Church Street Sewer Replacement – *Adam Steurer, Utilities Manager*

Resolution #R-23-76

RESOLUTION BY THE CITY OF HENDERSONVILLE OF AWARD AND AUTHORIZATION FOR THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE CONSTRUCTION OF THE BEARCAT BLVD AND CHURCH STREET SEWER REPLACEMENT PROJECT

WHEREAS, the project generally consists of approximately 1,200 liner feet of sewer main replacement along Church Street and new sewer on Bearcat Blvd, which will allow for abandonment of an existing sewer main under the Hendersonville High School football field and track; and

WHEREAS, on March 30, 2023, formal bids for construction of the project were due, however three sealed bids were not received so the project was re-advertised, and bids opened on June 21, 2023 as follows:

T.P. Howard's Plumbing Company, Inc.: \$575,000

WHEREAS, formal bids were reviewed for completeness and accuracy. T.P. Howard's Plumbing Company, Inc. is the lowest responsive, responsible bidder.

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

1. The City Manager is authorized to award and execute a contract for the construction of the Bearcat Blvd and Church Street Sewer Replacement Project to T.P. Howard's Plumbing Company, Inc., the lowest responsive and responsible bidder in the total amount of \$575,000.
2. The City Manager is authorized to approve change orders which cumulatively do not exceed 10% of the approved contract amount of \$575,000, provided however that any necessary budget ordinance or project ordinance amendments must be brought back to the City Council for approval.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 6th day of July, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

F. July 2023 Budget Amendments – *Jennifer Floyd, Budget and Management Analyst*

TO MAYOR & COUNCIL
APPROVAL: July 06, 2023

FISCAL YEAR 2023
FORM: 07062023-01

BUDGET AMENDMENT

FUND 010					
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-400101	Ad Valorem Taxes	10,668,868	220,000	-	10,888,868
010-0000-400102	Prior Years Ad Valorem Taxes	54,800	55,000	-	109,800
010-0000-400150	Tax Interest	3,540	17,500	-	21,040
010-0000-400502	Beer & Wine License	2,000	1,720	-	3,720
010-0000-410001	Local Sales & Use Tax	5,578,267	85,000	-	5,663,267
010-0000-410200	Court Fees - Police	2,605	2,925	-	5,530
010-0000-410250	Beer & Wine Excise Tax	60,000	12,330	-	72,330
010-0000-420003	SRO Reimbursement	249,920	28,880	-	278,800
010-0000-420050	Grant Revenue	3,860	2,540	-	6,400
010-0000-430001	Miscellaneous Sales	100	-	100	-
010-0000-430003	Rental Income-Non Taxable	32,500	-	32,500	-
010-0000-430006	Boyd Park Golf Revenues	17,500	-	720	16,780
010-0000-430008	Facility Rental Income	15,000	16,375	-	31,375
010-0000-430009	Cemetery Lot Revenue	20,000	4,500	-	24,500
010-0000-430101	Paving Cut Repairs Revenue	-	300,000	-	300,000
010-0000-440001	Vendor Permits	1,000	-	1,000	-
010-0000-440005	Fire Permits & Fees	8,000	1,000	-	9,000
010-0000-440007	Special Permits Precious Metal	250	110	-	360
010-0000-440008	Zoning Permits	10,000	9,410	-	19,410
010-0000-440009	Conditional Use Fees - Zoning	1,000	-	850	150
010-0000-440010	Special Project Fees Planning	15,000	3,895	-	18,895
010-0000-440011	Demo Fees	120	60	-	180
010-0000-440012	Street Sidewlk Encroachment	1,750	1,000	-	2,750
010-0000-440015	Payment In Lieu Of Sidewalk	36,300	21,720	-	58,020
010-0000-450001	Interest Income	175,000	500	-	175,500
010-0000-450002	Powell Bill Interest	2,140	1,950	-	4,090
010-0000-450099	Market Adjustment	53,000	170	-	53,170
010-0000-460001	Miscellaneous Income	5,000	4,750	-	9,750
010-0000-460002	Miscellaneous Income Police	1,000	2,330	-	3,330
010-0000-460003	Misc Income - Public Works	302,000	-	288,245	13,755
010-0000-470030	Insurance Proceeds	32,405	15,290	-	47,695
010-0000-470050	Sale Of Capital Assets	74,650	12,570	-	87,220
010-0000-598901	Transfer Out (to 301 #G2000)	3,399,905	-	126,917	3,272,988
010-0000-598901	Transfer Out (to 410 #10919)	3,272,988	200,000	-	3,472,988
010-0000-598901	Transfer Out (to 410 #21019)	3,472,988	25,000	-	3,497,988
010-1001-519200	Contract Services	7,000	100	-	7,100
010-1002-501010	Salaries - Overtime	5,000	500	-	5,500
010-1002-502005	Group Med & Life Ins	48,551	400	-	48,951
010-1002-521100	Uniforms	500	350	-	850
010-1002-523004	Cellphone Stipend	-	420	-	420
010-1002-531220	Travel	-	1,060	-	1,060
010-1002-534000	Non-Capital Equipment	37,150	118,970	-	156,120
010-1005-502091	Worker's Comp Insurance	92	10	-	102
010-1005-519200	Contract Services	32,500	55,660	-	88,160
010-1005-521010	Office Supplies	1,000	10	-	1,010
010-1005-531215	Dues & Subscriptions	8,000	2,700	-	10,700
010-1008-501010	Salaries - Overtime	1,000	300	-	1,300
010-1008-502091	Worker's Comp Insurance	315	20	-	335
010-1008-519104	Prof Services-Engring	-	50	-	50

010-1008-524030	R & M - Trucks	-	80	-	80
010-1008-531100	Fuel	-	140	-	140
010-1008-531215	Dues & Subscriptions	800	50	-	850
010-1008-531280	Employee Events	280	-	280	-
010-1010-501010	Salaries - Overtime	-	180	-	180
010-1010-502005	Group Med & Life Ins	2,333	200	-	2,533
010-1010-502050	Retirement Expense	2,534	340	-	2,874
010-1014-502091	Worker's Comp Insurance	2,459	100	-	2,559
010-1014-524020	R & M - Equipment	200	-	200	-
010-1014-524030	R & M - Trucks	2,500	50	-	2,550
010-1014-531200	Postage	100	30	-	130
010-1014-531205	Advertising	-	500	-	500
010-1014-531220	Travel	-	250	-	250
010-1200-501010	Salaries - Overtime	1,500	1,700	-	3,200
010-1200-524030	R & M - Trucks	2,850	700	-	3,550
010-1200-531210	Permits, License And Fees	100	20	-	120
010-1200-531220	Travel	6,000	-	3,000	3,000
010-1200-531225	Training	8,500	-	5,000	3,500
010-1300-501001	Salaries - Regular	3,407,034	51,000	-	3,458,034
010-1300-501002	Time/Temp/Aux	90,562	-	22,900	67,662
010-1300-502001	Fica Tax Expense	281,045	4,600	-	285,645
010-1300-502091	Worker's Comp Insurance	64,645	5,000	-	69,645
010-1300-519104	Prof Services-Engring	-	35	-	35
010-1300-521100	Uniforms	92,220	-	1,560	90,660
010-1300-531100	Fuel	123,000	10,000	-	133,000
010-1300-531220	Travel	-	100	-	100
010-1400-501001	Salaries - Regular	2,216,178	33,500	-	2,249,678
010-1400-501002	Salaries - Board/ Part Time/Temp/Aux	42,000	7,200	-	49,200
010-1400-501010	Salaries - Overtime	117,000	30,000	-	147,000
010-1400-502001	Fica Tax Expense	185,370	9,700	-	195,070
010-1400-502005	Group Med & Life Ins	376,065	36,200	-	412,265
010-1400-502050	Retirement Expense	291,471	7,800	-	299,271
010-1400-502091	Worker's Comp Insurance	49,540	3,500	-	53,040
010-1400-519210	Rural Fire Department Contracts	-	11,050	-	11,050
010-1400-531100	Fuel	48,904	19,500	-	68,404
010-1400-531220	Travel	-	110	-	110
010-1400-531225	Training	52,000	-	20,000	32,000
010-1400-532400	Miscellaneous	7,500	220	-	7,720
010-1400-534000	Non-Capital Equipment	25,500	17,500	-	43,000
010-1400-554001	C/O - Equipment/Other Than Vehicles	58,000	500	-	58,500
010-1502-501001	Salaries - Regular	300,923	7,250	-	308,173
010-1502-501010	Salaries - Overtime	1,000	350	-	1,350
010-1502-501011	Salaries - Holiday Pay	-	150	-	150
010-1502-501025	Salaries- Uniform/Taxable	575	70	-	645
010-1502-502005	Group Med & Life Ins	46,700	700	-	47,400
010-1502-519104	Prof Services-Engring	-	32	-	32
010-1502-524010	R & M - Bulidings	-	140	-	140
010-1502-531100	Fuel	6,500	1,000	-	7,500
010-1502-531220	Travel	4,000	-	1,500	2,500
010-1502-531225	Training	4,000	-	1,000	3,000
010-1502-532400	Miscellaneous	2,000	50	-	2,050
010-1521-501001	Salaries - Regular	206,329	-	7,600	198,729
010-1521-501012	Salaries- Standby	-	50	-	50
010-1521-502005	Group Med & Life Ins	34,543	2,600	-	37,143
010-1521-502091	Worker's Comp Insurance	6,585	100	-	6,685

010-1521-519200	Contract Services	-	80	-	80
010-1521-531220	Travel	5,000	-	2,000	3,000
010-1521-552001	Capital Outlay - Buildings	7,000	-	7,000	-
010-1521-554001	C/O- Equipment/Other Than Vehicles	82,910	10,400	-	93,310
010-1521-554002	C/O - Vehicles	41,000	12,700	-	53,700
010-1523-502091	Worker's Comp Insurance	4,984	250	-	5,234
010-1523-531210	Permits, License And Fees	200	50	-	250
010-1523-531220	Travel	2,000	-	1,500	500
010-1523-531225	Training	3,000	-	1,500	1,500
010-1523-531700	Liab & Prop Ins & Bonds	3,168	300	-	3,468
010-1525-501001	Salaries - Regular	377,161	-	40,000	337,161
010-1525-501011	Salaries - Holiday Pay	-	930	-	930
010-1525-501025	Salaries- Uniform/Taxable	1,500	900	-	2,400
010-1525-502091	Worker's Comp Insurance	7,658	100	-	7,758
010-1525-521001	Supplies & Materials	33,000	100	-	33,100
010-1525-521100	Uniforms	5,250	500	-	5,750
010-1525-524020	R & M - Equipment	13,000	-	1,000	12,000
010-1525-531100	Fuel	21,750	2,500	-	24,250
010-1525-531220	Travel	2,000	-	1,000	1,000
010-1525-531700	Liab & Prop Ins & Bonds	8,913	100	-	9,013
010-1525-534000	Non-Capital Equipment	-	21,000	-	21,000
010-1525-554001	Capital Outlay - Equipm	43,200	-	7,500	35,700
010-1555-501001	Salaries - Regular	494,510	11,350	-	505,860
010-1555-502001	Fica Tax Expense	36,767	3,000	-	39,767
010-1555-502005	Group Med & Life Ins	90,965	3,000	-	93,965
010-1555-502050	Retirement Expense	58,347	2,000	-	60,347
010-1555-502091	Worker's Comp Insurance	4,396	100	-	4,496
010-1555-519104	Prof Services-Engring	11,820	5,600	-	17,420
010-1555-524020	R & M - Equipment	18,000	3,700	-	21,700
010-1555-531100	Fuel	26,750	1,100	-	27,850
010-1555-531220	Travel	2,000	-	1,500	500
010-1555-531225	Training	4,700	3,700	-	8,400
010-1555-531700	Liab & Prop Ins & Bonds	16,245	5,300	-	21,545
010-1555-554001	C/O- Equipment/Other Than Vehicles	131,100	-	4,900	126,200
010-1560-501011	Salaries- Holiday Pay	-	650	-	650
010-1560-501012	Salaries- Standby	16,000	910	-	16,910
010-1560-531100	Fuel	5,250	250	-	5,500
010-1560-531215	Dues & Subscriptions	2,000	-	1,000	1,000
010-1560-531220	Travel	3,500	-	3,500	-
FUND 010	TOTAL REVENUES	17,427,575	821,525	323,415	17,925,685
	TOTAL EXPENDITURES	20,043,378	760,467	262,357	13,795,512

An end of year FY23 budget amendment to prepare for the annual audit process.

The City Manager and City Clerk certify budget ordinance amendment 07062023-01 was approved by City Council on July 06, 2023.

TO MAYOR & COUNCIL

APPROVAL: July 06, 2023

FISCAL YEAR 2023

FORM: 07062023-02

BUDGET AMENDMENT

FUND 020

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
020-0000-400101	Ad Valorem Taxes	275,040	3,700	-	278,740
020-0000-400102	Prior Years Ad Valorem Taxes	1,000	600	-	1,600
020-0000-440001	Vendor Permits	10,750	2,000	-	12,750
020-0000-450001	Interest Income	100	1,800	-	1,900
020-0000-450099	Market Adjustment	1,040	800	-	1,840
020-0000-460040	Special Events- Nontaxable	5,000	4,000	-	9,000
020-2102-501001	Salaries - Regular	219,441	10,000	-	229,441
020-2102-501002	Time/Temp/Aux	120	220	-	340
020-2102-501012	Salaries - Standby Pay	480	2,600	-	3,080
020-2102-501025	Salaries - Uniform/Taxable	270	80	-	350
FUND 020	TOTAL REVENUES	292,930	12,900	-	305,830
	TOTAL EXPENDITURES	220	12,900	-	233,211

An end of year FY23 budget amendment to prepare for the annual audit process.

The City Manager and City Clerk certify budget ordinance amendment 07062023-02 was approved by City Council on July 06, 2023.

An end of year FY23 budget amendment to prepare for the annual audit process.

The City Manager and City Clerk certify budget ordinance amendment 07062023-02 was approved by City Council on July 06, 2023.

TO MAYOR & COUNCIL

APPROVAL: July 06, 2023

FISCAL YEAR 2023

FORM: 07062023-03

BUDGET AMENDMENT

FUND 021

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
021-0000-400101	Ad Valorem Taxes	40,003	1,000	-	41,003
021-0000-400110	Ad Valorem Taxes - DMV	800	2,000	-	2,800
021-0000-450001	Interest Income	123	1,000	-	1,123
021-2102-501001	Salaries- Regular	61,201	3,800	-	65,001
021-2102-501025	Salaries - Uniform/Taxab	270	200	-	470
FUND 021	TOTAL REVENUES	40,926	4,000	-	44,926
	TOTAL EXPENDITURES	61,471	4,000	-	65,471

An end of year FY23 budget amendment to prepare for the annual audit process.

An end of year FY23 budget amendment to prepare for the annual audit process.

The City Manager and City Clerk certify budget ordinance amendment 07062023-03 was approved by City Council on July 06, 2023.

TO MAYOR & COUNCIL				FISCAL YEAR 2023	
APPROVAL: July 06, 2023				FORM: 07062023-04	
BUDGET AMENDMENT					
FUND 060					
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
060-0000-430001	Miscellaneous Sales	1,200	-	1,200	-
060-0000-430003	Rental Income	-	3,800	-	3,800
060-0000-430501	Water Sales-General	15,060,000	-	53,500	15,006,500
060-0000-430502	Water Sales Miscellaneous	2,400	800	-	3,200
060-0000-430505	Water Sales Uncollectible	-	110	-	110
060-0000-430702	Sewer Septic Tank Disposal	160,000	88,000	-	248,000
060-0000-431001	Lease Revenue	-	28,000	-	28,000
060-0000-444102	W&S Inspection Line Fees	48,200	22,000	-	70,200
060-0000-444201	Water Sewer Late Fees	150,000	41,000	-	191,000
060-0000-444202	Disconnect/Reconnect Admin Fee	70,500	48,000	-	118,500
060-0000-444900	Brightwater Fees	30,300	-	6,300	24,000
060-0000-445001	Sewer Permits & Fees	2,500	7,000	-	9,500
060-0000-445201	Utility Billing Service Charges	66,300	26,000	-	92,300
060-0000-445202	Sewer Surcharges	81,850	54,000	-	135,850
060-0000-445401	Water Tap Fees	315,000	-	10,000	305,000
060-0000-445402	Sewer Tap Fees	67,500	-	12,000	55,500
060-0000-450001	Interest Income	8,500	145,000	-	153,500
060-0000-450099	Market Adjustment	-	60,000	-	60,000
060-0000-460001	Miscellaneous Income	15,000	3,000	-	18,000
060-0000-460110	Reimbursements	-	1,500	-	1,500
060-0000-460120	Refunds	-	8,500	-	8,500
060-0000-460130	Warranty Fees	11,200	5,000	-	16,200
060-0000-470030	Insurance Proceeds	-	6,000	-	6,000
060-1008-501001	Salaries - Regular	797,958	-	90,000	707,958
060-1014-501001	Salaries - Regular	709,611	-	20,000	689,611
060-1521-501001	Salaries - Regular	125,271	-	5,000	120,271
060-1523-501001	Salaries - Regular	99,861	-	12,000	87,861
060-7002-501001	Salaries - Regular	1,230,560	-	12,000	1,218,560
060-7032-501001	Salaries- Regular	406,060	-	12,000	394,060
060-7132-501001	Salaries - Regular	200,000	-	6,000	194,000
060-7055-501001	Salaries - Regular	1,200,865	-	100,000	1,100,865
060-7155-501001	Salaries - Regular	571,115	-	29,000	542,115
060-1008-501002	Aux	60,916	-	15,000	45,916
060-1014-502001	Fica Tax Expense	54,285	-	1,800	52,485
060-7002-502001	Fica Tax Expense	95,344	-	1,800	93,544
060-1008-502050	Retirement Expense	101,384	-	6,750	94,634
060-1010-501001	Salaries - Regular	170,551	20,000	-	190,551
060-7035-501001	Salaries - Regular	639,851	40,000	-	679,851
060-7050-501001	Salaries - Regular	442,493	20,600	-	463,093
060-7135-501001	Salaries - Regular	481,524	45,000	-	526,524
060-7150-501001	Salaries - Regular	142,175	7,500	-	149,675
060-1008-501010	Salaries - Overtime	5,250	2,800	-	8,050
060-1014-501010	Salaries - Overtime	5,000	2,400	-	7,400
060-7002-501010	Salaries - Overtime	7,750	3,500	-	11,250
060-7050-501010	Salaries - Overtime	1,200	4,070	-	5,270
060-7055-501010	Salaries - Overtime	72,000	42,000	-	114,000
060-7132-501010	Salaries - Overtime	8,000	100	-	8,100
060-7135-501010	Salaries - Overtime	4,500	6,100	-	10,600
060-7150-501010	Salaries - Overtime	4,750	2,000	-	6,750

060-7155-501010	Salaries - Overtime	45,000	11,000	-	56,000
060-1523-501011	Salaries - Holiday Pay	-	400	-	400
060-1521-501012	Salaries - Standby Pay	-	30	-	30
060-1523-501012	Salaries - Standby Pay	-	2,200	-	2,200
060-7032-501012	Salaries - Standby Pay	8,000	5,000	-	13,000
060-7050-501012	Salaries - Standby Pay	7,500	3,200	-	10,700
060-7055-501012	Salaries - Standby Pay	8,000	3,500	-	11,500
060-7132-501012	Salaries - Standby Pay	5,000	1,200	-	6,200
060-7150-501012	Salaries - Standby Pay	3,500	2,000	-	5,500
060-7155-501012	Salaries - Standby Pay	3,750	2,000	-	5,750
060-7002-501014	Salaries - Shift Diff	-	500	-	500
060-7132-501014	Salaries - Shift Diff	-	200	-	200
060-7032-501014	Salaries - Shift Diff	-	350	-	350
060-7035-501025	Salaries - Uniform/Taxab	1,350	1,200	-	2,550
060-7055-501025	Salaries - Uniform/Taxab	4,000	300	-	4,300
060-7002-501050	Salaries - CM Ins Prem	-	4,000	-	4,000
060-1010-502001	Fica Tax Expense	12,701	2,000	-	14,701
060-7035-505001	Fica Tax Expense	51,566	2,000	-	53,566
060-7050-502001	Fica Tax Expense	35,108	1,400	-	36,508
060-7135-502001	Fica Tax Expense	38,790	1,900	-	40,690
060-7150-502001	Fica Tax Expense	11,496	300	-	11,796
060-1010-502005	Group Med & Life Ins	16,282	5,200	-	21,482
060-1521-502005	Group Med & Life Ins	20,244	2,200	-	22,444
060-7002-502005	Group Med & Life Ins	132,096	6,700	-	138,796
060-7035-502005	Group Med & Life Ins	103,221	18,000	-	121,221
060-7135-502005	Group Med & Life Ins	77,370	7,500	-	84,870
060-7155-502005	Group Med & Life Ins	105,580	2,500	-	108,080
060-1010-502050	Retirement Expense	19,330	3,600	-	22,930
060-1521-502050	Retirement Expense	15,208	400	-	15,608
060-7035-502050	Retirement Expense	81,832	4,700	-	86,532
060-7050-502050	Retirement Expense	55,714	3,700	-	59,414
060-7135-502050	Retirement Expense	61,557	2,800	-	64,357
060-7150-502050	Retirement Expense	18,243	1,600	-	19,843
060-7155-502050	Retirement Expense	69,333	2,000	-	71,333
060-7032-502055	Retiree Insurance	16,434	10,000	-	26,434
060-7035-502055	Retiree Insurance	12,264	9,900	-	22,164
060-7050-502055	Retiree Insurance	16,434	5,670	-	22,104
060-7035-502091	Worker's Comp Ins	34,596	1,000	-	35,596
060-7132-502091	Worker's Comp Ins	3,083	150	-	3,233
060-7155-502091	Worker's Comp Ins	1,518	500	-	2,018
060-1008-531245	Cash Short/Over	500	3,200	-	3,700
060-1014-523004	Cellphone Stipend	-	300	-	300
060-7002-519200	Contract Services	251,200	117,790	-	368,990
060-7002-531220	Travel	-	350	-	350
060-7002-531265	Drug Testing	1,500	300	-	1,800
060-7002-534000	Non-Capital Equipment	29,575	142,600	-	172,175
060-7055-524030	R & M - Trucks	45,000	20,000	-	65,000
060-7055-524060	R & M - Lines	320,000	113,000	-	433,000

060-7055-531100	Fuel	71,425	6,000	-	77,425
060-7055-531215	Dues & Subscriptions	9,200	300	-	9,500
060-7055-531700	Liab & Prop Ins & Bonds	55,000	7,500	-	62,500
060-7055-532400	Miscellaneous	400	100	-	500
060-7132-523001	Utilities - Electricity	-	150	-	150
060-7132-524030	R&M Trucks	-	500	-	500
060-7135-519104	Prof Services-Engring	-	300	-	300
060-7135-531220	Travel	-	300	-	300
060-7135-531700	Liab & Prop Ins & Bonds	22,000	200	-	22,200
060-7155-521001	Supplies & Materials	100,000	18,000	-	118,000
060-7155-524060	R & M - Lines	60,000	7,000	-	67,000
060-7155-531100	Fuel	45,675	5,000	-	50,675
060-7155-531210	Permits, License And Fees	4,500	4,000	-	8,500
060-7155-531700	Liab & Prop Ins & Bonds	25,808	300	-	26,108
FUND 060	TOTAL REVENUES	2,759,551	547,710	83,000	3,147,361
	TOTAL EXPENDITURES	8,043,454	776,060	311,350	8,635,164

As end of year FY23 budget amendment to prepare for the annual audit process

TO MAYOR & COUNCIL

APPROVAL: July 06, 2023

FISCAL YEAR 2023

FORM: 07062023-05

BUDGET AMENDMENT

FUND 064

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
064-0000-430011	Parking Garage Revenues	-	17,000	-	17,000
064-0000-450011	Interest Income	-	3,500	-	3,500
064-0000-460020	Parking Violations	9,400	65,000	-	74,400
064-1002-523001	Utilities- Electric	-	2,400	-	2,400
064-7455-501010	Salaries- Overtime	-	1,500	-	1,500
064-7455-519200	Contract Services	11,892	53,500	-	65,392
064-7455-531210	Permits, License and Fees	16,100	7,500	-	23,600
064-7455-531260	Credit Card Processing Fees	-	23,000	-	23,000
064-7455-554001	C/O Equipment Other than Vehicles	407,000	-	2,400	404,600
FUND 064	TOTAL REVENUES	9,400	85,500	-	94,900
	TOTAL EXPENDITURES	11,892	87,900	2,400	66,892

An end of year FY23 budget amendment to prepare for the annual audit process.

The City Manager and City Clerk certify budget ordinance amendment 07062023-05 was approved by City Council on July 06, 2023.

TO MAYOR & COUNCIL
APPROVAL: July 06, 2023

FISCAL YEAR 2023
FORM: 07062023-06

BUDGET AMENDMENT

FUND 067

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
067-0000-430901	Stormwater Fee	1,157,000	-	115,000	1,042,000
067-7555-501001	Salaries - Regular	583,553	-	115,000	468,553
067-7555-502005	Group Med & Life Ins	85,714	-	3,715	81,999
067-7555-501002	Salaries - Board/ Part Time/Temp/Aux	710	1,500	-	2,210
067-7555-501010	Salaries - Overtime	6,160	100	-	6,260
067-7555-501011	Salaries - Holiday Pay	460	50	-	510
067-7555-501012	Salaries - Standby Pay	1,500	1,700	-	3,200
067-7555-501014	Salaries - Shift Diff	-	15	-	15
067-7555-501025	Salaries - Uniform/Taxab	750	350	-	1,100
FUND 067	TOTAL REVENUES	1,157,000	-	115,000	1,042,000
	TOTAL EXPENDITURES	678,847	3,715	118,715	563,847

An end of year FY23 budget amendment to prepare for the annual audit process.

The City Manager and City Clerk certify budget ordinance amendment 07062023-06 was approved by City Council on July 06, 2023.

TO MAYOR & COUNCIL

APPROVAL: July 06, 2023

FISCAL YEAR 2023

FORM: 07062023-07

BUDGET AMENDMENT

FUND 068

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
068-0000-430801	Waste Disposal Fees-Residential	1,358,000	-	8,900	1,349,100
068-0000-430802	Waste Disposal Fees-Commercial	201,700	20,000	-	221,700
068-0000-430803	Solid Waste Disposal Tax	3,010	6,500	-	9,510
068-0000-450099	Market Adjustment	-	650	-	650
068-0000-460001	Miscellaneous Income	1,800	-	1,800	-
068-7855-501011	Salaries - Holiday Pay	24,945	-	6,240	18,705
068-1521-501010	Salaries - Overtime	-	2,600	-	2,600
068-1521-501011	Salaries - Holiday Pay	-	30	-	30
068-1521-501012	Salaries - Standby Pay	-	10	-	10
068-1521-501025	Salaries - Uniform/Taxab	-	100	-	100
068-1521-502005	Group Med & Life Ins	5,954	400	-	
068-1521-502091	Worker's Comp Ins	1,030	500	-	1,530
068-7855-501001	Salaries - Regular	656,403	16,000	-	672,403
068-7855-501025	Salaries - Uniform/Taxab	2,600	350	-	2,950
068-7855-505001	Fica Tax Expense	50,364	1,100	-	51,464
068-7855-502091	Worker's Comp Ins	24,691	1,600	-	26,291
FUND 068	TOTAL REVENUES	1,564,510	27,150	10,700	1,580,960
	TOTAL EXPENDITURES	765,986	22,690	6,240	776,081

An end of year FY23 budget amendment to prepare for the annual audit process.

TO MAYOR & COUNCIL
APPROVAL: July 06, 2023

FISCAL YEAR 2023
FORM: 07062023-08

BUDGET AMENDMENT

FUND 310					
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
301-0000-420050	Grant Revenue	226,442	-	90,036	136,406
301-0000-470100	Transfer In	627,547	-	126,917	500,630
301-1400-501001	Salaries - Regular	581,211	-	189,818	391,393
301-1400-501002	Salaries - Board/ Part Time/Temp/Aux	-	383	-	383
301-1400-501010	Salaries - Overtime	-	39,138	-	39,138
301-1400-501011	Salaries - Holiday Pay	28,808	-	10,185	18,623
301-1400-501013	Salaries - Halftime	-	17,824	-	17,824
301-1400-502001	Fica Tax Expense	46,666	-	11,572	35,094
301-1400-502005	Group Med & Life Ins	106,671	-	28,166	78,505
301-1400-502050	Retirement Expense	74,056	-	17,980	56,076
301-1400-502091	Worker's Comp	16,577	-	16,577	-
FUND 310	TOTAL REVENUES	853,989	-	216,953	637,036
	TOTAL EXPENDITURES	853,989	57,345	274,298	637,036
An end of year FY23 budget amendment to prepare for the annual audit process.					
The City Manager and City Clerk certify budget ordinance amendment 07062023-08 was approved by City Council on July 06, 2023.					

TO MAYOR & COUNCIL
APPROVAL: July 06, 2023

FISCAL YEAR 2023
FORM: 07062023-09

BUDGET AMENDMENT

FUND 410					
ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
410-0000-470100-19019	Transfer In (from 010)	265,529	200,000	-	465,529
410-0000-420050-19019	Grant Revenue (Stormwater)	70,000	-	-	70,000
410-0000-470010-19019	Bond Proceeds (2022 IFC)	13,691,943	-	-	13,691,943
410-1002-550102-19019	Capital Outlay - Services and Fees	-	-	-	-
410-1002-550103-19019	Capital Outlay - CIP	14,027,472	200,000	-	14,227,472
FUND 410	TOTAL REVENUES	14,027,472	200,000	-	14,227,472
(Fire Station #1)	TOTAL EXPENDITURES	14,027,472	200,000	-	14,227,472
410-0000-470010-19019	Bond Proceeds (2022 IFC)	652,204	-	-	652,204
410-1002-550103-19019	Capital Outlay - CIP	652,204	-	-	652,204
FUND 410	TOTAL REVENUES	652,204	-	-	652,204
(Temp. Fire Station)	TOTAL EXPENDITURES	652,204	-	-	652,204
410-0000-460090-21019	Contribution (Henderson County)	100,000	-	-	100,000
410-0000-460090-21019	Contribution (Other Agencies)	17,500	-	-	17,500
410-0000-470010-21019	Bond Proceeds (2022 IFC)	2,157,853	-	-	2,157,853
410-0000-470100-21019	Transfer In (From 010)	-	25,000	-	25,000
410-1002-550103-21019	Capital Outlay - CIP	2,275,353	25,000	-	2,300,353
FUND 410	TOTAL REVENUES	2,275,353	25,000	-	2,300,353
(Edwards Park)	TOTAL EXPENDITURES	2,275,353	25,000	-	2,300,353
410-0000-470010-19021	Bond Proceeds (2022 IFC)	1,500,000	-	-	1,500,000
410-1400-550103-19021	Capital Outlay - CIP	1,500,000	-	-	1,500,000
FUND 410	TOTAL REVENUES	1,500,000	-	-	1,500,000
(Replace HFD Ladder)	TOTAL EXPENDITURES	1,500,000	-	-	1,500,000
410-0000-470010-19020	Bond Proceeds (2022 IFC)	800,000	-	-	800,000
410-1400-550103-19020	Capital Outlay - CIP	800,000	-	-	800,000
FUND 410	TOTAL REVENUES	800,000	-	-	800,000
(Replace HFD Engine)	TOTAL EXPENDITURES	800,000	-	-	800,000
2022 Installment Financing Subtotal		18,802,000			
Other Financing Sources Subtotal		678,029			
Total Project Revenues (19019, 19020, 19021, and 21019)		19,480,029			
Total Project Appropriation (19019, 19020, 19021, and 21019)		19,480,029			
An end of year FY23 budget amendment to prepare for the annual audit process.					
The City Manager and City Clerk certify budget ordinance amendment 07062023-09 was approved by City Council on July 06, 2023.					

TO MAYOR & COUNCIL
APPROVAL: July 06, 2023

FISCAL YEAR 2023
FORM: 07062023-10

BUDGET AMENDMENT

FUND 010 468					
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-1502-519200	Contracted Services	30,000	-	18,065	11,935
010-1523-531600	Lease/Rental Equipment	6,000	-	6,000	-
010-1523-524010	R&M Buildings	43,950	-	18,000	25,950
010-1523-524020	R&M Equipment	16,000	-	5,000	11,000
010-1523-554001	C/O - Equipment	25,000	-	2,000	23,000
010-0000-598901	Transfer Out (to 468, #VE024)	3,497,988	49,065	-	3,547,053
FUND 010	TOTAL REVENUES	-	-	-	-
	TOTAL EXPENDITURES	-	49,065	49,065	-
468-0000-470010-VE024	Debt Proceeds (Vehicle & Equip. Loan)	500,000	-	-	500,000
468-0000-470100-VE024	Transfer In (from 010)	-	49,065	-	49,065
468-7855-554002-VE024	C/O-Vehicles (14-18, 3500 Series)	75,000	-	-	75,000
468-7855-554001-VE024	C/O-Equipment (61-17 Leaf Machine)	125,000	49,065	-	174,065
468-7855-554001-VE024	C/O-Equipment (Waste Truck)	300,000	-	-	300,000
FUND 468 (Env. Services, Leaf Machine)	TOTAL REVENUES	500,000	49,065	-	549,065
	TOTAL EXPENDITURES	500,000	49,065	-	549,065
A amendment transferring \$49,065 of FY23 budget to the Environmental Services Capital Project Fund (468, FY24 Vehicle and Equipment Project, #VE024) for the acquisition of a leaf machine replacement (safety priority) with a higher than anticipated cost to purchase. The new leaf machine acquisition budget is \$174,065.					
The City Manager and City Clerk certify budget ordinance amendment 07062023-10 was approved by City Council on July 06, 2023.					

TO MAYOR & COUNCIL
APPROVAL: July 06, 2023

FISCAL YEAR 2023
FORM: 07062023-11

BUDGET AMENDMENT

FUND 410					
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
410-0000-470010-21017	Debt Proceeds (2023 IFC)	3,000,000	3,425,000	-	6,425,000
410-1002-550103-21017	Debt Proceeds (Vehicle & Equip. Loan)	3,000,000	3,425,000	-	6,425,000
FUND 410 (City Hall & Ops Reno.)	TOTAL REVENUES	-	3,425,000	-	6,425,000
	TOTAL EXPENDITURES	-	3,425,000	-	6,425,000
An amendment increasing the budget for the City Hall and Operations Renovation Project (#21017) to reflect the debt proceeds from the 2023 installment financing contract and corresponding expenditure budget of \$6,425,000.					
The City Manager and City Clerk certify budget ordinance amendment 07062023-11 was approved by City Council on July 06, 2023.					

TO MAYOR & COUNCIL
APPROVAL: July 06, 2023

FISCAL YEAR 2024
FORM: 07062023-12

BUDGET AMENDMENT

FUND 010					
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-470900	Fund Balance Appropriated	2,614,519	42,000	-	2,656,519
010-1001-540001	Special Appropriations	264,709	42,000	-	306,709
FUND 010	TOTAL REVENUES	-	42,000	-	2,656,519
	TOTAL EXPENDITURES	-	42,000	-	306,709
A budget amendment appropriating \$42,000 of General Fund (010) fund balance for an appropriation to HandsOn as allowable by the City's existing contract (special appropriations, year 3) following receipt of an annual report and discussion by HandsOn.					
The City Manager and City Clerk certify budget ordinance amendment 07062023-12 was approved by City Council on July 06, 2023.					

TO MAYOR & COUNCIL
APPROVAL: July 06, 2023

FISCAL YEAR 2024
FORM: 07062023-13

BUDGET AMENDMENT

FUND 010					
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-460090	Contribution/Donation	-	25,000	-	25,000
010-1502-553000	C/O - Land Improvements	-	25,000	-	25,000
FUND 010	TOTAL REVENUES	-	25,000	-	25,000
	TOTAL EXPENDITURES	-	25,000	-	25,000
A budget amendment increasing grant revenues in the General Fund related to a community garden project. The City has received \$25,000 of contribution from the Healthy Babies Bright Future non-profit organization. The \$25,000 will be used to fund the construction of new garden beds, soil, landscaping, fencing, and hardscape for an ADA compliant community garden. The City will partner with other volunteer agencies to complete the project.					
The City Manager and City Clerk certify budget ordinance amendment 07062023-13 was approved by City Council on July 06, 2023.					

TO MAYOR & COUNCIL
APPROVAL: July 06, 2023

FISCAL YEAR 2024
FORM: 07062023-14

BUDGET AMENDMENT

FUND 010					
ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-470900	Fund Balance Appropriated	2,656,519	60,000	-	2,716,519
010-1002-551000	C/O - Land/Easement/ROW	-	60,000	-	60,000
FUND 010	TOTAL REVENUES	-	60,000	-	2,716,519
	TOTAL EXPENDITURES	-	60,000	-	60,000
A budget amendment for the acquisition of city property using \$60,000 of FY24 Fund Balance.					
The City Manager and City Clerk certify budget ordinance amendment 07062023-14 was approved by City Council on July 06, 2023.					

TO MAYOR & COUNCIL
APPROVAL: July 06, 2023

FISCAL YEAR 2024
FORM: 07062023-15

BUDGET AMENDMENT

FUND 010

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-460090	Contribution/Donation	25,000	20,000	-	45,000
010-1525-553000	C/O - Land Improvements	55,000	20,000	-	75,000
FUND 010	TOTAL REVENUES	-	20,000	-	45,000
	TOTAL EXPENDITURES	-	20,000	-	75,000

A budget amendment increasing General Fund Contributions/Donations revenue by \$20,000 to reflect the receipt of a contribution. The contribution increases the disc golf budget to \$45,000.

The City Manager and City Clerk certify budget ordinance amendment 07062023-15 was approved by City Council on July 06, 2023.

TO MAYOR & COUNCIL

APPROVAL: July 06, 2023

FISCAL YEAR 2024

FORM: 07062023-16

BUDGET AMENDMENT

FUND 459 | 460

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
459-0000-470900	Fund Balance Appropriated	-	133,780	-	133,780
459-0000-598901	Transfer Out (to 460, #21045)	-	133,780	-	133,780
FUND 459	TOTAL REVENUES	-	133,780	-	133,780
	TOTAL EXPENDITURES	-	133,780	-	133,780
460-0000-470100-21045	Transfer In (from 459)	-	133,780	-	133,780
460-0000-470100-21045	Transfer In (from #G2204)	1,450,000	39,712	-	1,489,712
460-1014-550103-21045	Capital Outlay CIP	1,450,000	173,492	-	1,623,492
FUND 460	TOTAL REVENUES	1,450,000	173,492	-	1,623,492
	TOTAL EXPENDITURES	1,450,000	173,492	-	1,623,492
460-0000-470100-16023	Transfer In (from'22 NCDEQ, #G2204)	3,550,000	-	39,712	3,510,288
460-0000-470100-16023	Transfer In (from 459)	400,000	-	-	400,000
460-1014-550103-16023	Capital Outlay CIP	3,550,000	-	39,712	3,510,288
460-1014-550102-16023	Capital Outlay Services and Fees	400,000	-	-	400,000
FUND 460	TOTAL REVENUES	3,950,000	-	39,712	3,910,288
	TOTAL EXPENDITURES	3,950,000	-	39,712	3,910,288

A budget amendment transferring \$133,780 from the Capital Reserve Fund (459) to the Water & Sewer Capital Project Fund (460) for the Wastewater Treatment Aeration Basin Repair Project (21045). This amendment also reallocates \$39,712 of ARPA grant funds from the Wastewater Treatment UV Project (16023) to the Aeration Basin Repair Project (21045). The adjustment of the grant revenue is allowable via the grant contract.

The City Manager and City Clerk certify budget ordinance amendment 07062023-16 was approved by City Council on July 06, 2023.

G. Utility Extension Agreement for the Townes at Martha Kate Subdivision – *Brendan Shanahan, Project Division Manager*

Resolution #R-23-77

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION AGREEMENT WITH TOWNES AT MARTHA KATE, LLC FOR THE TOWNES AT MARTHA KATE SUBDIVISION

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 and gravity sewer service as a part of their development projects; and

WHEREAS, the Developer extends public water and gravity 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 processes; and

WHEREAS, Townes At Martha Kate, LLC, the “Developer” and “Owner”, will enter into a Utility Extension Agreement with the City to provide water and sewer services to the Townes At Martha Kate Subdivision.

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

1.

The Utility Extension Agreement with Townes At Martha Kate, LLC, the “Developer” and “Owner” to provide water service to the Townes At Martha Kate Subdivision 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.
4.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 6th day of July, 2023.

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

H. Disc Golf Capital Project Ordinances and Reimbursement Resolution – Jennifer Floyd, Budget and Management Analyst

Ordinance #O-23-42

**CAPITAL PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF
THE DISC GOLF PROJECT, #24001**

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

Section 1: The project authorized is a City project described as the Disc Golf Project, #24001.

Section 2: The following amounts are appropriated for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
410	1502	550103	24001	Capital Outlay - CIP	\$45,000
Total Project Appropriation					\$45,000

Section 3: The following revenues are anticipated to be available for the project:

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
410	0000	470100	24001	Transfer In (From 010)	\$25,000
410	0000	460090	24001	Contribution/Donation	\$20,000
Total Project Appropriation					\$45,000

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

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

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

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

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

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this 6th day of July, 2023.

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

I. Seventh Avenue Brooklyn Community Garden Expansion & Revitalization – Caitlyn Gendusa, Sustainability Manager

Resolution #R-23-79

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL
ACCEPTING A GRANT FROM THE HEALTHY BABIES BRIGHT FUTURES
FOR THE EXPANSION AND REVITALIZATION OF THE SEVENTH AVENUE BROOKLYN
COMMUNITY GARDEN**

WHEREAS, Healthy Babies Bright Futures has established a grant that provides funding to municipalities for implementing projects that increase primarily organic food access to communities; and

WHEREAS, the City of Hendersonville has the Seventh Avenue Brooklyn Community Garden which serves a historically underserved yet vibrant and engaged community located adjacent to Sullivan Park; and

WHEREAS, the City of Hendersonville, in particular its Public Works Department, Sustainability Division applied for a grant from the Healthy Babies Bright Futures to expand and revitalize the Brooklyn Community Garden to increase access of fresh, local foods for an increased quality of life for all Hendersonville residents, especially mothers and infants who reap significant benefits of a diet rich in fresh, organic fruits and vegetables; and

WHEREAS, the City has been awarded \$25,000.00 by Healthy Babies Bright Futures to be used for the Allowable Purposes; and

WHEREAS, the City of Hendersonville desires to accept the grant funds, and authorize the execution of the grant funding agreement;

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

1. The City hereby accepts the grant from Healthy Babies Bright Futures to be used for the Allowable Purposes; and
2. The City Manager is authorized to execute the Grant Agreement, with such changes as he deems appropriate, provide they are consistent with the terms of this Resolution;
3. City Staff are authorized and directed to proceed with the expansion and revitalization of the Brooklyn Community Garden for the Allowable Purposes.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 6th day of July, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

J. Amending and Combining the Service Recognition Guidelines and Active Employee Service Awards – Jennifer Harrell, HR Director

K. Amendment to the Hendersonville Code of Ordinances to Reduce the Collections Period for Certain Billing Errors – John Buchanan, Finance Director

Ordinance #O-23-43

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND SECTIONS 44-51, 52-55 AND 24-253 OF THE CODE OF ORDINANCES TO SHORTEN THE PERIOD OF COLLECTION FOR CERTAIN BILLING ERRORS

WHEREAS, the City of Hendersonville operates a water and sewer utility, providing collection and treatment services for a specified fee; and

WHEREAS, the City also provides certain solid waste collection services for a fee; and

WHEREAS, from time to time, utility accounts and solid waste collection accounts are underbilled, incorrectly billed, or not billed through no fault of the account customer ; and

WHEREAS, City Council wishes to shorten the time frame for backbilling of customers who were either underbilled, incorrectly billed, or not billed through no fault of their own.

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

1. Chapter 52, Utilities, Article II, Rates and Charges, Section 52-55 of the Code of Ordinances for the City of Hendersonville, Correction or Errors, shall be amended as follows:

Sec. 52-55. Correction of errors.

Failure to receive a utility service fee bill is not justification for nonpayment. If it is determined that a customer has been billed incorrectly, a corrective bill will be issued. If the customer has been overbilled, the City will issue a corrective bill for the entire determinable period of the overbill. If the customer has been underbilled or not billed, the City will process a corrective bill for up to one year of the underbilled/not billed charges.

~~The owner of each parcel of land shall be obligated to pay such fee. If a customer is under-billed or if no bill is sent, the city may process a corrective bill to the owner up to two years. Adjustments shall be made to correct clerical and/or computer errors. If a customer is incorrectly billed, or not billed, or a bill is sent to the wrong party, the city may corrective bill the customer for the lesser of the actual period up to a two-years for utility charges. Similarly, in the event customers are charged for services due to city error, a credit~~

~~adjustment will be allowed only for amounts paid by the customer for charges incurred within the prior two years for utility charges.~~

2. Chapter 44, Environmental Services, Article II, Collection and Disposal, Section 44-51 of the Code of Ordinances for the City of Hendersonville, Rate Schedule, shall be amended as follows:

Sec. 44-51. Rate schedule.

Charges for collection of solid waste shall be set from time to time, and a schedule of such charges is on file and available in the city clerk's office. All solid waste accounts must be processed through a water bill account or like collection program. Section 52-55 of the Code of Ordinances shall apply to the collection of solid waste charges and fees.

3. Chapter 24, Floods, Article IV, Stormwater Utility, Division 2, Establishment of Stormwater Service Charges and Credits, Section 24-253 of the Code of Ordinances for the City of Hendersonville, Billing Method, responsible parties, shall be amended as follows:

Sec. 24-253. Billing method, responsible parties.

Bills for stormwater service shall be sent at regular, periodic intervals, which may range from monthly to yearly. Where a property owner is also receiving water and/or sewer services from the city, stormwater service charges may be billed on a combined utility bill that also contains charges for water and/or sewer service. Section 52-55 of the Code of Ordinances shall apply to the collection of stormwater charges and fees.

4. This Ordinance shall be effective, retroactive to June 1, 2023.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 6th day of July, 2023.

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

L. Creation of Public Services Position – John Connet, City Manager

M. Resolution of Support for Low Income Housing Tax Credits for White Pines Villas Development – John Connet, City Manager

Resolution #R-23-80

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SUPPORT THE FEDERAL TAX CREDIT APPLICATION FOR WHITE PINE VILLAS

WHEREAS, WDT Development, LLC has submitted a federal tax credit application to the North Carolina Housing Finance Agency for White Pine Villas, Application #APP23-0037; and

WHEREAS, White Pine Villas consists of seventy-eight (78) multi-family housing units on Chimney Rock Road (U.S. 64 East); and

WHEREAS, the Bowen Research Report indicates that Henderson County has 99.8% occupancy rate for multi-family projects, 453 families on rental housing wait lists and 42.8% of renters are cost burdened; and

WHEREAS, the City Council has a core belief that it must pursue and provide opportunity for responsible growth in order to generate affordable housing options and reduce the impacts of high cost of living within our community.

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

1. The City Council supports WDT Corporation’s application for federal tax credits and requests that the North Carolina Housing Finance Agency give the application serious consideration for approval.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 6th day of July, 2023.

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

N. Resolution of Support for Low Income Housing Tax Credits for Apple Ridge Housing Development - John Connet, City Manager

Resolution #R-23-81

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SUPPORT THE FEDERAL TAX CREDIT APPLICATION FOR APPLE RIDGE DEVELOPMENT

WHEREAS, Housing Assistance Corporation has submitted a federal tax credit application to the North Carolina Housing Finance Agency for Apple Ridge Apartments and Subdivision, Application #APP23-0134; and

WHEREAS, Apple Ridge consists of sixty (60) multi-family housing units and twenty (20) single family units on Sugarloaf Road; and

WHEREAS, the Bowen Research Report indicates that Henderson County has 99.8% occupancy rate for multi-family projects, 453 families on rental housing wait lists and 42.8% of renters are cost burdened; and

WHEREAS, the City Council has a core belief that it must pursue and provide opportunity for responsible growth in order to generate affordable housing options and reduce the impacts of high cost of living within our community.

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

- 1. The City Council supports Housing Assistance Corporation’s application for federal tax credits and requests that the North Carolina Housing Finance Agency give the application serious consideration for approval.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 6th day of July, 2023.

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

6. PRESENTATIONS

A. Resolution Honoring the Retirement of Utilities Director Lee Smith – John Connet, City Manager

Mayor Volk read the resolution aloud and presented Lee with a rocking chair for his retirement. Everyone wished him well.

Resolution #R-23-72

RESOLUTION OF THE CITY OF HENDERSONVILLE
HONORING LEE SMITH, UTILITIES DIRECTOR

WHEREAS, Lee Smith has announced his intention to retire as City of Hendersonville as the Director of the City’s Water and Sewer Department, effective July 31, 2023; and

WHEREAS, Lee Smith will depart leaving behind an impressive legacy of public service to Hendersonville and surrounding Henderson County, organizing, directing, and managing the day-to-day operations of the utility; and

WHEREAS, Lee Smith has had several noteworthy accomplishments during his tenure as City of Hendersonville Utilities Director and oversaw the growth and expansion of the utility from 2005 to the present; and

WHEREAS, the number of businesses and homes connected to the water system increased from approximately 22,000 to over 31,000 and the water system grew from approximately 500 miles of pipe to over 680 miles of pipe; and

WHEREAS, the number of businesses and homes connected to the sewer system increased from approximately 6,800 to over 10,000 and the sewer system grew from approximately 135 miles of pipe to over 180 miles of pipe; and

WHEREAS, full-time personnel supporting the utility grew from 66 employees to 96 employees and the annual operating budget increased from \$14.2 million to \$24.2 million; and

WHEREAS, Lee Smith ensured the provision of a high-level of water and sewer service to the community in an operationally and financially efficient manner; and

WHEREAS, Lee Smith led the utility through several notable improvement projects including but not limited to: water treatment facility renovation, advanced metering infrastructure implementation, French Broad River water intake, Etowah and Fletcher area water improvements, sewer treatment facility equipment replacements/upgrades, Jackson Park sewer interceptor; and

WHEREAS, Lee Smith developed and oversaw the implementation of utility policies, long-range plans, procedures and standards and prepared and administered many years of annual utility operating budgets.

NOW, THEREFORE, BE IT RESOLVED, by the City Council off the City of Hendersonville, on behalf of the citizens and employees of Hendersonville, that the Mayor and City Council extend to Lee Smith, their sincere appreciation for all of his loyal and dedicated service to the betterment of the City of Hendersonville for the past 18 years.

ADOPTED this 6th day of July, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

B. Resolution Awarding Retiring Captain Tracey Cox with his Badge & Service Sidearm – Blair Myhand, Police Chief

Mayor Volk read the resolution aloud and, along with Chief Myhand, presented Captain Tracey Cox with his badge and sidearm.

Resolution #R-23-82

RESOLUTION TO RECOGNIZE DISTINGUISHED SERVICE TO THE CITY OF HENDERSONVILLE AND AWARDING OF SERVICE SIDE ARM

WHEREAS, North Carolina General Statutes 20-187.2 provides that retiring members of law enforcement agencies may receive, at the time of their retirement, the badge worn or carried by them during their service; and

WHEREAS, NCGS 20-187.2 further provides that the governing body of the governing law enforcement agency may, at its discretion, award to a retiring member their service side arm, at a price determined by such governing body, upon determining that the person receiving the weapon is not ineligible to own, possess, or receive a firearm under the provisions of State or federal law; and

WHEREAS, the City of Hendersonville hereby recognizes **30 years** of distinguished service by **Captain Tracey Duane Cox** for the City of Hendersonville and its residents; and

WHEREAS, the City of Hendersonville wishes to recognize **Captain Tracey Cox's** service in a manner that is customary for persons retiring from distinguished law enforcement service; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville that the City of Hendersonville hereby awards to **Captain Tracey Duane Cox his service side arm, Glock model 19, 9 mm, serial number WSZ969**, for a cost of \$1.00 as determined in the Policy for the Granting of Badges and Service Side Arms for Sworn Law Enforcement Officers, as a token of appreciation for his many years of service and dedication to the City of Hendersonville and its residents.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 6th day of July, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

C. NCLTAP Road Scholar Awards – Tom Wooten, Director of Public Works

Tom Wooten introduced Frank Tankersley and Stacy Redden successfully completed the NC LTAP Road Scholar Program. The Road Scholar Program is a professional development opportunity offered by the North Carolina Local Technical Assistance Program at ITRE. The purpose of the program is to recognize local government personnel who have significantly increased their knowledge of road maintenance procedures and improve their technical and managerial skills. By successfully completing 7 Road Scholar courses offered through the center, they have earned this professional distinction for themselves and for the City of Hendersonville.

D. SHARP Designation Fire Station #2 (Recertification) – Steve Alverson, Risk & Safety Officer

Steve Alverson explained that on June 3rd 2021 the City of Hendersonville's Fire Department Station #2 was awarded the SHARP designation. This achievement must be maintained and reevaluated every 2 years by OSHA's consultative services. On May 4th, 2023 consultative services revisited Station#2 and completed a safety inspection, reviewed related injuries /accidents, and evaluated our safety programs and procedures. The purpose of these reevaluation

periods are to insure we are continually improving our safety initiatives and reducing the number of injuries to our employees. On May 24th we were notified that we had successfully passed the recertification process and would retain the SHARP designation for 2 more years. N.C. Department of Labor's SHARP Recognition Program (Safety and Health Achievement and Recognition Programs) is administered through its Consultative Services Bureau of the Occupational Safety and Health Division. The SHARP Program is designed for small and mid-size employers that have established, implemented and maintained exceptional workplace safety standards. SHARP (Public Sector) is a program that recognizes certain categories of public sector employers who have developed and maintained effective safety and health programs. Current categories include: school maintenance, public works, sheriff and police, public utilities, fire, EMS, and parks and recreation. Currently, there are only 155 SHARP-designated entities in North Carolina including Construction, Private and Public Sectors, and only fifteen of these entities are fire stations included in the Public Sector Recognition Program.

7. PUBLIC HEARINGS

A. **Rezoning: Standard Rezoning (Initial Zoning) – Blue Ridge Commerce Center (P23-46-RZO) – Tyler Morrow, Planner II**

The City Council annexed the subject property at their June 1st, 2023 meeting. The County zoning can remain in effect on the subject property for 60 days after the annexation. The City Planning Department is proposing that the initial City zoning of this property should be City of Hendersonville I-1. The property is currently zoned Henderson County Industrial. The City of Hendersonville Zoning Ordinance states that, during a standard rezoning process, an applicant is prohibited from discussing the specific manner in which they intend to develop or use a site. However, the developer of this property does have previously vested rights through approvals obtained through Henderson County Planning, Building Inspections for two of the parcels. If rezoned, all permitted uses within the I-1 district would be allowed on the site. Duke Energy selected the subject property as one of 9 properties included in the 2021 Duke Energy Site Readiness Program. <https://news.duke-energy.com/releases/duke-energy-helps-communities-across-north-carolina-prepare-sites-to-bring-local-investment-jobs>

The City Clerk confirmed this public hearing has been advertised in accordance with North Carolina General Statutes.

The public hearing was opened at 6:30 p.m.

Brittany Brady spoke in favor of this rezoning.

Tim Brent, Executive Vice President of Oppidan Investment Company gave an overview of where they're at with the property.

Lynne Williams spoke against the rezoning.

Ken Fitch via Zoom electronic software spoke for the rezoning.

The public hearing was closed at 6:42 p.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: 9588-31-1844, 9588-22-8495, 9588-23-9432, 9588-23-3192, 9588-13-8975) from Henderson County Industrial 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 the public hearing, and because:

The Regional Activity Center and Business Center designations' Recommended Primary and Secondary Land Uses generally align with uses permitted in the I-1 zoning district and the property is located in an area designated as a priority growth area.

2. 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:

1. *The proposed I-1 zoning district is compatible with the current Henderson County Zoning and Future Land Use Designations.*
2. *The proposed I-1 zoning allows for a wide range of uses that align with similar types of developments in this area.*
3. *The proposed I-1 zoning provides the City with industrial zoning fronting the I-26 corridor.*

A unanimous vote of the Council followed. Motion carried.

Ordinance #O-23-44

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR 337 MCMURRAY ROAD, 117 MCABEE COURT, 118 MCABEE COURT, 405 MCABEE COURT, and 542 MCABEE COURT (PARCEL NUMBERS: 9588-31-1844, 9588-22-8495, 9588-23-3192, 9588-13-8975, 9588-23-9432) BY CHANGING THE ZONING DESIGNATION FROM HENDERSON COUNTY INDUSTRIAL TO CITY OF HENDERSONVILLE I-1 (INDUSTRIAL)

IN RE: Parcel Numbers: 9588-31-1844, 9588-22-8495, 9588-23-3192, 9588-13-8975, 9588-23-9432
Blue Ridge Commerce Center
(File # P23-46-RZO)

WHEREAS, the City is assigning initial zoning to newly satellite annexed properties, and

WHEREAS, the Planning Board took up this application at its regular meeting on June 8th, 2023; split voting 3-3 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville by zoning these properties I-1 Industrial (dissenting votes recommended CHMU), and

WHEREAS, City Council took up this application at its regular meeting on July 6th, 2023, and

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 9588-31-1844, 9588-22-8495, 9588-23-3192, 9588-13-8975, 9588-23-9432 from Henderson County Industrial to City of Hendersonville I-1 (Industrial)
2. Any development of the parcels 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 6th day of July 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

B. Rezoning: Standard Rezoning – 2511 Asheville Hwy (P23-024-RZO) – Alexandra Hunt, Planner I

Alex Hunt explained that the City of Hendersonville is in receipt of an application for a Standard Rezoning from Shane Laughter [Applicant] and Ronnie Gray [Owner]. The applicant is requesting to rezone the proposed property as shown in Exhibit A (PINs: 9569-39-8890 and a portion of 9569-49-0448) totaling approximately 4.54 acres located at 2511 Asheville Highway, from C-3 Highway Business and R-15 Medium Density Residential, to C-3 Highway Business. The City of Hendersonville Zoning Ordinance states that, during a standard rezoning process, an applicant is prohibited from discussing the specific manner in which they intend to develop or use a site. If rezoned, there will not be a binding site plan, list of uses nor any conditions placed on the site. All permitted uses within the C-3 district would be allowed on the site.

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

Lynne Williams spoke against the rezoning.

The public hearing was closed at 6:56 p.m.

Council Member Jerry Smith moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the proposed property boundary as shown in Exhibit A (PINs: 9569-39-8890 and a portion of 9569-49-0448 from R-15 (Medium Density Residential) and C-3 (Highway Business) to C-3 (Highway Business) 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 the public hearing, and because:

1. The High Intensity Neighborhood designation calls for single-family attached as a primary land use; and public uses, offices and retail along thoroughfares as a secondary land uses and the proposed zoning district permits single-family residential uses as well as offices, business, professional and public and retail uses.

2. 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:

1. The proposed zoning district is compatible with the surrounding area because the proposed area to be rezoned permits the same land uses as parcels that front Asheville Hwy.

2. The petition eliminates an existing legal non-conforming use.

3. The topography of the site is oriented to a major commercial artery.

4. The petition creates the opportunity for commercial infill development.

A unanimous vote of the Council followed. Motion carried.

8. UNFINISHED BUSINESS

A. Fats Oils and Grease (FOG) Management Policy – Lee Smith, Utilities Director and Kasey Sudderberg, Environmental Compliance Technician

Lee Smith explained that the discharge of fats, oils, and grease (FOG) into the City's sanitary sewer system negatively interferes with the collection system, impairs wastewater treatment, and largely contributes to sanitary sewer overflows. The proposed FOG policy establishes requirements for users who discharge significant amounts of FOG into the City sewer in order to protect the system and keep maintenance manageable.

Council Member Jennifer Hensley moved that City Council adopt An Ordinance to Provide Policies and Procedures for the Management of Fats, Oils, and Grease as presented. I further move City Council adopt the City of Hendersonville Policy and Procedures for the Management of Fats, Oils and Grease as presented. A unanimous vote of Council followed.

Ordinance #O-23-46

AN ORDINANCE TO AMEND CHAPTER 52 OF THE CODE OF ORDINANCES OF THE CITY OF HENDERSONVILLE REGARDING THE POLICY AND PROCEDURES FOR THE MANAGEMENT OF FATS, OILS AND GREASE

WHEREAS North Carolina General Statutes Chapter 160A Article 16 ("Public Enterprises") stipulates that the rules for any public enterprise system that the City operates shall be adopted by ordinance and

WHEREAS, the City's official policy for the management of fats, oils and grease (referred to collectively as FOG) is an on-going concern for the protection of the City's sewer collection system and associated appurtenances; and

WHEREAS City staff have made a concerted effort over the past three months to review, update and compile various regulations applicable to the proper management of FOG; and

WHEREAS the policy to be included in this new section represents the culmination of those efforts; and

WHEREAS, City staff presented this to the Water and Sewer Advisory Council at their April 24, 2023 meeting and have updated it to reflect the feedback provided.

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

SECTION 1. This Ordinance shall be known as “An Ordinance to Provide Policies and Procedures for the Management of Fats, Oils, and Grease.”

SECTION 2. Chapter 52 – Utilities, Article V – Wastewater Use, Collection, and Treatment, Division 1 – Generally is hereby amended to add the following definition:

Sec. 52-167 – Definitions.

Mobile Food Unit means any self-contained mobile kitchen that is equipped to prepare and/or sell consumable food or drink items; a food establishment designed to be readily moved and vend food.

SECTION 3. Chapter 52 – Utilities, Article V – Wastewater Use, Collection, and Treatment, Division 4 – General Use Requirements is hereby amended to add the following strength limitation:

Sec. 52-249 – General discharge limitations (local limits).

<u>100</u>	<u>mg/l grease</u>
------------	--------------------

SECTION 4. The following sections to be added to Chapter 52 – Utilities, Article V – Wastewater Use, Collection, and Treatment, Division 4 – General Use Requirements are hereby adopted:

Sec. 52-258. – Policy and Procedures for the Management of Fats, Oils and Grease

- (a) The POTW Director shall develop and keep current the Policy and Procedures for the Management of Fats, Oils and Grease (“FOG Policy”).
- (b) All Food Service Establishments and Mobile Food Units connected to, whether permanent or temporary, the City’s sewer collection system shall comply with the FOG Policy.

Sec. 52-259. – Right of Entry, Inspection

- (a) The POTW Director, or their designee, shall have the right to enter upon the property of and FSE subject to this Article and the FOG Policy for the purpose of inspection, determination, and compliance with this Ordinance and the FOG Policy. The POTW Director, or their designee, shall be provided ready access to all parts of the premises for the purpose of inspection, monitoring, records examination, and the performance of any other duties necessary to determine compliance with this Ordinance and the FOG Policy.
- (b) All Grease Interceptors and Grease Traps shall be easily accessible and shall not be obstructed by landscaping, parked vehicles, or other obstructions. Any temporary or permanent obstruction to access to areas necessary for determining compliance with this Ordinance and the FOG Policy shall be promptly removed at the request of the POTW Director, and the failure to remove such obstruction shall be a violation of this Section.

Sec. 52-260. – FOG Policy Remedies and Enforcement

- (a) Any user who violates the FOG Policy shall be subject to the remedies and penalties contained in Division 8 of this Article.
- (b) The POTW Director, or their designee, shall have the authority to enforce the City’s FOG policy.

SECTION 5. Chapter 52 – Utilities, Article V – Wastewater Use, Collection, and Treatment, Division 8 – Enforcement is hereby amended to add the following:

Sec. 52-377. – Civil penalties

- (d) Any user who violates Sections 52-257 through 52-259 of this Chapter may be assessed a civil penalty in accordance with this subsection (d). Each day that any violation continues shall constitute a separate offense. For the purposes of this subsection, repeat violations occur where the City has issued a civil penalty for any violation of Sections 52-257 through 52-259 within a 12-month period. The following penalties are hereby established:
 - (1) First violation: \$250.00
 - (2) Second violation: \$500.00
 - (3) Third and any additional violation: \$1,000.00

SECTION 6. If any provision of this ordinance or its application is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are severable.

SECTION 7. It is the intention of the city council and it is hereby ordained, that the provisions of this ordinance shall become and be made part of the Code of Ordinances, City of Hendersonville, North Carolina, and the sections of this ordinance may be renumbered to accomplish such intention.

SECTION 8. This Ordinance shall be effective upon its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 6th day of July, 2023.

B. Amendments to Chapter 10 – Animals – Daniel Heyman, Staff Attorney

Daniel Heyman explained that the ASAC and Police Department staff have spent significant time since then reviewing Chapter 10 of the Code of Ordinances and have proposed a reorganized Chapter relating to animals. At the June 28, 2023 meeting, the City Council heard a presentation on the proposed Ordinance. The Ordinance is now being presented to the City Council for a first vote. Because the proposed ordinance includes criminal penalties, it will require two votes to become effective.

Council Member Lyndsey Simpson asked to change the word “him” to “them” in Section 10-33(a) and anyplace else that it says “him”, and to change the word “enclosed” to “fenced” in Section 10-65(1).

Council Member Lyndsey Simpson moved that the City Council adopt An Ordinance of the City of Hendersonville City Council to Readopt and Amend Chapter 10 of the Code of Ordinances for the City of Hendersonville with Respect to the Welfare of Animals as amended for its first reading.

9. NEW BUSINESS

A. Ordinance to Authorize the Demolition of 201 Blue Ridge Street – Lew Holloway, Community Development Director

Lew Holloway explained that the structure at 201 Blue Ridge Street has been significantly damaged by fire. The Code Enforcement Officer for the City of Hendersonville has declared the structure unsafe and has attempted to notify the property owner and ordered the structure to be demolished, however, no remedial action has been taken. The structure is especially dangerous and prejudicial to the public health and public safety, because of the property’s liability to fire, the bad condition of its walls, and the collapsed roof. The structure being unoccupied in its damaged condition is likely to contribute to blight, vagrancy, and a danger to children. The damage to the roof and exterior walls of the structure leaves a significant portion of the interior of the structure exposed to elements which will cause a more rapid decay of the portions of the structure that are still standing. The Community Development Department at this time is requesting the City Council adopt an Ordinance ordering the Code Enforcement Officer to have the structure at 201 Blue Ridge Street demolished.

Council Member Debbie O’Neal Roundtree moved that the City Council adopt An Ordinance of the City Of Hendersonville City Council to Order the City Code Enforcement Officer to Demolish 201 Blue Ridge Street, Hendersonville, NC as presented. A unanimous vote of the Council followed. Motion carried.

Ordinance #O-23-48

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO ORDER THE CITY CODE ENFORCEMENT OFFICER TO DEMOLISH 201 BLUE RIDGE STREET, HENDERSONVILLE, NC

IN RE: Patrick N. Robinson
201 Blue Ridge Street
PIN: 9578-35-2617

WHEREAS, Patrick N. Robinson (hereinafter the “Owner”) is the owner of that real property located at 201 Blue Ridge Street, and being more particularly described in that deed recorded in Deed Book 3415 at page 485, Henderson County registry (hereinafter the “Property”); and

WHEREAS, On June 6, 2022, pursuant to Chapter 12; Article II; Sections 12-31 through 12-38 of the Code of Ordinances of the City of Hendersonville (hereinafter called the “Code”), and G.S. 160D-1119, the Code Enforcement Officer of the City of Hendersonville (hereinafter called the “Code Enforcement Officer”) declared

the structure located on the Property unsafe due to excessive fire damage and affixed a notice to the structure declaring the same; and

WHEREAS, after the Owner, failed to take prompt corrective action, the Code Enforcement Officer issued a Complaint and Notice of Hearing on the issue of condemnation; and

WHEREAS, the Code Enforcement Officer attempted to give the Owner notice by certified mail, and caused the Complaint and Notice of Hearing to be posted on the outside of the structure at least 10 days prior to the administrative hearing, and notice to be published in the Hendersonville Times-News at least one week prior to the administrative hearing; and

WHEREAS, on March 9, 2023, the Code Enforcement Officer held an administrative hearing at which neither the Owner nor anyone purporting to be his representative appeared; and

WHEREAS, following the administrative hearing, the Code Enforcement Officer issued an order finding that the condition of the structure located on the Property constitutes a safety hazard and renders it dangerous to life, health, or other property due to the damaged condition of the roof and walls and ordering the Owner to demolish the structure within 60 days; and

WHEREAS, the Owner, after having been given a reasonable opportunity to do so, has failed to comply with the lawful order of the Code Enforcement Officer to demolish the structure located on the premises within the time therein prescribed; and

WHEREAS, pursuant to G.S. 160A-193, the City of Hendersonville has the authority to summarily abate any condition that is dangerous or prejudicial to the public health or public safety and to assess the cost of such abatement to the Owner as a lien against the Property; and

WHEREAS, the Code Enforcement Officer has requested the City Council of the City of Hendersonville to adopt an Ordinance ordering the Code Enforcement Officer to demolish the residential structure located on the Property.

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

1. Pursuant to G.S. 160A-193, G.S. 160D-1125, and Chapter 12, Article II of the Code of Ordinances for the City of Hendersonville, The City Council hereby finds that the premises are especially dangerous and prejudicial to the public health and public safety, because of the property's liability to fire, the bad condition of its walls, and the collapsed roof.
2. The structure being unoccupied in its damaged condition is likely to contribute to blight, vagrancy, and a danger to children.
3. The damage to the roof and exterior walls of the structure leaves a significant portion of the interior of the structure exposed to elements which will cause a more rapid decay of the portions of the structure that are still standing.
4. The Code Enforcement Officer shall cause the structure on the Property, commonly known as 201 Blue Ridge St. Hendersonville, North Carolina, to be vacated, closed, and demolished 30 days from the date of this Ordinance.
5. The cost of the removal or demolition shall be a lien on the Property, and on any other real property owned by the Owner located within the City's planning and development regulation jurisdiction, pursuant to G.S. 160A-193, G.S. 160D-1125, and Sec. 12-37 of the Code of Ordinances for the City of Hendersonville.

Adopted this 6th day of July, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

10. BOARDS/COMMITTEE APPOINTMENTS

Planning Board

Council Member Jerry Smith moved that City Council appoint Donna Waters to serve on the Planning Board, with her term ending December, 2024. A unanimous roll-call vote of the Council followed. Motion carried.

Council Member Jennifer Hensley moved that City Council appoint Beth Robertson to serve on the Planning Board, with her term ending December, 2025. A unanimous roll-call vote of the Council followed. Motion carried.

Council Member Jennifer Hensley moved that City Council appoint Laura Flores to serve on the Planning Board, with her term ending December, 2023. Council Member Smith questioned the nomination because she also serves on the Board of Adjustment.

Council asked the City Clerk to check with Ms. Flores and see if she serves on any other Boards throughout the City and County. They will make the last nomination at their August 9, 2023 meeting.

Business Advisory Committee

Council Member Jerry Smith moved to appoint Adam Justus to serve on the Business Advisory Committee, with his term ending June, 2025. A unanimous roll-call vote of the Council followed. Motion carried.

11. CITY COUNCIL COMMENTS –

Debbie O’Neal-Roundtree announced that the Back-to-School Fest event will be August 26th at Sullivan Park from 11:00 a.m. to 3:00 p.m.

Lyndsey Simpson said that Caitlyn (Sustainability Manager) has been working on the sustainability plan and in about a week or so, she will be reaching out to each of you to see what goals you would like to see achieved in the different buckets that we have which are Energy, Transportation, Waste Management, Land Management and Water. There will also be some public input meetings on Monday, July 17th here in the Operations Center. There will be two sessions, one from 10a-12p and one from 5:30p-7:30p, so if you all would like to stop by, we’ll have one table for each bucket so that you can learn a little more about each thing. At some point, there will also be a survey sent out to people as well, but I encourage folks to come out if you have any ideas on how you want the City to become more sustainable and have more sustainable practices.

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

City Manager Connet said over the next 6-7 months, there will be lots of opportunities for public input with Community Connections, Council Conversations and the Comprehensive Plan, so I encourage the public to participate. The first opportunity will be on Monday, July 17th, the Community Connection workshop is being held in the 2nd Floor Meeting Room at City Hall.

13. CLOSED SESSION

At 7:25 p.m., Council Member Jerry Smith moved that City Council enter closed session pursuant to NCGS § 143-318.11 (a) (1) and (3) 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 consult with an attorney employed or retrained by the public body in order to preserve the attorney-client privilege between the attorney and the public body and to discuss the case of Hendersonville Holdings, LLC v. City of Hendersonville, Henderson County Superior Court File 23-CVS 600.

At 10:31 p.m. Council Member Lyndsey Simpson moved that City Council return to open session. A unanimous vote of the Council followed. Motion carried.

14. ADJOURN

There being no further business, the meeting was adjourned at 10:31 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST:

Jill Murray, City Clerk



MINUTES

July 26, 2023

SECOND MONTHLY MEETING OF THE CITY COUNCIL

CITY OPERATIONS CENTER | 305 WILLIAMS ST. | 4:00 p.m.

Present: Mayor Barbara G. Volk, Mayor Pro Tem Lyndsey Simpson and Council Members: Dr. Jennifer Hensley, Debbie O’Neal-Roundtree and Jerry A. Smith Jr., J.D.

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

1. CALL TO ORDER

Mayor Barbara G. Volk called the meeting to order at 4:03 p.m. and welcomed those in attendance. A quorum was established with all members in attendance.

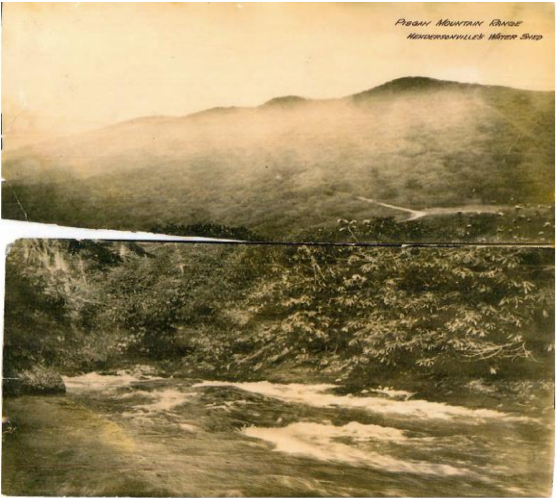
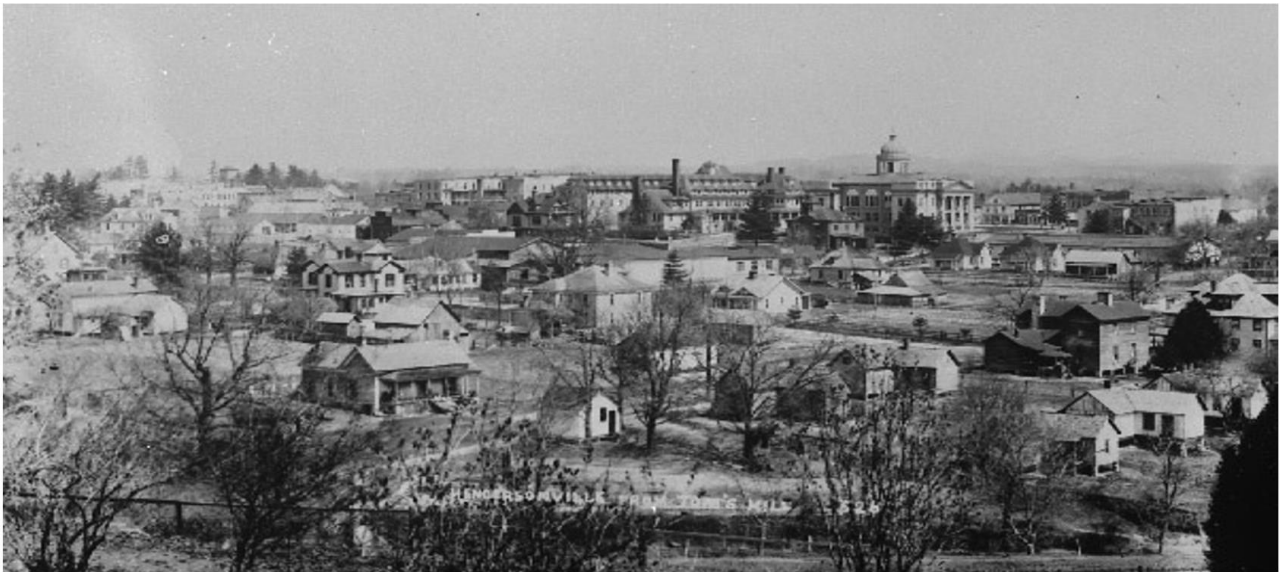
2. CONSIDERATION OF AGENDA

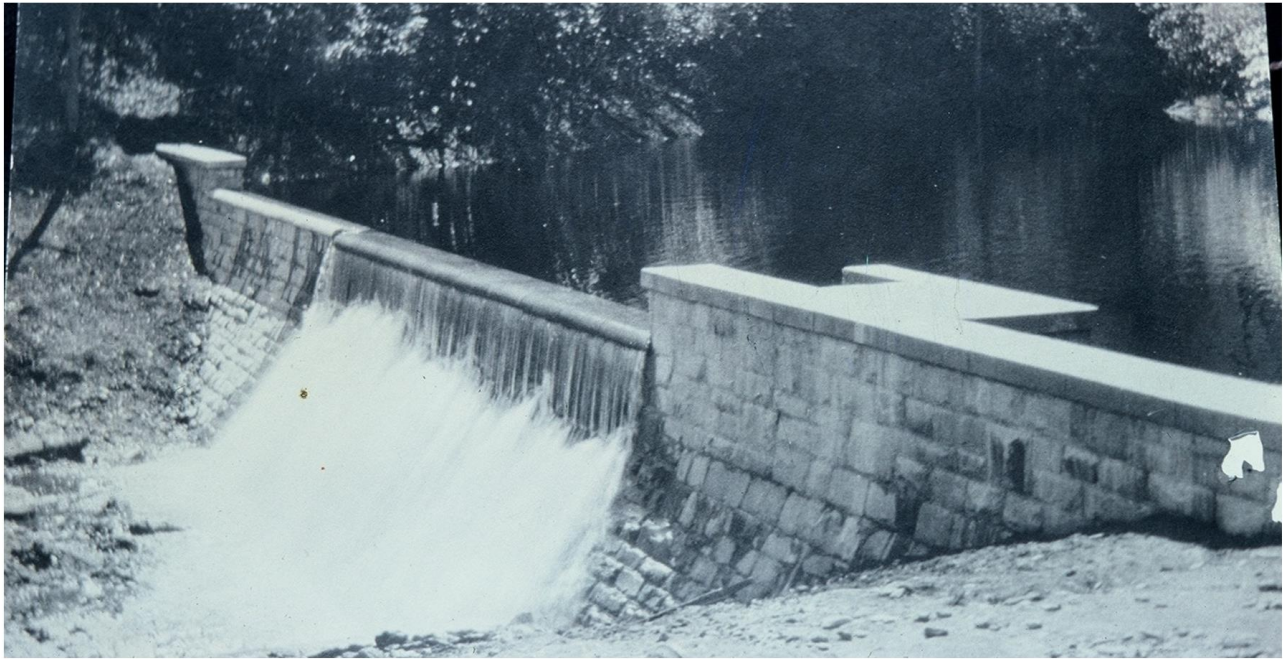
Council Member Jennifer Hensley moved to approve the agenda as presented. A unanimous vote of the Council followed. Motion carried.

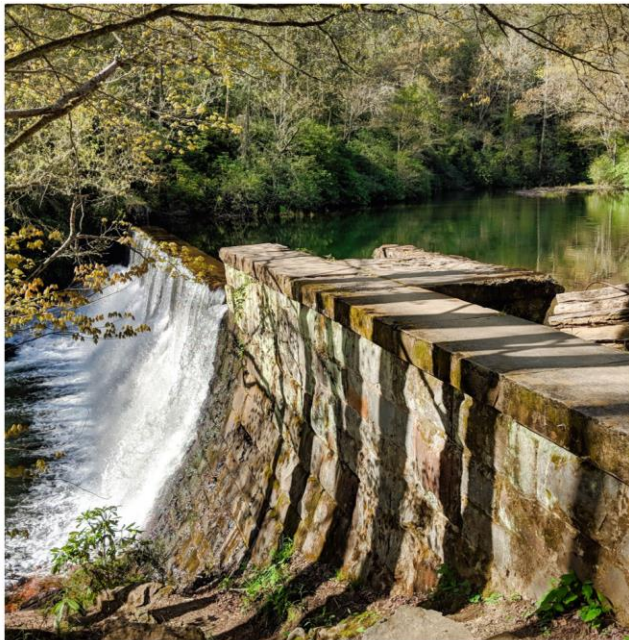
3. PRESENTATIONS

A. **Water and Sewer System 100th Anniversary Celebratory Toast** – Adam Steurer, Utilities Engineer

Adam Steurer explained that July 26th (today) is the 100th Anniversary of Hendersonville’s modern day water system. He showed a brief PowerPoint of how far we’ve come and then Council had a celebratory toast to celebrate the anniversary with Hendersonville’s water.







B. Formation of Community Advisory Committee (CAC) for Comprehensive Plan - Lew Holloway, Community Development Director

City Manager Connet explained that in an effort to provide community-driven feedback over the course of the Comprehensive Planning process, the City's consultant team of Bolton & Menk have requested that the City establish a Community Advisory Committee (CAC). This committee will be made up of a wide range of citizens and leaders within various sectors. The attached list provides a

framework for identifying potential committee members. The consultants recommend a range of 12-15 appointed members for this type of committee. He provided a draft list of suggestions.

Council and staff agreed that they were going to contact some people to see if they would like to serve and they will reconvene with some more suggestions. Jerry Smith has two kids in mind for the youth population and suggested that we get someone from a religious institution and Jennifer Hensley suggested getting someone from Ag as well.

Composition of Community Advisory Committee		Potential Organizations	Prospective Member Name (Suggestions)	Has Time?	Geographic Reach	Diversity	Community Influence	Expertise
Sectors	Government							
	City Leadership	City Council Liaison						
	County Leadership	County Commission/Staff	Autumn Radcliff (Planning Director)					
	Other Boards / Commissions	Planning Board	Jim Robertson (Board Chair);					
	School District	Henderson Co Schools						
	Others	BRCC						
	Business Leaders							
	Commercial Property Owners		Jeff Justus					
	Banks/Financial/Insurance							
	Economic Development/Industry Rep	The Partnership						
	Retail Rep (Downtown)	Downtown Merchants	Mark Pavao (Black Bear Coffee)					
	Business Organization	Chamber of Commerce; TDA	Michelle Owens (TDA Director)					
	Developers/ Real Estate		Amy Shipman					
	Health Care / Hospital	Pardee	John Bryant					
	Community							
	Religious Institutions							
	Neighborhood Reps (including Historically Disadvantaged Communities, Hispanic Community, LGBTQ+)							
	Neighborhood Representatives	Green Meadows/7th Ave	Ed King; George "Terry" Young; Trisha & Phyllis Bailey; Vernon Ledbetter; David Wright					
	Neighborhood Representatives	Lenox Park	Beth Stang (Lenox Park Resident & Chief Public Defender)					
	Neighborhood Representatives	Brooklyn Manor	Luke ??? (Brooklyn Manor HOA President)					
	Neighborhood Representatives	Druid Hills/191	Nicole Baumann/Derek Cote (Crate); Chris Dannals (MD)					
	Neighborhood Representatives	Rte 64 East						
	Neighborhood Representatives	Westside	Bob Johnson; Laura Flores (Realtor); Melinda Lowrance					
	Neighborhood Representatives	Hyman Heights	Kathy Watkins					
	Neighborhood Representatives	Medical District	Samantha Jamison (810 Knollwood Dr)					
	Housing Advocate	HAC	Kristen Dunn (Executive Director HAC)					
	Civic Non-Profits	Hola Carolina, Hendersonville Connections, Thrive	Director CFRC); Angie Pena (El Centro Board/Pisgah Legal)					
	Arts, Music, Culture	HC Arts Council						
	Environmental Stewardship	Mountain True	Nancy Diaz					
	Bike/Ped Advocate	BR Bicycle Club, Friends of Ecusta/Oklawah	Hunter Marks; Joe Saunders; Ken Shelton					
	Youth Population (HS/MS Student)							
	Aging Population (Seniors)	HC Aging Coalition	Stephanie Cole/Alicia Evans (Council on Aging)					

C. Presentation regarding creation of Public Services Department - John Connet, City Manager

City Manager John Connet made a PowerPoint presentation regarding the creation of a Public Services Department. He is making the following changes that will all report to the City Manager.

Brent Detwiler is moving from City Engineer to Public Works Director;

Adam Steurer is moving from Utilities Engineer to Public Utilities Director;

Brendon Shanahan is moving from Project Division Manager to City Engineer.

Current Department Configuration

- Public Works Department – Director – City Manager
- Public Utilities – Director – City Manager
- Engineering – Director – City Manager

New Configuration

- Public Services Director – City Manager
 - Public Works Director
 - Public Utilities Director
 - City Engineer

Concerns

- Departments can operate in silos
- Departments can have different cultures and policy interpretation
- Departments performing similar tasks without communicating
- City Manager is busy on other tasks
- Lack of communication
- Inefficiencies exist

Goals and Opportunities

- Leadership centralized under technical-big picture minded individual
- Improve communication among public service departments
- Better utilization of limited resources (staff, equipment and time)
- Providing better public services
- Improving team chemistry among public services departments
- Eliminating silos
- Developing one culture!
- Public Services Director part of an Executive Leadership Team

4. **CLOSED SESSION** – The closed session was cancelled.

5. **ADJOURN**

There being no further business, the meeting was adjourned at 4:28 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST:

Jill Murray, City Clerk

Resolution #__-____

RESOLUTION BY THE HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE SALE OF TWO POLICE K9 CRUISERS TO THE TOWN OF SPARTA, NC

WHEREAS, the Hendersonville Police Department owns two police cruisers equipped for K-9 use; and;

WHEREAS, the vehicles are no longer used by the Department and are in need of repair; and

WHEREAS, the Town of Sparta, North Carolina desires to purchase the two vehicles; and

WHEREAS, North Carolina General Statute §160A-274 authorizes the sale of personal property to other governmental units with or without consideration; and

WHEREAS, the Hendersonville Police Department wishes to sell the 2019 Chevrolet Tahoe to the Sparta Police Department at a value of \$25,000; and

WHEREAS, the Hendersonville Police Department wishes to sell the XXXX Ford Expedition to the Sparta Police Department at a value of \$6,000.

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

1. The 2019 Chevrolet Tahoe identified by VIN 1GNSKDEC5KR145764 and the 2016 Ford Expedition identified by VIN 1FMJU1GTXGEF24537 are deemed surplus and approved to be sold.
2. The City Council Councils authorizes the sale of the two vehicles to the Town of Sparta in accordance with §160A-274 as follows:
 - a. 2019 Chevrolet Tahoe: \$25,000
 - b. 2016 Ford Expedition: \$6,000
3. The City Manager is authorized to execute the Bill of Sale with the Town of Sparta.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 9th day of August 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

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



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Daniel Heyman, Staff Attorney **MEETING DATE:** August 9, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Legal

TITLE OF ITEM: Amendments to Chapter 10 - Animals – *Daniel Heyman, Staff Attorney*

SUGGESTED MOTION(S):

I move the City Council adopt An Ordinance of the City of Hendersonville City Council to Readopt and Amend Chapter 10 of the Code of Ordinances for the City of Hendersonville with Respect to the Welfare of Animals as presented for its second reading.

SUMMARY: ASAC and Police Department staff have spent significant time since then reviewing Chapter 10 of the Code of Ordinances and have proposed a reorganized Chapter relating to animals.

At the July 6, 2023 meeting, the City Council voted to adopt the proposed ordinance, with two amendments, for its first reading. NCGS § 160A-175, as amended by SB300, requires two readings for any ordinance specifying a criminal penalty.

ATTACHMENTS:

PROPOSED ORDINANCE
CROSSOVER CHART

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO READOPT
AND AMEND CHAPTER 10 OF THE CODE OF ORDINANCES FOR THE CITY OF
HENDERSONVILLE WITH RESPECT TO THE WELFARE OF ANIMALS**

WHEREAS, The Hendersonville City Council established the Animal Services Advisory Committee to provide input on the operations and policies of the Hendersonville Police Department regarding the enforcement of the Animal Ordinance; and

WHEREAS, The last significant amendment to Chapter 10 of the Code of Ordinances included the establishment of the Animal Services Advisory Committee and local enforcement of animal services; and

WHEREAS, The Animal Services Advisory Committee has spent significant time auditing and revising Chapter 10 of the Code of Ordinances to better reflect some of the unique needs of Hendersonville; and

WHEREAS, It is the intent of the City of Hendersonville to align its animal related regulations with applicable state laws in order to ensure the effective enforcement thereof.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA THAT:

SECTION 1. Chapter 10 – ANIMALS of the Code of Ordinances of the City of Hendersonville is hereby readopted and amended to read as follows:

ARTICLE I. - GENERAL PROVISIONS

Sec. 10-1. Animal Control Ordinance Purpose

- (a) Pursuant to authority granted by the general assembly, this chapter is enacted to:
- (b) Regulate, restrict or prohibit, if necessary, animals;
- (c) Protect the public from unvaccinated, diseased, stray, roaming, dangerous, wild or exotic animals;
- (d) Make unlawful the acts of animals that interfere with the enjoyment of property or the peace and safety of the community;
- (e) Protect animals from abuse or conditions harmful to their well-being;
- (f) Carry out any other lawful duties authorized by state laws and applicable ordinances;
- (g) Provide peace and dignity of residents; and
- (h) The city council hereby finds that animals kept or allowed to be in violation of any of the sections of this chapter are detrimental to the health, safety, and welfare of the citizens of the city and jeopardize the peace and dignity of the town.

Sec. 10-2 Definitions

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Adequate food means the provision of and access to food that is sufficient in quantity, prepared and provided so that the animal can consume it, and provided in a manner that is sanitary for the animal.

Adequate shelter means shelter which meets all the following requirements:

- (a) Is constructed of solid wood or weather resistant material, with solid walls on all sides, that is wind and moisture proof, with a dry floor, a solid, water-proof roof sloped away from the entrance to protect from weather and extreme cold, and a covered entrance by flexible windproof material or a self-closing swinging door;
- (b) Has suitable bedding (hay, straw, cedar shavings, blankets, or the equivalent that is routinely changed to avoid the growth of bacteria) for insulation and protection against cold and damp sufficient for an animal to burrow to promote retention of body heat,
- (c) Is out of the direct path of wind;
- (d) Is free of waste or debris and is otherwise clean and sanitary;
- (e) Gives the animal the ability to walk, stand, turn, and lie down comfortably; and
- (f) Provides drainage to eliminate excess water and moisture, protection from rain, sleet, snow, hail, sun, and the adverse effects of heat and cold.
- (g) The following shall not constitute adequate shelter:
 - (1) Inside of vehicles; or
 - (2) Underneath vehicles; or
 - (3) Inside metal or plastic barrels or cardboard boxes; or
 - (4) Rooms, sheds or other buildings without windows or proper ventilation.

Adequate water means constant access to clean, fresh water provided in a sanitary manner and so that the animal can consume it. During extreme cold weather, the water must be changed frequently to prevent freezing. During extreme hot weather, the water must be changed frequently and served in a non-tipping, non-metal container to prevent heat-related injuries or death.

Animal means every non-human, animate being that is endowed with the power of voluntary motion, including, but not limited to, dogs, cats, livestock and other mammals, birds, reptiles, amphibians, and fish.

Animal Services Center means any holding place or other facility designated by the City of Hendersonville for the detention of animals.

Animal Services Officer means any person properly appointed either by the City of Hendersonville, or any officer authorized to act within the City's jurisdiction due to an inter-local agreement, to enforce all sections of this chapter and applicable state laws and who are responsible for discharging such other duties and functions as may be prescribed by the City Council as set forward by this chapter or any other applicable ordinance or state law or pursuant to inter-local agreements.

Animal at large means any animal off the premises of its owner and not under sufficient physical restraint such as a leash, cage, bridle, or similarly effective device allowing the animal to be controlled. For purposes of this article, voice command is not recognized as sufficient physical restraint. This definition does not apply to any areas in the City that have been delineated by the City Council, such as dog parks.

Animal under restraint means any animal confined within a vehicle, confined within the real property limits of its owner, or secured by leash or lead.

Cat means a domestic feline of either sex.

Dangerous dog means any dog that:

- (a) Without provocation has killed or inflicted serious injury on a person; or
- (b) Is determined by the Chief of Police, their designee, or the Animal Services Advisory Committee to have engaged in one or more of the following behaviors:
 - (1) inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization, or
 - (2) has killed or inflicted severe injury upon a domestic animal when not on the owner's real property, or
 - (3) has approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack; or
- (c) Is owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

This definition shall not apply to: (1) a dog that has been subject to provocation, (2) any dog responding to a trespass upon the animal owner's premises, if the victim is the trespasser, or (3) dogs used by law enforcement agencies to carry out official law enforcement duties. Provocation must be clearly established.

Dog means a domestic canine of either sex.

Domesticated means those species of animals that normally and customarily share human habitat and are normally dependent on humans for food and shelter, such as, but not limited to, dogs, cats, cattle, horses, swine, fowl, sheep, goats, reptiles, amphibians, rabbits, and fish.

Harboring an animal means feeding or sheltering an animal for 14 days or more unless the animal is being boarded for a fee.

Holding facility means any pet shop, kennel, cattery, boarding facility, veterinary office, animal shelter, or combination thereof.

Owner means any person owning, keeping, harboring, possessing, or acting as custodian, however temporarily, of an animal; provided, however, that a person having temporary custody or possession of an animal for the sole purpose of turning over such animal to a member of the animal services division or other peace officer shall not be deemed the owner of the animal.

Pet means a domesticated animal kept for pleasure rather than utility. Pets include, but are not limited to, birds, cats, dogs, fish, hamsters, mice, reptiles, domesticated wild animals and other animals associated with man's environment.

Pet shop means a commercial establishment, which offers for sale two (2) or more species of live animals with the intent that they be kept as pets.

Provocation means conduct or actions on the part of any person or animal that is likely to arouse a violent or aggressive response by an animal. This term does not include any action on the part of an individual or animal that pertains to reasonable efforts of self-defense.

Public nuisance animal means any animal or group of animals which:

- (a) Is found at large three or more times in a 12-month rolling period; or

- (b) Damages the property of anyone other than its owner; or
- (c) Is a Vicious Animal; or
- (d) Causes unsanitary condition of enclosures or surroundings; or
- (e) By virtue of number or type is offensive or dangerous to the public health, safety, or welfare; or
- (f) Is diseased and dangerous to the public health.

Serious injury means a physical injury resulting in broken bones, disfiguring lacerations, or requires cosmetic surgery or hospitalization.

Tether means tying out or fastening a dog outdoors on a rope, chain, or other line for restraining a dog. The term does not mean the restraint of a dog on an attended leash.

Vicious animal means any animal which constitutes a physical threat to human beings or other animals by virtue of attacks of such number and severity as to cause property damage or physical injury.

Secs. 10-3—10-30. – Reserved.

ARTICLE II. – ANIMAL SERVICES

Sec. 10-31 General Duties of Animal Services Officer.

The animal services officer shall be charged with the responsibility of:

- (a) Taking up and delivering any animal at large in violation of this chapter to the animal shelter.
- (b) Issuing appropriate permits, civil penalties, and notices required for the enforcement of this chapter.
- (c) Declaring an animal as a potentially dangerous animal, as defined in this chapter, if they determine such. Upon determining that an animal is a potentially dangerous animal, the Chief of Police shall notify the owner of the animal in writing, giving the reasons for the determination. The owner may appeal the determination by filing written objections with the Animal Services Advisory Committee established in this chapter.
- (d) Canvassing the city, including homes and businesses utilizing security animals as necessary to ascertain that all animals are currently vaccinated against rabies; to organize and carry out any such canvas, having sole and exclusive authority, control, and responsibility for such actions; and to ensure that the provisions of this chapter and state law related to animal control are adhered to.
- (e) Investigating complaints regarding animals.
- (f) Protecting animals from neglect or abuse and assist animal cruelty investigators as needed in enforcing state laws regarding cruelty.
- (g) Enforcing the laws regarding remedies for an owner's failure to obtain proper vaccination of animals against rabies.
- (h) Investigating all reported animal bites or other human physical contact with suspected rabid animals and submit bite reports and reports of human contacts to the county health director.

Except as may be otherwise provided by statute or local law or ordinance, no officer, agent, or employee of the city charged with the duty of enforcing the provisions of this chapter or other applicable law shall be personally liable for any damage that may accrue to persons or property because of any act required or permitted in the discharge of such duties.

Sec. 10-32. Animal Enforcement Authority

The animal services officer is hereby authorized to enforce the provisions of this chapter and any other regulation adopted in accordance with the provisions of this chapter.

Sec. 10-33. Inspection, interference, or concealment.

- (a) Inspections: Whenever necessary, inspections will be used to enforce the provisions of this chapter, or whenever the animal services officer has reasonable cause to believe that there exists in any household or upon any premises any violation of this chapter, the animal services officer is hereby empowered to enter and inspect such property at any reasonable time and perform any duty imposed upon them by this chapter as follows:
 - (1) If such property is unoccupied, the animal services officer shall first make a reasonable effort to locate the owner or other person having control of the property;
 - (2) If such property is occupied, the animal services officer shall first present proper credentials to the occupant and request entry, explaining the reasons therefore; and
 - (3) If such entry is refused or cannot be obtained because the owner or other person having control or charge of the property cannot be located after due diligence, the animal services officer may seek an administrative search warrant.
- (b) Interference: It shall be unlawful for any person to interfere with, hinder, assault, molest, resist, or obstruct the animal services officer while the animal services officer is carrying out any duty created under this chapter.
- (c) Concealment of animal: It shall be unlawful for any person to conceal, for the purpose of evading the rabies inoculation requirement of state law, any uninoculated animal from the animal services officer, or to evade any other provision of this chapter.
- (d) In addition to any other remedy available, violation of this section shall constitute a misdemeanor as provided in Section 1-6.

Sec. 10-34. Animal Services Advisory Committee

The Animal Services Advisory Committee shall make recommendations to the City Council regarding animal-related ordinances, policies, and procedures. The Animal Services Advisory Committee may undertake the study of areas under their authority to advise City of Hendersonville staff and City Council.

The Animal Service Advisory Committee, or a duly appointed subcommittee thereof, shall act as the Animal Services Appellate Board and hear all appeals under this chapter when permitted by State law, including appeals of dangerous dog determinations.

The composition, rules of procedure, and all other matters shall be governed by the Animal Services Advisory Committee Charter and Rules of Procedure, as amended.

Secs. 10-34—10-60. – Reserved.

ARTICLE III – KEEPING ANIMALS

Sec. 10-61. – Keeping of certain animals prohibited

It shall be unlawful for any person to keep or maintain any oxen, bison, roosters, or wolf hybrids within the City.

Sec. 10-62. – Swine

It shall be unlawful for any person to keep any hogs or other swine within the city with the exception of miniature pigs weighing not more than 100 pounds kept as household pets. Only one such miniature pig shall be kept in any household. Such pigs shall be kept in a restrained area and shall not be permitted to run at large. Such pigs shall also be kept in accordance with Article V of this Chapter. Any outside area occupied by a miniature pig shall be regularly sanitized and kept free from waste. No such area shall be allowed to become muddy or unsanitary.

Sec. 10-63. – Keeping of other farm animals

Other farm animals may be kept within the City subject to applicable health statutes and regulations, and provided that: (1) none of the foregoing animals may not be kept or maintained within 150 of any building occupied or designated as a residence, except the residence of such animals owner; and (2) the foregoing animals shall be kept in accordance with Article V of this Chapter.

Sec. 10-64. – Keeping of poultry

- (a) It shall be unlawful to maintain a poultry flock of greater than 20 birds.
- (b) In accordance with Sec. 10-61 above, the keeping of roosters is prohibited.
- (c) The keeping of poultry shall be subject to all applicable health statutes and regulations.

Sec. 10-65. – Requirements for construction and maintenance of poultry enclosures.

In addition to the requirements of Article V of this Chapter, each person keeping poultry within the city shall comply with the following rules and regulations:

- (1) The poultry house and run must be fenced, and the birds shall kept within it at all times.
- (2) The poultry house must be used for poultry only and it must be well ventilated, with at least one square foot of window to 15 square feet of floor space.
- (3) The run must be well drained so there will be no accumulation of moisture.

Sec. 10-66. – Disposal of dead chickens and other poultry.

It shall be unlawful for any person to allow any dead chicken or poultry to remain on the premises, and disposal of any dead chicken or fowl may not be contrary to any methods approved by the county health department.

Secs. 10-67—10-90. – Reserved.

ARTICLE IV – OFFENSES AND MISCELLANEOUS

Sec. 10-91. – Animals at large

- (a) It shall be unlawful for the owner of any domesticated animal to allow or permit such animal to be at large within the corporate limits of the city at any time upon any property not his own without the written permission of the owner of such property.
- (b) In addition to any other remedy available, permitting a dog that has been deemed dangerous to run at large is a misdemeanor as provided by Section 1-6.

Sec. 10-92. – Protection of Birds

- (a) The area embraced within the corporate limits of Hendersonville and all land owned or leased by the Hendersonville outside the corporate limits is hereby designated as a bird sanctuary.
- (b) It shall be unlawful intentionally to trap, hunt, kill, or otherwise take, within the sanctuary hereby established, any native wild bird except pursuant to a valid permit issued by the North Carolina

Wildlife Resources Commission; provided, however, that this section shall not be deemed to protect any birds classed as a pest under Article 22A of Chapter 113 of the North Carolina General Statutes and the Structural Pest Control Act of North Carolina of 1955 or the North Carolina Pesticide Law of 1971.

- (c) In addition to any other remedy available, violation of this Section is also a misdemeanor as provided in Sec. 1-6.

Sec. 10-93. – Protections of Squirrels

- (a) The entire area embraced within the corporate limits of the city is hereby designated as a sanctuary for all species of squirrel (family Sciuridae), especially the Brevard White Squirrel.

It shall be unlawful for any person to hunt, kill, trap, or otherwise take any protected squirrels within the city limits except pursuant to a valid permit issued by the North Carolina Wildlife Resources Commission. This section shall not be deemed to protect any squirrels classified as a pest by the North Carolina General Statutes, except that the Brevard White Squirrel shall always be protected by this section.

Sec. 10-94. – Fouling public grounds.

It shall be unlawful for any owner, keeper, or walker of any animal to permit the discharge such animal's excreta upon any public or private property, other than the property of the owner within the city, if such owner, keeper, or walker does not immediately thereafter remove and clean up such animal's excreta from the public or private property.

Sec. 10-95. – Restraint of animals.

- (a) Physical restraint: It shall be unlawful for any Owner of any animal, excluding cats, to keep such animal on their own premises or off the premises, unless such animal is under sufficient physical restraint, such as a leash, cage, bridle or similar effective device which restrains and controls the animal, or within a vehicle or adequately contained by a fence on the premises or other secure enclosure. If the physical restraint used is a leash, bridle, or other device requiring a person to control the animal, the person using such restraint must be of sufficient age and physical size or ability to reasonably restrain the animal. If the secure enclosure is an invisible fence system, then all components of the system must be in working order and in proper place. Additionally, there must be a visible, permanent sign on the premises stating that there is an invisible fence.
- (b) Tethering: Dogs may not be tethered to a stationary object unless a competent adult is in the immediate presence of the dog and the following conditions are met:
- (1) A tether shall be equipped with a swivel on both ends.
 - (2) A tether shall be a minimum of ten feet in length and shall be made of either metal chain or coated steel cable.
 - (3) Tethers shall be attached to a buckle type collar or harness and under no circumstances shall the tether itself be placed directly around a dog's neck. Tethers shall not be used in conjunction with training collars such as choke or pinch-style collars.
 - (4) The weight of the tether shall not exceed ten percent of the total body weight of the dog but shall be of sufficient strength to prevent breakage.

- (5) The tether by design and placement shall allow the dog a reasonable and unobstructed range of motion without the possibility of entanglement, strangulation, or other injury. The tether shall allow the dog access to adequate food, water, and shelter.
- (6) A dog must be four months of age or older to be tethered.
- (7) Only one dog shall be attached to a single tether.
- (8) Pulley systems, running lines and trolley systems may be used in conjunction with a tether.
- (9) Pulley systems, running lines or trolley systems shall be at least ten feet in length. and no more than seven feet above the ground.
- (10) The line of the pulley system, running line or trolley system to which, the tether is attached shall be made of coated steel cable.
- (11) No tether shall be affixed to a stationary object which would allow a dog to come within five feet of any property line.

Sec. 10-96. – Giveaways in Public Spaces.

It shall be unlawful to display any animal in a public place for the purpose of selling, trading, or giving the animal away or used as a prize or inducement. For this section, public place shall be defined as any place open to the public including but not limited to malls, supermarkets, parking lots, flea markets, farmers markets, road rights-of-way, and parks. This section does not apply to state regulated pet shops, commercial kennels, licensed animal shelters, veterinarian offices, licensed stockyards, or livestock auctions or 501(c)(3) non-profits who adopt out animals with proof of rabies vaccination and alteration

Sec. 10-97. – Excessive noises.

It shall be unlawful for any Owner to allow any Animal to excessively bark, howl, or make other loud noises continuously or intermittently for more than 30 minutes.

The Animal Services Officer shall only be required to investigate an alleged violation of this section upon the receipt of a complaint from two individuals.

Secs. 10-98—10-120. – Reserved.

ARTICLE V. – ANIMAL CRUELTY

Sec. 10-121. – Unlawful treatment.

It shall be unlawful for any Owner to fail to provide an animal with adequate food, water, shelter, necessary medical attention, and humane care and treatment.

Nothing in this section shall be construed to require a standard of care otherwise prohibited by G.S. 160A-203.1.

In addition to all other remedies available, violation of this Section is a misdemeanor as provided in Section 1-6.

Sec. 10-122. – Abandonment.

No owner of an animal shall abandon such animal except to relinquish the animal to the animal shelter during normal business hours. If the Animal Services Officer finds that an animal has been abandoned, the animal may be impounded. If an animal has been abandoned in a house or within a fenced area, the

Animal Services Officer must make a reasonable effort to locate the owner or manager of the property. If the property owner or manager is not the animal owner, then the Animal Services Officer shall secure permission to remove the animal. If the property owner is also the animal owner and this individual cannot be located, the Animal Services Officer shall secure an appropriate warrant to seize the animal. An animal seized pursuant to this section shall be impounded for a period of ten days. If the animal is unclaimed by its owner after being held ten days, the animal shall be disposed of by adoption or humane euthanasia, or transferred to an Animal Services Center or other appropriate facility.

In addition to all other remedies available, violation of this Section is a misdemeanor as provided in Section 1-6.

Sec. 10-123. – Transport of Animals.

Animals transported in open truck beds on public roads shall be secured by cross tethering suitable and acceptable for the size of animal in such a manner that such animal cannot fall or jump over the side or contained in a properly secured and ventilated cage. This provision shall not be applicable to:

- (1) Law enforcement dogs, while being used for investigation, tracking and similar duties under the supervision of a certified law officer;
- (2) Search and rescue dogs, while being used for their intended purpose and under the control of a trained handler;
- (3) Hunting dogs, while being used in a legal hunt on private property, private roads or public secondary roads;
- (4) Farm dogs, while being used for agricultural purposes on private property or private roads; or
- (5) Farm dogs, while being used for agricultural purposes on secondary roads within one mile of property owned, leased, or otherwise used for farm purposes.

In addition to all other remedies available, violation of this Section is a misdemeanor as provided in Section 1-6.

Sec. 10-124. – Confinement of Animals in Motor Vehicles.

It shall be unlawful for any person to place or confine an animal or allow an animal to be placed or confined in a vehicle, building, car, boat, or vessel of any kind under such conditions or for such a period as to endanger the health or well-being of such animal due to temperature, lack of food or drink, or such other conditions as may reasonably be expected to cause suffering, disability, or death.

- (1) When an animal is confined in violation this section, after making a reasonable effort to find the driver of a vehicle in which an animal is confined, the animal services officer, in the presence of a law enforcement officer, may use the least intrusive means to enter the vehicle if necessary to remove the animal, where reasonable cause exists to believe the animal may die if not immediately removed.
- (2) The animal services officer removing the animal shall then impound the animal and leave in a prominent place on the motor vehicle a written notice of the animal's impoundment, a brief description of the animal, and where and when the animal may be reclaimed.

In addition to all other remedies available, violation of this Section is a misdemeanor as provided in Section 1-6.

Sec. 10-125. – Animals used in entertainment, shows, and for exhibition.

It shall be unlawful for any person to sponsor, promote, or train a wild or domestic animal to participate in any unnatural behavior in which the animal is wrestled, fought, harassed, or displayed in such a way that the animal is abused or stressed. This prohibition applies to events and activities taking place in either public or private facilities or property in the town and applies regardless of the purpose of the event or activities and whether a fee is charged to spectators.

In addition to all other remedies available, violation of this Section is a misdemeanor as provided in Section 1-6.

Secs. 10-126—10-150. – Reserved.

ARTICLE VI. – RABIES CONTROL

Sec. 10-151. – Vaccination of dogs and cats required.

It shall be unlawful for an Owner of any dog or cat four months of age or older to fail to provide current vaccination against rabies for such dog or cat.

Sec. 10-152. – Vaccination tag and certification.

- 1) Dogs are required to wear a rabies vaccination tag at all times.
- 2) Cats are not required to wear rabies vaccination tag, but the owner of a cat shall maintain the tag, or the rabies vaccination certificates as written evidence to prove the cat has a current rabies vaccination.
- 3) It shall be unlawful for any person to use for any animal a rabies vaccination tag issued for an animal other than the one using the tag.
- 4) Enforcement: If an animal is found without a rabies tag, the owner shall have 5 calendar days to obtain proper proof of vaccination and present to the Animal Services Officer.
 - a. If after 5 days, there is still no proof of rabies vaccination, the Animal Services Officer may take any of the enforcement actions provided in this Chapter.
 - b. If an animal is found without a rabies tag off the owner's property, the animal shall be impounded for 72 hours for owner reclaim. Prior to release, the animal's vaccination history shall be verified, and rabies vaccine voucher shall be purchased if required.

Sec. 10-153. – Bite Notification

- (a) Reporting requirement: It shall be unlawful for: (1) any person bitten by a dog or cat, (2) their parent or guardian if such person is a minor, and (3) the person owning such animal or having such animal in his possession or under his control to fail to report, within 24 hours of a bite, to the Animal Services Officer that such animal has bitten a person. It shall be unlawful for any person to fail to inform the Animal Services Officer where an animal is located if the owner has given the animal away or caused in any way the animal to be taken from the owner's premises.
- (b) Confinement: All dogs or cats that bite human beings shall be immediately confined for ten days in a place designated by the Henderson County Health Director. If the Owner refuses to confine the animal as required by this section, the Animal Services Officer or the Henderson County Health Director may order the seizure of the animal and its confinement for ten days at the expense of the owner. Following such ten-day confinement, the dog or cat may be released with the written permission of the Animal Services Officer or the Henderson County Health Director.

As provided in N.G.C.S. 130A-196(b), failure to comply with confinement requirements is a Class 2 misdemeanor.

Secs. 10-154—10-180. – Reserved.

ARTICLE VII. – PUBLIC NUISANCE AND DANGEROUS DOGS

Sec. 10-181. – Public Nuisance.

- (a) The keeping of a Public Nuisance Animal, as defined in this Chapter, is hereby prohibited.
- (b) Complaint and notice: Upon receipt of a complaint being made to the Police Department by any resident or residents that any person is keeping a Public Nuisance Animal as defined in this chapter, the Chief of Police shall cause the owner of the animal or animals in question to be notified that a complaint has been received and shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing by the investigating Animal Services Officer.
- (c) Abatement. If the written findings of the investigating officer indicate that the complaint is justified, then the Chief of Police shall cause the Owner of the animal or animals in question to be so notified in writing, by registered mail, return receipt requested, or by personal delivery, ordered to abate such nuisance within five days after notification, and issued a citation for the violation. In the event the Owner of the animal or animals is unknown and cannot be ascertained, the notice and order, along with a general description of the animal or animals shall be published within a local newspaper. In addition, any animal determined to be a nuisance under this section must be micro chipped at the owner's expense within ten days of the Public Nuisance Animal determination or appeal determination. Failure to comply within this time frame shall constitute a separate offense for each day thereafter.
- (d) Impoundment upon failure to abate. If any person receiving notice in the manner hereinabove described shall fail or refuse to abate the nuisance upon order of the Chief of Police within the specified time, the Chief of Police may cause the animal or animals in question to be apprehended and impounded.
- (e) Civil penalties. Additionally, if any person receiving notice in the manner hereinabove described shall fail or refuse to abate the nuisance upon order of the Chief of Police within the specified time, the Chief of Police may assess a civil penalty as provided in Section 1-6.
- (e) Right of appeal. Within seven days from receipt of their notification, the owner of the nuisance animal may appeal the findings of the Chief of Police by giving written notice of appeal to the Chief of Police. An appeal shall stay the abatement of the Public Nuisance Animal determination until a final determination by the Animal Services Advisory Committee.
- (f) Inspection. The Animal Services Officer is hereby permitted to make periodic inspections of animals deemed to be Public Nuisance Animals to ensure compliance with this Chapter.

Sec. 10-182. – Declaration of dangerous dogs.

The Chief of Police shall have the authority to declare a dog to be a dangerous dog. Any determination that a dog is a dangerous dog shall be made in writing, summarizing the available evidence. The letter shall be served by personal delivery or by certified or registered mail to the Owner. The written determination shall order compliance with the appropriate provisions of this chapter and may impose reasonable conditions to maintain the public health and safety.

Sec. 10-183. – Dangerous dogs restricted.

It shall be unlawful for any person to own or in any way maintain or harbor a dog that has been deemed dangerous, except as provided in this chapter. Notwithstanding any enumerated exception in listed in Sec. 10-2, any dog which has killed a person shall be immediately euthanized.

Sec. 10-183. – Appeal.

Any person who owns a dog that has been declared a dangerous dog shall have the right to appeal the declaration to the Animal Services Advisory Committee as provided herein:

- (a) Manner of appeal. The Owner of a dangerous dog may request an appeal of the determination in writing. The written appeal must be submitted to the Chief of Police, must state the Owner's address, and must be received or postmarked within seven calendar days of the receipt by the Owner of notice of the declaration.
- (b) Pending the appeal, the Owner of a dangerous dog shall comply with the provisions of Section 10-184 herein.
- (c) Hearing procedures. Once properly appealed, the Animal Services Advisory Committee shall conduct a quasi-judicial hearing to determine whether the declaration of the dog as a dangerous dog should be upheld.
- (d) Outcome. If the dog is affirmed by the animal services advisory board as being a dangerous dog, then the Owner shall comply with the provisions of this Chapter. Any person who owns a dog upheld as a dangerous dog by the Animal Services Advisory Committee has the right to appeal this determination to the Henderson County Superior Court.

Sec. 10 –184. – Enclosures and control measures.

- (a) If a dog has been determined to be a dangerous dog, as specified in this section, the dog may be retained upon the Owner satisfying the following conditions:
 - (1) The Owner must always ensure that the dog on and off the Owner's property remains securely enclosed as per the ordinance or controlled and muzzled as described below.
 - a. Confine the dog within the owner's residence; or
 - b. Erect and confine the dog (except when muzzled and controlled as required below), within 30 days in a securely enclosed and padlocked pen with a concrete bottom and secure top. The structure must be at least 10x10 feet and be secured by a tamper-proof lock. Pending construction of such pen, the dog must be confined within the owner's residence; or
 - c. The animal must be muzzled and under restraint by a competent person who, by means of a leash, always has such animal firmly under physical restraint when not in a secure building or enclosure. The muzzle must be a basket muzzle.
 - d. Any dog deemed dangerous shall not be permitted in public recreation areas, including dog parks, parks, or greenways.
 - (2) The owner must post one or more warning signs provided by the city, which are to be visible to any adjoining property from each exposure of the residence or the structure in which the dangerous dog is confined. The city may charge a fee for each sign provided.
 - (3) The owner of a dangerous dog must maintain in full force and effect a liability insurance policy of at least \$100,000 for personal injury or death of any person resulting from an

attack by such dangerous dog. The owner shall provide the Animal Services Officer with a certificate of insurance which shall require 30 days written notice by the insurer or owner in the event of cancellation, reduction or other modifications of coverage. In addition to the notice requirement above, owner shall provide the Animal Control Officer with immediate written notice of cancellation, reduction, or other modification of coverage of insurance.

- (4) Within ten days of the determination or appeal determination, the owner of a dangerous dog must demonstrate to the Animal Services Officer that such dog had a microchip implanted.
 - (5) The Animal Services Officer may periodically inspect the premises where a dangerous dog is kept verifying compliance with the provisions of this chapter. The Owner must permit these inspections at any reasonable time without notice to the Owner from the Animal Enforcement Officer.
 - (6) All dogs deemed dangerous must be altered within 30 days of the determination.
 - (7) Control measures.
 - a. All control measures required by this section must be met immediately upon the determination that the dog is dangerous except for the construction of the enclosure discussed in the subsection of this provision. The owner has 30 days to construct the enclosure during which time the animal must be confined indoors and may only be permitted outside under the control of a competent person by leash and the animal must be muzzled.
 - b. If the owner has no place to keep the animal while the structure is being constructed, the animal may be kept at the Henderson County Animal Services Center or at a private establishment approved by the Animal Services Officer and Henderson County Animal Services at the owner's expense.
- (b) Notification within 24 Hours:
- (1) Change of address or ownership of a dangerous dog, the owner shall provide written notification of the change of address or ownership to the Chief of Police, stating the full name if there's a new owner, address, and location of the new owner of the dog.
 - (2) Of the death of a dangerous dog, the owner shall provide written notification of the dog's death to the Chief of Police.
- (c) Notification Prior to Transfer. Prior to any transfer to a new Owner (with or without consideration) of a dangerous dog, the owner must provide to the Chief of Police a written statement, signed before a notary by the transferee, indicating the transferee's understanding of the transferee's obligations hereunder as an owner of a dangerous dog. If the dangerous or dog is being transferred out of the City of Hendersonville, or out of North Carolina, the owner of the animal must notify the Chief of Police of the new jurisdiction to which the animal is being moved that this dog has been deemed a dangerous dog. The Chief of Police also shall notify the new jurisdiction that the animal has been deemed dangerous and the circumstances surrounding the case. The Owner must comply with any local regulations regarding dangerous dogs in the new location. No dog deemed dangerous may be adopted pending the outcome of quasi-judicial hearing.

- (d) In addition to all other remedies available, violation of this Section is a misdemeanor as provided in Section 1-6.

Sec. 10-185. – Impoundment Authorized.

- (a) Immediate impoundment: Any dangerous dog may be immediately impounded if the animal is kept in violation of this section. Civil penalties may be imposed.
- (b) Cost of impoundment: Costs of impoundment shall be paid by the owner for the animal at a daily rate as determined by the impoundment facility. In instances where the animal must be impounded at a private facility or kennel, the person liable for the animal will pay the rate established by those facilities.
- (c) Release from impoundment:
 - (1) Dog deemed dangerous/potentially dangerous may only be released to owner if the following requirements have been satisfied
 - a. Proof of compliance submitted to Chief of Police, or
 - b. Approval of proof by the Chief of Police is submitted in writing to the impoundment facility.
 - (2) If criminal charges have been brought against the Owner for failure to comply with this Chapter, for interference with the operations of the Animal Services Officer, or criminal charges under N.C.G.S. Chapter 67 Article 1A, no dog deemed dangerous/potentially dangerous shall be released from the impoundment until determined by a court of competent jurisdiction. During this time while the dog is impounded, costs of impoundment shall continue to be charged to the Owner.

Sec. 10-186 – Destruction of animals that cannot be seized or confined by reasonable means.

- (a) Notwithstanding any other provision of this Chapter, an animal that cannot be seized by reasonable and normal means, trapped in a humane, live-capture animal trap, or tranquilized, alternative resources being exhausted, may be humanely destroyed in the field by animal services or other law enforcement officers.
- (b) Vicious, dangerous animals so designated, or wild animals, or an animal attacking a human being, domestic animal, livestock, or fowl another pet, or livestock may be immediately destroyed in the field, if such destruction is necessary for the protection of the public health and safety or that of city staff.

Secs. 10-187—10-210. – Reserved.

ARTICLE VIII. – ENFORCEMENT

Sec. 10-211. – Violations and penalties.

The following penalties shall pertain to violations of this chapter:

- (a) This chapter may be enforced by criminal penalty where specifically provided.
- (b) Enforcement may include any appropriate equitable remedy, injunction or order of abatement issued by a court of competent jurisdiction pursuant to N.C.G.S. §160A-175(d) and (e).

- (c) Civil penalties. In addition to and independent of any criminal penalties and other sanctions provided in this article, violations of this article may also subject the offender to the civil penalties hereinafter set forth.
- (d) A combination of the forgoing and/or any other remedy available by law.

Sec. 10-212. – Civil Penalties

- (a) Generally: Any person who violates any provision of this chapter shall be subject to a civil penalty for each level of violation in accordance with subsection (d) of this section and the corresponding civil penalty in the Civil Penalty Schedule, Section 10-213. If the violation is continued, each day's violation shall constitute a separate offense. For the purposes of this chapter, repeat violations occur where the City has issued a civil penalty for the same offense within a 12-month period. Nothing in this section shall prevent the City from issuing warning violations.
- (b) Issuance of a citation: Issuance of a citation for violation of this chapter is directed toward and against the known owner. The purpose of the issuance of a citation is to affect the conduct of the owner by seeking to have the owner ensure compliance with this chapter. The issuance of a citation hereunder shall not affect the prosecution of a violation hereof as a misdemeanor as provided above. A citation shall:
 - (1) Give notice of the violation(s) alleged of the owner;
 - (2) State the civil penalties for such violation(s);
 - (3) State the date by which any penalties for such violation(s) must be paid; and
 - (4) State that the city may initiate after such date a civil action to collect the civil penalties which are and may become due.
- (c) If the owner of an animal or other alleged violator does not respond to the above-described citation, or the applicable civil penalty is not paid within the time period prescribed, a civil action may be commenced to recover the penalty and costs associated with collection of the penalty. The city manager or his designee are expressly authorized to initiate and prosecute small claims actions in district court to collect civil penalties and fees due to the city under this Chapter.
- (d) Penalty severity: The severity of violations of the provisions of this chapter shall be as follows:
 - (1) Violation of the following shall constitute a level I violation:
 - a. Section 10-61. – Keeping of certain animals prohibited.
 - b. Section 10-62. – Swine.
 - c. Section 10-63. – Keeping of other farm animals.
 - d. Sec. 10-64. – Keeping of poultry.
 - e. Sec. 10-65. – Requirements for construction and maintenance of poultry enclosures.
 - f. Sec. 10-91. – Running at large.
 - g. Sec. 10-94. – Fouling public grounds.
 - h. Sec. 10-95. – Restraint of animals.

- i. Sec. 10-97. – Excessive noises.
 - j. Sec. 10-123. – Transport of animals.
 - k. Sec. 10-151. – Vaccination of dogs and cats required.
 - l. Sec. 10-152. – Vaccination tag and certification.
 - m. Violation of any provision of this Chapter not otherwise provided for in this subsection (d).
- (2) Violation of the following shall constitute a level II violation:
- a. Section 10-66. – Disposal of dead chickens and other poultry.
 - b. Sec. 10-92. – Protection of birds.
 - c. Sec. 10-93. – Protection of squirrels.
 - d. Sec. 10-96. – Giveaways in public spaces.
 - e. Sec. 10-122. – Abandonment.
 - f. Sec. 10-153. – Bite notification.
 - g. Sec. 10-181. – Public nuisance.
- (3) Violation of the following shall constitute a level III violation:
- a. Sec. 10-33. – Inspection, interference, or concealment.
 - b. Sec. 10-121. – Unlawful treatment.
 - c. Sec. 10-124. – Confinement of animals in motor vehicles.
 - d. Sec. 10-125. – Animals used in entertainment, shows, and for exhibition.
 - e. Sec. 10-184. – Enclosures and control measures.

Sec 10-213. – Civil penalty schedule

Civil Penalty Schedule				
	First Violation	Second Violation	Third Violation	Additional Violations
Level I	Warning	\$50	\$100	\$200
Level II	\$100	\$150	\$200	\$400
Level III	\$200	\$300	\$500	\$500

SECTION 2. If any provision of this ordinance or its application is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are severable.

SECTION 3. It is the intention of the city council and it is hereby ordained, that the provisions of this ordinance shall become and be made part of the Code of Ordinances, City of Hendersonville, North Carolina, and the sections of this ordinance may be renumbered to accomplish such intention.

SECTION 4. This Ordinance shall be effective upon its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this ____ day of _____, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

<u>New Chapter 10</u>	<u>Old Section Reference</u>	<u>Notes</u>
Sec. 10-1. Animal Control Ordinance Purpose	-	
Sec. 10-2 Definitions	Sec. 10-106, Sec. 10-151	Adds many definitions
Secs. 10-3—10-30. – Reserved.	-	
Sec. 10-31 General Duties of Animal Services Officer.	Sec. 10-106	Sets out duties in greater detail
Sec. 10-32. Animal Enforcement Authority	-	
Sec. 10-33. Inspection, interference, or concealment.	-	Interference w/ ASO is a misdemeanor
Sec. 10-34. Animal Services Advisory Committee	-	
Secs. 10-34—10-60. – Reserved.	-	
Sec. 10-61. – Keeping of certain animals prohibited	Sec. 10-41	Preempted from regulating shelter for certain farm animals. Much clearer prohibitions including roosters.
Sec. 10-62. – Swine	Sec. 10-42	
Sec. 10-63. – Keeping of other farm animals	Sec. 10-43	Adds “other farm animals” (150 ft from a residence)
Sec. 10-64. – Keeping of poultry	Sec. 10-66	Max of 20 birds, no roosters.
Sec. 10-65. – Requirements for construction and maintenance of poultry enclosures.	Sec. 10-70	
Sec. 10-66. – Disposal of dead chickens and other poultry.	Sec. 10-71	
Secs. 10-67—10-90. – Reserved.	-	

Sec. 10-91. – Running at large	Sec. 10-107	Dangerous dog running at large is a misdemeanor
Sec. 10-92. – Protection of Birds	Sec. 10-1, Sec. 10-2	
Sec. 10-93. – Protections of Squirrels	Sec. 10-3	
Sec. 10-94. – Fouling public grounds.	Sec. 10-6	
Sec. 10-95. – Restraint of animals.	Sec. 10-152	Same requirements as existing tether
Sec. 10-96. – Giveaways in Public Spaces.	-	new
Sec. 10-97. – Excessive noises.	-	Previously in the noise ordinance.
Secs. 10-98—10-120. – Reserved.	-	
Sec. 10-121. – Unlawful treatment.	Sec. 10-152	Added specifics on adequate shelter and adequate water
Sec. 10-122. – Abandonment.	-	
Sec. 10-123. – Transport of Animals.	-	
Sec. 10-124. – Confinement of Animals in Motor Vehicles.	Sec. 10-152	Clear procedures on animals left in vehicle
Sec. 10-125. – Animals used in entertainment, shows, and for exhibition.	-	
Secs. 10-126—10-150. – Reserved.	-	
Sec. 10-151. – Vaccination of dogs and cats required.	Sec. 10-113	Rabies is broadly enforced under state law

Sec. 10-152. – Vaccination tag and certification.	Sec. 10-114	
Sec. 10-153. – Bite Notification	-	
Secs. 10-154—10-180. – Reserved.	-	
Sec. 10-181. – Public Nuisance.	Sec. 10-109	Take the place of mischievous dogs
Sec. 10-182. – Declaration of dangerous/potentially dangerous dog.	Sec. 10-110	Removes “potentially dangerous dog” to add clarity to process. Same requirements. Allows personal service of PD orders.
Sec. 10-183. – Appeal.	Sec. 10-110	
Sec. 10 –184. – Enclosures and control measures.	Sec. 10-110	Add req to have liability insurance covering the dog
Sec. 10-185. – Impoundment Authorized.	Sec. 10-115	
Sec. 10-186 – Destruction of animals that cannot be seized or confined by reasonable means.	Sec. 10-111	
Secs. 10-187—10-210. – Reserved.	-	
Sec. 10-211. – Violations and penalties.	Sec. 10-153	
Sec. 10-212. – Civil Penalties	Sec. 10-153	
Sec 10-213. – Civil penalty schedule	Sec. 10-155	New schedule based on severity and how many repeat offenses

TO MAYOR & COUNCIL
APPROVAL: August 09, 2023

FISCAL YEAR 2023
FORM: 08092023-01

BUDGET AMENDMENT

FUND 010

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-1400-501001	Salaries- Regular	2,249,678	41,000	-	2,290,678
010-1400-521110	Protective Clothing	80,000	-	11,000	69,000
010-1400-524030	R&M Trucks	102,000	-	30,000	72,000
FUND 010	TOTAL REVENUES	-	-	-	-
	TOTAL EXPENDITURES	2,431,678	41,000	41,000	2,431,678

An end of year FY23 budget amendment to prepare for the annual audit process.

The City Manager and City Clerk certify budget ordinance amendment 08092023-01 was approved by City Council on August 09, 2023.

City Manager

Date

City Clerk

Date

TO MAYOR & COUNCIL
APPROVAL: August 09, 2023

FISCAL YEAR 2023
FORM: 08092023-02

BUDGET AMENDMENT

FUND 010/410

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-470900	Fund Balance Appropriated	1,186,525	-	100,000	1,086,525
010-0000-598901	Transfer Out (to 410 Project #23001)	3,547,053	-	100,000	3,447,053
FUND 010	TOTAL REVENUES	4,733,578	-	200,000	4,533,578
	TOTAL EXPENDITURES	-	-	-	-
410-0000-470100-23001	Transfer In (From 010)	-	-	100,000	(100,000)
410-1502-519200-23001	Contract Services	-	-	100,000	(100,000)
FUND 410	TOTAL REVENUES	-	-	100,000	9,067,156
	TOTAL EXPENDITURES	-	-	100,000	(200,000)

An amendment decreasing fund balance appropriation in the General Fund (010) and Transfer In (410) to project #23001.

The City Manager and City Clerk certify budget ordinance amendment 08092023-02 was approved by City Council on August 09, 2023.

City Manager

Date

City Clerk

Date

TO MAYOR & COUNCIL
APPROVAL: August 09, 2023

FISCAL YEAR 2024
FORM: 08092023-03

BUDGET AMENDMENT

FUND 410 | 460 | 468

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
410-0000-470010-VE024	Debt Proceeds (Vehicle & Equip. Loan)	403,000	30,250	-	433,250
410-0000-460090-VE024	Contributions/Donations	-	30,250	-	30,250
410-1300-554002-VE024	C/O-Vehicles (14-47, Marked)	60,500	-	-	60,500
410-1300-554002-VE024	C/O-Vehicles (14-53, Marked)	60,500	-	-	60,500
410-1300-554002-VE024	C/O-Vehicles (14-52, Marked)	60,500	-	-	60,500
410-1300-554002-VE024	C/O-Vehicles (14-55, Marked)	60,500	-	-	60,500
410-1300-554002-VE024	C/O-Vehicles (14-48, Marked)	60,500	-	-	60,500
410-1300-554002-VE024	C/O-Vehicles (14-49, Marked)	60,500	-	-	60,500
410-1300-554002-VE024	C/O-Vehicles (14-50, Un-marked)	40,000	-	-	40,000
410-1300-554002-VE024	C/O-Vehicles (New BGC Vehicle)	-	60,500	-	60,500
FUND 410 (Police)	TOTAL REVENUES	403,000	60,500	-	463,500
	TOTAL EXPENDITURES	403,000	60,500	-	463,500
410-0000-470010-VE024	Debt Proceeds (Vehicle & Equip. Loan)	430,000	-	-	430,000
410-1400-554001-VE024	C/O-Equipment (SCBAs)	325,000	-	-	325,000
410-1400-554002-VE024	C/O-Vehicles (14-61, SUV)	65,000	-	-	65,000
410-1400-554002-VE024	C/O-Vehicles (14-84, Truck)	40,000	-	-	40,000
FUND 410 (Fire)	TOTAL REVENUES	430,000	-	-	430,000
	TOTAL EXPENDITURES	430,000	-	-	430,000
410-0000-470010-VE024	Debt Proceeds (Vehicle & Equip. Loan)	469,000	-	-	469,000
410-1502-554002-VE024	C/O-Vehicles (Sustainability Vehicle)	50,000	-	-	50,000
410-1523-554002-VE024	C/O-Vehicles (16-03, 2500 Series)	63,000	-	-	63,000
410-1525-554002-VE024	C/O-Vehicles (14-30, 2500 Series)	53,000	-	-	53,000
410-1525-554002-VE024	C/O-Vehicles (14-58, 2500 Series)	53,000	-	-	53,000
410-1525-554001-VE024	C/O-Equipment (43-03 Ventrac)	100,000	-	-	100,000
410-1555-554001-VE024	C/O-Equipment (20-01 Dump)	150,000	-	-	150,000
FUND 410 (Public Works)	TOTAL REVENUES	469,000	-	-	469,000
	TOTAL EXPENDITURES	469,000	-	-	469,000

460-0000-470100-VE024	Transfer In (from 060)	589,000	-	-	589,000
460-7002-554002-VE024	C/O-Vehicles (All W&S Vehicles)	205,000	-	-	205,000
460-7002-554001-VE024	C/O-Equipment (42-06, Skid Steer)	100,000	-	-	100,000
460-7002-554001-VE024	C/O-Equipment (44-08 Excavator)	82,000	-	-	82,000
460-7002-554001-VE024	C/O-Equipment (LSL Crew Dump)	120,000	-	-	120,000
460-7002-554001-VE024	C/O-Equipment (LSL Crew Excavator)	82,000	-	-	82,000
FUND 460 (Water & Sewer)	TOTAL REVENUES	589,000	-	-	589,000
	TOTAL EXPENDITURES	589,000	-	-	589,000
468-0000-470100-VE024	Transfer In (from 010)	49,065	-	-	49,065
468-0000-470010-VE024	Debt Proceeds (Vehicle & Equip. Loan)	500,000	-	-	500,000
468-7855-554002-VE024	C/O-Vehicles (14-18, 3500 Series+Refuse Bed)	75,000	-	-	75,000
468-7855-554001-VE024	C/O-Equipment (61-17 Leaf Machine)	174,065	-	-	174,065
468-7855-554001-VE024	C/O-Equipment (Waste Truck)	300,000	-	-	300,000
FUND 468 (Env. Services)	TOTAL REVENUES	549,065	-	-	549,065
	TOTAL EXPENDITURES	549,065	-	-	549,065

An amendment increasing the FY24 Vehicle and Equipment CPO, #VE024 to reflect the acquisition of a Boys' and Girls' Club (BGC) Police Officer Vehicle. The vehicle acquisition will be funded 50% by a contribution from the BGC and 50% by the City through the FY24 vehicle and equipment loan.

The City Manager and City Clerk certify budget ordinance amendment 08092023-03 was approved by City Council on August 09, 2023.

City Manager

Date

City Clerk

Date

TO MAYOR & COUNCIL
APPROVAL: August 09, 2023

FISCAL YEAR 2024
FORM: 08092023-04

BUDGET AMENDMENT

FUND 010

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-460090	Contributions/Donations	-	50,000	-	50,000
010-1200-519200	Contracted Services	225,000	50,000	-	275,000
FUND 010	TOTAL REVENUES	-	50,000	-	-
	TOTAL EXPENDITURES	-	50,000	-	-
An amendment increasing budget appropriations following the receipt of a \$50,000 a contribution for work on the City's Comprehensive Plan. The addition of the \$50,000 contribution brings the FY24 comp plan appropriation to a total of \$200,000.					

The City Manager and City Clerk certify budget ordinance amendment 08092023-04 was approved by City Council on August 09, 2023.

City Manager

Date

City Clerk

Date

TO MAYOR & COUNCIL
APPROVAL: August 09, 2023

FISCAL YEAR 2024
FORM: 08092023-05

BUDGET AMENDMENT

FUND 010

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-470030	Insurance Proceeds	-	1,368	-	1,368
010-1525-524030	R&M Trucks	14,500	1,368	-	15,868
FUND 010	TOTAL REVENUES	-	1,368	-	1,368
	TOTAL EXPENDITURES	14,500	1,368	-	15,868

An amendment for an insurance reimbursement related to a vehicle accident

The City Manager and City Clerk certify budget ordinance amendment 08092023-05 was approved by City Council on August 09, 2023.

City Manager

Date

City Clerk

Date

TO MAYOR & COUNCIL
APPROVAL: August 09, 2023

FISCAL YEAR 2024
FORM: 08092023-06

BUDGET AMENDMENT

FUND 010

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-470900	Fund Balance Appropriated	2,716,519	100,000	-	2,816,519
010-1502-519200	Contract Services	22,800	100,000	-	122,800
FUND 010	TOTAL REVENUES	2,716,519	100,000	-	2,816,519
	TOTAL EXPENDITURES	22,800	100,000	-	122,800

An amendment increasing fund balance appropriation in the General Fund (010) for the Parks Master Plan

The City Manager and City Clerk certify budget ordinance amendment 08092023-06 was approved by City Council on August 09, 2023.

City Manager

Date

City Clerk

Date

TO MAYOR & COUNCIL
APPROVAL: August 09, 2023

FISCAL YEAR 2023
FORM: 08092023-07

BUDGET AMENDMENT

FUND 010

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
080-0000-435001	H&W Charges	292,025	20,001	-	312,026
080-3101-519200	Contract Services	73,525	20,001	-	93,526
FUND 010	TOTAL REVENUES	-	20,001	-	312,026
	TOTAL EXPENDITURES	-	20,001	-	93,526

An amendment correcting the Health & Wellness Fund (080) in preparation for the FY23 audit.

The City Manager and City Clerk certify budget ordinance amendment 08092023-07 was approved by City Council on August 09, 2023.

City Manager

Date

City Clerk

Date

CERTIFICATE OF SUFFICIENCY

Re: Petition for Contiguous Annexation
Petitioner: Bullets Contracting, LLC- Chris Miller, Manager
File No. C23-61-ANX

To the Honorable Mayor and members of the City Council of Hendersonville, North Carolina:
I, Jill Murray, City Clerk, being first duly sworn, hereby certify that:

1. A petition has been received for contiguous annexation of property consisting of +/- 0.64 acres located on N. Stoney View Court in Hendersonville, NC, being tax parcels PIN 9569-47-1183 and 9569-47-2203, 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-31 of the Petition for compliance with the requirements of N.C.G.S. § 160A-31.

Based upon this investigation, I find that

1. The Petition includes the names and addresses and signatures of all owners of real property lying in the area described therein.
2. The Petition was prepared in substantially the form prescribed by 160A-31(b).
3. The area described in the petition is contiguous to the City of Hendersonville's primary corporate limits, as defined by N.C.G.S. 160A-31(f).
4. The area for annexation meets all other requirements defined in NC 160A-31 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 1st day of August, 2023.

(City Seal)




Jill Murray, City Clerk

EXHIBIT A
LEGAL DESCRIPTION

Being all of that real property consisting of PINs 9569-47-1183 and 9569-47-2203 described in the plat recorded in Book 2023- _____ [to be inserted at recording of the plat] of the Henderson County Registry, said PINs 9569-47-1183 and 9569-47-2203 being described by metes and bounds as follows:

Being Lots 3 & 4 of Block A of Stoney Crest Subdivision, as shown on the plat thereof recorded in Plat Cabinet C at Slide 23, in the Office of the Register of Deeds for Henderson County, North Carolina, and being more particularly described as follows:

Beginning at a point on the northwestern right of way line of North Stone View Court at the common corner of Lots 4 & 5 of the aforementioned subdivision; thence along the common line between Lots 4 & 5 running North 74°31'01" West for 141.80 feet to a point on the southeastern limits of the City of Hendersonville; thence along the southeastern limits of the City of Hendersonville the following three (3) course to wit: (1) North 15°23'02" East for 74.40 feet; (2) North 14°50'43" East for 24.81 feet; (3) North 14°50'43" East for 99.55 feet to a point at common corner of Lots 2 & 3 of the aforementioned subdivision; thence leaving the limits of the City of Hendersonville and along the common line between Lots 2 & 3 running South 74°39'12" East for 141.09 feet to a point on the Northwestern right of way line of North Stone View Court; thence along the northwestern right of way line of North Stone View Court the following two (2) courses to wit: (1) South 14°53'55" W for 99.55 feet; (2) South 14°53'55" W for 99.55 feet to the Point of Beginning.

Containing 0.64 acres (28,074 square feet), more or less.



CITY OF HENDERSONVILLE
COMMUNITY DEVELOPMENT DEPARTMENT
100 N. King Street, Hendersonville, NC 28792
Phone (828) 697-3010|Fax (828) 698-6185
www.hendersonvillenc.gov

Petition Requesting Annexation

The following are the **required** submittals for a complete application for a Voluntary Annexation. Staff will not review applications until each item has been submitted and determined complete. By placing a check mark by each of the following items, you are certifying that you have performed that task.

- ☒ 1. Completed Application Form
- ☒ 2. A copy of the deed indicating ownership of the property.
- ☒ 3. A Survey Plat of the property prepared by a registered surveyor licensed to practice in the state of North Carolina.
- ☐ 4. A typed boundary description of the property.

A. Property Information

PIN(s): 9569472203

Address(es) / Location of Property: 2205 N Storey View Ct.

Does this property adjoin the present City Limits? ☒ Yes ☐ No

Is the property within the ETJ? ☒ Yes ☐ No

Reason for Annexation:

Connecting TO Sewer

Office Use:
Date Received: _____ By: _____ Fee Received? Y/N

B. Property Owner Contact InformationChris Miller

* Printed Applicant Name

7-18-2023

Date

Bullet's CONTRACTING

Printed Company Name (if applicable)

☐ Corporation☒ Limited Liability Company☐ Trust☐ Partnership☐ Other: _____
Property Owner SignatureManager
Property Owner Title (if applicable)P.O. Box 2261
Address of Property OwnerH'ville NC 28793
City, State, and Zip Code828-329-7195
TelephoneChrisbullet985@gmail.com
Email

Resolution #__-____

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

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

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

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

Section 1. A public hearing on the question of annexation of the contiguous area described herein will be held at the City Operations Center located at 305 William St. Hendersonville NC, 28792 at 5:45 p.m. September 7th, 2023, or as soon thereafter as it may be heard.

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

Being all of that real property consisting of PINs 9569-47-1183 and 9569-47-2203 described in the plat recorded in Book 2023- ____ [to be inserted at recording of the plat] of the Henderson County Registry, said PINs 9569-47-1183 and 9569-47-2203 being described by metes and bounds as follows:

Being Lots 3 & 4 of Block A of Stoney Crest Subdivision, as shown on the plat thereof recorded in Plat Cabinet C at Slide 23, in the Office of the Register of Deeds for Henderson County, North Carolina, and being more particularly described as follows:

Beginning at a point on the northwestern right of way line of North Stone View Court at the common corner of Lots 4 & 5 of the aforementioned subdivision; thence along the common line between Lots 4 & 5 running North 74°31'01" West for 141.80 feet to a point on the southeastern limits of the City of Hendersonville; thence along the southeastern limits of the City of Hendersonville the following three (3) course to wit: (1) North 15°23'02" East for 74.40 feet; (2) North 14°50'43" East for 24.81 feet; (3) North 14°50'43" East for 99.55 feet to a point at common corner of Lots 2 & 3 of the aforementioned subdivision; thence leaving the limits of the City of Hendersonville and along the common line between Lots 2 & 3 running South 74°39'12" East for 141.09 feet to a point on the Northwestern right of way line of North Stone View Court; thence along the northwestern right of way line of North Stone View Court the following two (2) courses to wit: (1) South 14°53'55" W for 99.55 feet; (2) South 14°53'55" W for 99.55 feet to the Point of Beginning.

Containing 0.64 acres (28,074 square feet), more or less.

Re: Petition for Contiguous Annexation
Petitioner: Bullets Contracting, LLC- Chris Miller, Manager
File No. C23-61-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 ____day of _____ 20____.

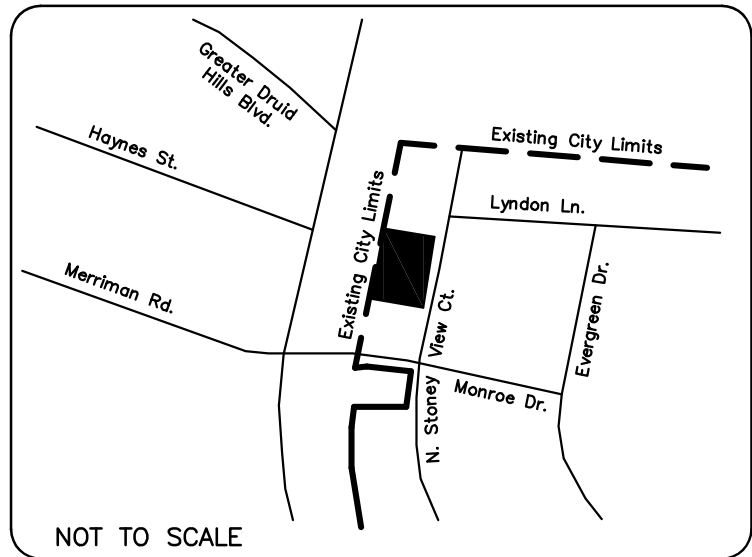
Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney



Location Map

KLM Real Estate, LLC
D.B. 1588, Pg. 299
PIN: 9569-47-1304

Joseph Jones
D.B. 1217, Pg. 233
PIN: 9569-47-0141

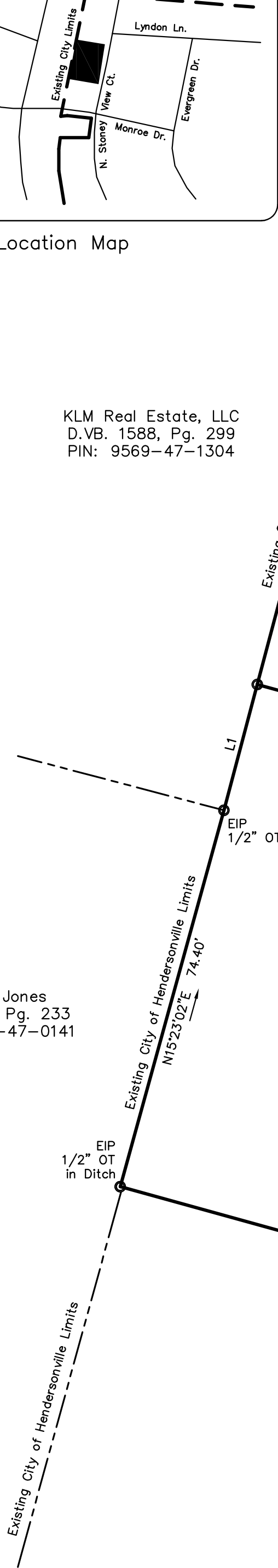
LINE	BEARING	DISTANCE
L1	N14°50'43"E	24.81'

Lot 2
Dora & Jose Vigil
D.B. 1215, Pg. 612
P.C. C, Slide 23
PIN: 9569-47-1267

Lot 3
0.32 Acres ±
14,040 Sq.Ft. ±
PIN: 9569-47-2203

Lot 4
0.32 Acres ±
14,033 Sq.Ft. ±
PIN: 9569-47-1183

Lot 5
Dorothy Britt
D.B. 553, Pg. 670
P.C. C, Slide 23
PIN: 9569-46-0999



LEGEND:	
NIP	NEW IRON PIN (1/2" REBAR)
EIP	EXISTING IRON PIN
CP	CALCULATED POINT
U	UTILITY VAULT
P	POWER POLE
L	LIGHT POLE
W	WATER VALVE
G	GAS VALVE
M	WATER METER
F	FIRE HYDRANT
S	SANITARY SEWER MANHOLE
SD	STORM DRAIN MANHOLE
C	CATCH BASIN
CL	CLEANOUT
CI	CURB INLET
T	TRANSFORMER
OHU	OVERHEAD UTILITY
F	FENCE LINE
M	MEASURED
R	RECORD
D.B.	DEED BOOK
P.B.	PLAT BOOK
R/W	RIGHT-OF-WAY

I, Fulton V. Clinkscales, Jr., certify that this plat was drawn under my supervision from an actual survey made under my supervision (Deed description recorded in Book 3947, page 183, etc.) that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, Page _____; that the ratio of precision as calculated is 1:10,000; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this 18th day of July, 2023, A.D.

G.S. 47-30(f)(11)(c)(1) This survey is of an existing parcel or parcels of land or one or more existing easements and does not create a new street or change an existing street.

Fulton V. Clinkscales, Jr.
L-2614



This plat represents the area being annexed to the City of Hendersonville, NC pursuant to NCGS 160A-31, by Ordinance duly adopted (Annexation Ordinance _____).

This the _____ day of _____, 2023

Jill Murray, City Clerk

Date

State of North Carolina
Henderson County

I, _____, Review Officer of Henderson County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer

Date

NOTES:

- 1) The Basis of Bearings for this survey is NAD83(2011)
- 2) The purpose of this plat is to annex Parcel Nos. 9569-47-1183 & 9569-47-2203 (0.64 contiguous acres) into the City Limits of Hendersonville, as shown on this Plat.

ANNEXATION PLAT FOR THE
City of Hendersonville

Tax Parcels: 9569-47-1183 & 9569-47-2203

Bullets Contracting, LLC

(OWNER)

North Stoney View Court
Hendersonville Township
Henderson County
State of North Carolina
Lots 3 & 4, Stoney Crest

0 20 40
SCALE 1" = 20'

RLS: F. V. CLINKSCALES JR., P.E.
ND: L-2614 Firm No. C-1562

FREELAND — CLINKSCALES
& ASSOCIATES, INC. of NC
Engineers * Land Surveyors
201 2nd AVE. EAST
HENDERSONVILLE, N.C. 28792
(828) 697-6539
info@fcaofnc.com

REF. PLAT CAB.	C/23
REF. DEED BOOK	3947/183
TAX MAP	Various
PARTY CHIEF	TEC
DRAWN	TEC
DATE	July 18, 2023
DWG.NO.	H42374

Lots 3 & 4 Stoney Crest Annexation Description

Being Lots 3 & 4 of Block A of Stoney Crest Subdivision, as shown on the plat thereof recorded in Plat Cabinet C at Slide 23, in the Office of the Register of Deeds for Henderson County, North Carolina, and being more particularly described as follows:

Beginning at a point on the northwestern right of way line of North Stone View Court at the common corner of Lots 4 & 5 of the aforementioned subdivision; thence along the common line between Lots 4 & 5 running North 74°31'01" West for 141.80 feet to a point on the southeastern limits of the City of Hendersonville; thence along the southeastern limits of the City of Hendersonville the following three (3) course to wit: (1) North 15°23'02" East for 74.40 feet; (2) North 14°50'43" East for 24.81 feet; (3) North 14°50'43" East for 99.55 feet to a point at common corner of Lots 2 & 3 of the aforementioned subdivision; thence leaving the limits of the City of Hendersonville and along the common line between Lots 2 & 3 running South 74°39'12" East for 141.09 feet to a point on the Northwestern right of way line of North Stone View Court; thence along the northwestern right of way line of North Stone View Court the following two (2) courses to wit: (1) South 14°53'55" W for 99.55 feet; (2) South 14°53'55" W for 99.55 feet to the Point of Beginning.

Containing 0.64 acres (28,074 square feet), more or less.



0 65 130
Feet

Section 5, Item E.

City of Hendersonville
July 2023



2203 & 2205 N. Stoney View Court

C23-61-ANX

PINs: 9569-47-1183 & 9569-47-2203

Acreage: 0.64

Annexation Map

Community Development Department



Subject Property



Hendersonville City Limits



CITY OF HENDERSONVILLE
COMMUNITY DEVELOPMENT DEPARTMENT
100 N. King Street, Hendersonville, NC 28792
Phone (828) 697-3010|Fax (828) 698-6185
www.hendersonvillenc.gov

Petition Requesting Annexation

The following are the **required** submittals for a complete application for a Voluntary Annexation. Staff will not review applications until each item has been submitted and determined complete. By placing a check mark by each of the following items, you are certifying that you have performed that task.

- ☒ 1. Completed Application Form
- ☒ 2. A copy of the deed indicating ownership of the property.
- ☒ 3. A Survey Plat of the property prepared by a registered surveyor licensed to practice in the state of North Carolina.
- ☒ 4. A typed boundary description of the property.

A. Property Information

PIN(s): 9569471183
Address(es) / Location of Property: 2203 N Storey View CT

Does this property adjoin the present City Limits? ☒ Yes ☐ No
Is the property within the ETJ? ☒ Yes ☐ No

Reason for Annexation:
Connection to Sewer

Office Use:
Date Received: _____ By: _____ Fee Received? Y/N

B. Property Owner Contact Information

Chris Miller 7-18-2023
 * Printed Applicant Name Date

Bullets Contracting LLC
 Printed Company Name (if applicable)

☐ Corporation ☒ Limited Liability Company ☐ Trust ☐ Partnership

☐ Other: _____


 Property Owner Signature

MANAGER
 Property Owner Title (if applicable)

P.O. Box 2261
 Address of Property Owner

H'ville NC 28793
 City, State, and Zip Code

828-329-9195
 Telephone

Chrisbullet985@gmail.com
 Email

BK 3947 PG 183 - 185 (3)

This Document eRecorded:

Fee: \$26.00

Henderson County, North Carolina

William Lee King, Register of Deeds

DOC# 984406

08/05/2022 12:50:12 PM

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax:\$ 34.00

Parcel Identifier No. 104917 Verified by _____ County on the ____ day of _____, 20____

By: _____

Mail/Box to: McDuffy Law Firm, PLLC Atty. Scott McDuffy, 317 Banner Farm Rd. Ste. A, Mills River, NC 28759

This instrument was prepared by: Atty. Scott McDuffy, 317 Banner Farm Rd. Ste. A, Mills River, NC 28759

Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds.

Brief description for the Index: Lots 3 and 4 of Block A of Stoney Crest Subdivision

THIS DEED made this <u> 1 </u> day of <u> August </u> , 20 <u>22</u> by and between	
GRANTOR	GRANTEE
<div>Donna Graham Duerr, unmarried</div> <div>1308 Old Spartanburg Rd. Apt 203 Hendersonville NC 28792</div>	<div>Bullets Contracting, LLC a North Carolina Limited Liability Company</div> <div>113 Harrison Pond Rd. Campobello, SC 29322</div>

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Henderson County, North Carolina and more particularly described as follows:

SEE ATTACHED EXHIBIT A

The property hereinabove described was acquired by Grantor by instrument recorded in Book 1018 page 337.

All or a portion of the property herein conveyed _____ includes or X does not include the primary residence of a Grantor.

A map showing the above described property is recorded in Plat Book C at page 23.

NC Bar Association Form No. 3 © 1976, Revised © 1977, 2002

Printed by Agreement with the NC Bar Association – 1981 - Chicago Title Insurance Company

submitted electronically by "The McDuffy Law Firm"

in compliance with North Carolina statutes governing recordable documents

and the terms of the submitter agreement with the Henderson County Register of Deeds.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

Subject to Henderson County ad valorem taxes.
Subject to Restrictions, Easements, and Rights of Way of Record.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

Donna Graham Duerr

(SEAL)

Donna Graham Duerr

State of North Carolina - County of Henderson

I, the undersigned Notary Public of the County and State aforesaid, certify that **Donna Graham Duerr** personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 1st day of August, 2022

My Commission Expires: 10/7/25

P. ANAHI PEREZ MCDUFFY
NOTARY PUBLIC
Henderson County
North Carolina
My Commission Expires Oct. 7, 2025

Charli P. McDuffy

Notary Public

NC Bar Association Form No. 3 © 1976, Revised © 1977, 2002
Printed by Agreement with the NC Bar Association – 1981 – Chicago Title Insurance Company

Exhibit A

BEING Lots Three (3) and Four (4) of Block A of Stoney Crest Subdivision, as shown on the plat thereof recorded in Plat Cabinet C, Slide Number 23 (formerly appearing of record in Plat Book 5, at Page 117), in the Office of the Register of Deeds for Henderson County, North Carolina, reference to which plat is hereby made for a more complete description.

Lots Three (3) and Four (4) of Block A of Stoney Crest Subdivision as shown on plat thereof recorded in Plat Cabinet C, Slide Number 23, are conveyed subject to the following restrictions which are covenants running with the land and shall be binding upon the grantees, and their successors and assigns:

1. These lots may be used only for residential purposes.
2. Only single-family residences may be built on these lots and only one single-family residence may be built upon Lot Three (3) and only one single-family residence may be built upon Lot Four (4).
3. Owners of these lots shall at all times be subject to suit for damages by residential lot owners in this subdivision for the violation of any of the above restrictions.

BEING the same property described in deed recorded in Book 1018 at Page 337, Henderson County Registry.



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

SUBMITTER:

Tyler Morrow

MEETING DATE:

August 9th, 2023

AGENDA SECTION:

CONSENT

DEPARTMENT:

Community Development

TITLE OF ITEM:

Annexation: Certificate of Sufficiency-Townes at Martha Kate (C23-62-ANX)
– Tyler Morrow, Planner II

SUGGESTED MOTION(S):

I move Council to accept the City Clerk's Certificate of Sufficiency for the petition submitted by Rick Moore, Manager of the Townes at Martha Kate LLC and set September 7th, 2023, as the date for public hearing.

SUMMARY: *File # C23-62-ANX*

The City of Hendersonville has received a petition from Rick Moore, Manager of the Townes at Martha Kate LLC. for satellite annexation of PIN 9569-75-0342 located on Queen Street that is approximately 14.20 acres. Please refer to the attached maps for additional information.

Attached is the Clerk's Certificate of Sufficiency finding that the petition is valid. The next step in the annexation process is to accept the Clerk's certificate and set a date for the public hearing on the question of adoption of an ordinance of annexation.

PROJECT/PETITIONER NUMBER:	<ul style="list-style-type: none">C23-62-ANX
PETITIONER NAME:	<ul style="list-style-type: none">Rick Moore, Manager of the Townes at Martha Kate LLC.
ATTACHMENTS:	<ol style="list-style-type: none">Certificate of SufficiencyResolution setting public hearingAnnexation PlatTyped legal descriptionGIS mapAnnexation ApplicationDeed

CERTIFICATE OF SUFFICIENCY

Re: Petition for Satellite Annexation
 Petitioners: Townes at Martha Kate LLC (Rick Moore, Manager)
 File No. C23-62-ANX

To the Honorable Mayor and members of the City Council of Hendersonville, North Carolina:
 I, Jill Murray, City Clerk, being first duly sworn, hereby certify that:

1. A petition has been received for satellite annexation of properties consisting of +/- 14.20 acres located on Queen Street in Hendersonville, NC, being tax parcel PIN 9569-75-0342, 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 6.5' 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. 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.
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 subject to subdivision regulation as described in N.C.G.S. § 160D-802 and all of the subdivision is included in the petition.
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 petition and the area for annexation meets all other requirements defined in NC 160A-58.1.

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 1st day of August, 2023.

(City Seal)





 Jill Murray, City Clerk

EXHIBIT A LEGAL DESCRIPTION

Being all of that real property consisting of PIN 9569-75-0342 described in the plat recorded in Book 2023- _____ [to be inserted at recording of the plat] of the Henderson County Registry, said PIN 9569-75-0342 being described by metes and bounds as follows:

Tract 1

Beginning on a 1/2" rebar, said rebar bearing NC Grid Coordinates of Northing – 596039.0349 and Easting – 966861.2601, and proceeding thence from beginning point thus established, S 21°59'23" E 26.02' to a 1/2" rebar, thence S 28°05'48" E 69.57' to a point in Queen Street, thence along with Queen Street the following five calls, S 46°01'56" E 13.80' to a point, S 57°10'21" E 210.36' to a point, S 46°42'31" E 113.30' to a point, S 38°33'02" E 135.50' to a point, S 38°10'56" E 267.63' to a point, thence leaving Queen Street S 20°04'32" E 100.50' to a 1/2" rebar located in the northern margin of North Main Street, thence with the northern margin of North Main Street on a non-tangent curve to the left with a radius of 291.69' and an arc length of 98.42' (chord - S 39°38'46" W, 97.95') to a point, thence S 29°58'49" W 429.16' to a point, said point being the easternmost point of "Possible Overlap Area" as described below, thence leaving the margin of North Main Street, N 13°10'06" W 18.25' to a point, thence N 28°49'16" W 126.13' to a point, thence N 60°17'30" W 232.38' to a point, thence N 33°05'56" W 596.69' to a point, thence N 55°47'26" passing a 1/2" rebar at a distance of 25.19' for a total distance of 175.08' to a 1" iron pipe, thence N 57°55'43" 277.19' to the point and place of beginning. Containing 12.21 Acres Total and depicted as Tract 1 on survey by Associated Land Surveyors & Planners, PC, bearing job number S-22-699.

Possible Overlap Area

Beginning on a point in the northern margin of North Main Street, said point being the southeastern corner of Tract 1 as described above, and proceeding from said beginning point thus established, S 29°58'49" W 61.59' to a point, thence N 38°29'37" W 379.20' to a point, thence S 60°17'30" E 232.38' to a point, thence S 28°49'16" E 126.13' to a point, thence S 13°10'06" E 18.25' to the point and place of beginning. Containing 0.47 Acres and depicted as Possible Overlap Area on survey by Associated Land Surveyors & Planners, PC, bearing job number S-22-699.

Tract 2

Beginning on a point located in the southern margin of North Main Street, said point being located S 47°18'15" 61.51' from the southeastern corner of the "Possible Overlap Area" as described above, and proceeding from beginning point thus established with the southern margin of North Main Street, N 29°58'49" E 363.42' to a point in the centerline of Ochlawaha Drive, thence with the centerline of Ochlawaha Drive, S 17°13'56" E 67.56' to a mag nail, thence S 18°39'06" E 157.80' to a point, thence on a curve to the right with a radius of 125.00' and an arc length of 97.34' (chord S 03°39'25" W 94.90') to a point in the western margin of Ochlawaha Drive, thence S 25°58'04" W 47.05' to a point, thence N 60°14'45" W 82.23' to a point, thence

N 53°13'35" W 58.00' to a point, thence N 64°07'55" W 90.81' to a point, thence N 56°54'56" W 68.43' to the point and place of beginning. Containing 1.52 Acres and depicted as Tract 2 on survey by Associated Land Surveyors & Planners, PC, bearing job number S-22-699.

Resolution #__-____

**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. September 7th, 2023, 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 9569-75-0342 described in the plat recorded in Book 2023- ____ [to be inserted at recording of the plat] of the Henderson County Registry, said PIN 9569-75-0342 being described by metes and bounds as follows:

Tract 1

Beginning on a 1/2" rebar, said rebar bearing NC Grid Coordinates of Northing – 596039.0349 and Easting – 966861.2601, and proceeding thence from beginning point thus established, S 21°59'23" E 26.02' to a 1/2" rebar, thence S 28°05'48" E 69.57' to a point in Queen Street, thence along with Queen Street the following five calls, S 46°01'56" E 13.80' to a point, S 57°10'21" E 210.36' to a point, S 46°42'31" E 113.30' to a point, S 38°33'02" E 135.50' to a point, S 38°10'56" E 267.63' to a point, thence leaving Queen Street S 20°04'32" E 100.50' to a 1/2" rebar located in the northern margin of North Main Street, thence with the northern margin of North Main Street on a non-tangent curve to the left with a radius of 291.69' and an arc length of 98.42' (chord - S 39°38'46" W, 97.95') to a point, thence S 29°58'49" W 429.16' to a point, said point being the easternmost point of "Possible Overlap Area" as described below, thence leaving the margin of North Main Street, N 13°10'06" W 18.25' to a point, thence N 28°49'16" W 126.13' to a point, thence N 60°17'30" W 232.38' to a point, thence N 33°05'56" W 596.69' to a point, thence N 55°47'26" passing a 1/2" rebar at a distance of 25.19' for a total distance of 175.08' to a 1" iron pipe, thence N 57°55'43" 277.19' to the point and place of beginning. Containing 12.21 Acres Total and depicted as Tract 1 on survey by Associated Land Surveyors & Planners, PC, bearing job number S-22-699.

Possible Overlap Area

Beginning on a point in the northern margin of North Main Street, said point being the southeastern corner of Tract 1 as described above, and proceeding from said beginning point thus established, S 29°58'49" W 61.59' to a point, thence N 38°29'37" W 379.20' to a point, thence S 60°17'30" E

232.38' to a point, thence S 28°49'16" E 126.13' to a point, thence S 13°10'06" E 18.25' to the point and place of beginning. Containing 0.47 Acres and depicted as Possible Overlap Area on survey by Associated Land Surveyors & Planners, PC, bearing job number S-22-699.

Tract 2

Beginning on a point located in the southern margin of North Main Street, said point being located S 47°18'15" 61.51' from the southeastern corner of the "Possible Overlap Area" as described above, and proceeding from beginning point thus established with the southern margin of North Main Street, N 29°58'49" E 363.42' to a point in the centerline of Ochlawaha Drive, thence with the centerline of Ochlawaha Drive, S 17°13'56" E 67.56' to a mag nail, thence S 18°39'06" E 157.80' to a point, thence on a curve to the right with a radius of 125.00' and an arc length of 97.34' (chord S 03°39'25" W 94.90') to a point in the western margin of Ochlawaha Drive, thence S 25°58'04" W 47.05' to a point, thence N 60°14'45" W 82.23' to a point, thence N 53°13'35" W 58.00' to a point, thence N 64°07'55" W 90.81' to a point, thence N 56°54'56" W 68.43' to the point and place of beginning. Containing 1.52 Acres and depicted as Tract 2 on survey by Associated Land Surveyors & Planners, PC, bearing job number S-22-699.

Re: Petition for Satellite Annexation
Petitioners: Townes at Martha Kate LLC (Rick Moore, Manager)
File No. C23-62-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.

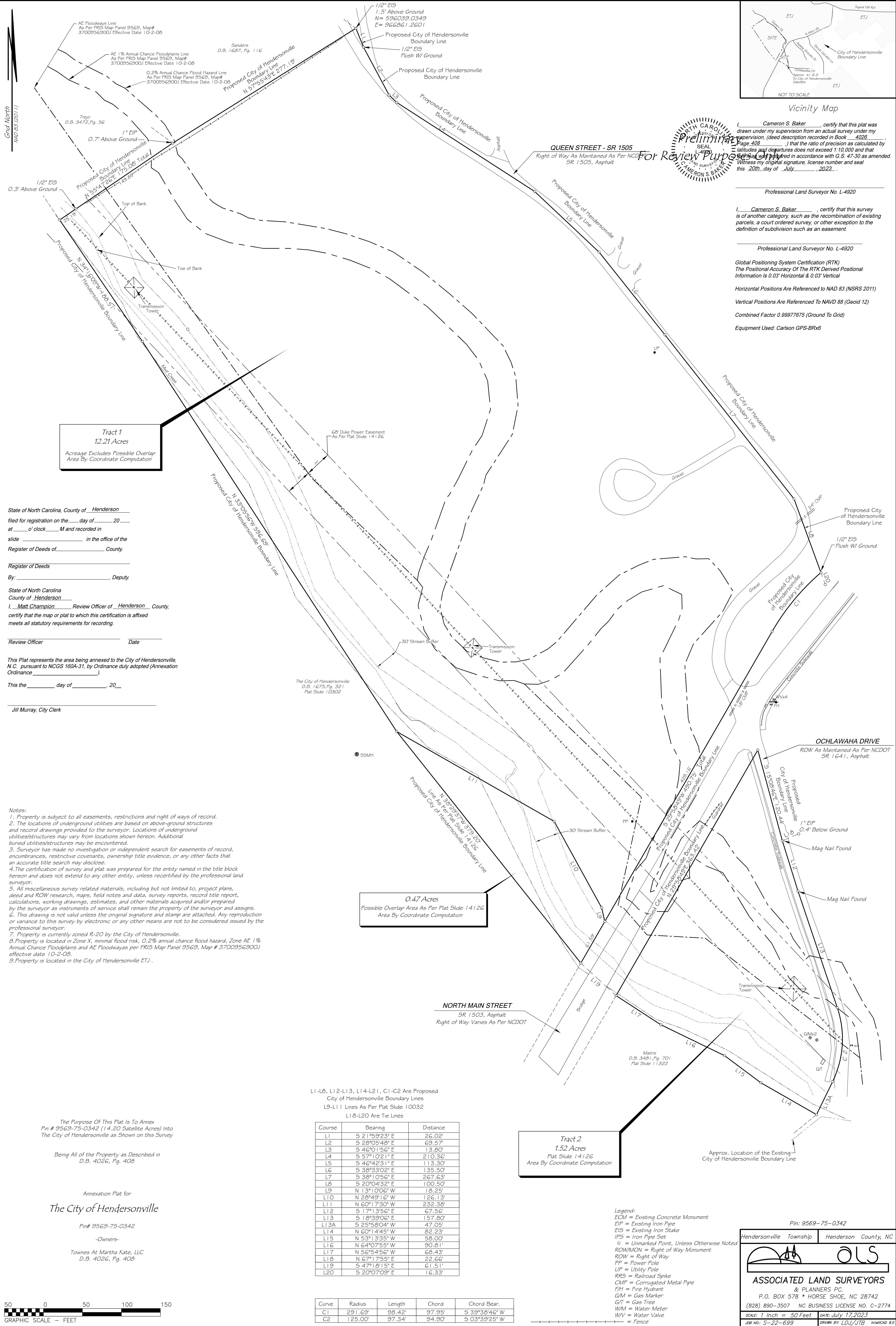
Adopted by the City Council of the City of Hendersonville, North Carolina on this ____day of _____ 20____.

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

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney



Tract 1

Beginning on a 1/2" rebar, said rebar bearing NC Grid Coordinates of Northing – 596039.0349 and Easting – 966861.2601, and proceeding thence from beginning point thus established, S 21°59'23" E 26.02' to a 1/2" rebar, thence S 28°05'48" E 69.57' to a point in Queen Street, thence along with Queen Street the following five calls, S 46°01'56" E 13.80' to a point, S 57°10'21" E 210.36' to a point, S 46°42'31" E 113.30' to a point, S 38°33'02" E 135.50' to a point, S 38°10'56" E 267.63' to a point, thence leaving Queen Street S 20°04'32" E 100.50' to a 1/2" rebar located in the northern margin of North Main Street, thence with the northern margin of North Main Street on a non-tangent curve to the left with a radius of 291.69' and an arc length of 98.42' (chord - S 39°38'46" W, 97.95') to a point, thence S 29°58'49" W 429.16' to a point, said point being the easternmost point of "Possible Overlap Area" as described below, thence leaving the margin of North Main Street, N 13°10'06" W 18.25' to a point, thence N 28°49'16" W 126.13' to a point, thence N 60°17'30" W 232.38' to a point, thence N 33°05'56" W 596.69' to a point, thence N 55°47'26" passing a 1/2" rebar at a distance of 25.19' for a total distance of 175.08' to a 1" iron pipe, thence N 57°55'43" 277.19' to the point and place of beginning. Containing 12.21 Acres Total and depicted as Tract 1 on survey by Associated Land Surveyors & Planners, PC, bearing job number S-22-699.

Possible Overlap Area



Beginning on a point in the northern margin of North Main Street, said point being the southeastern corner of Tract 1 as described above, and proceeding from said beginning point thus established, S 29°58'49" W 61.59' to a point, thence N 38°29'37" W 379.20' to a point, thence S 60°17'30" E 232.38' to a point, thence S 28°49'16" E 126.13' to a point, thence S 13°10'06" E 18.25' to the point and place of beginning. Containing 0.47 Acres and depicted as Possible Overlap Area on survey by Associated Land Surveyors & Planners, PC, bearing job number S-22-699.

Tract 2

Beginning on a point located in the southern margin of North Main Street, said point being located S 47°18'15" 61.51' from the southeastern corner of the "Possible Overlap Area" as described above, and proceeding from beginning point thus established with the southern margin of North Main Street, N 29°58'49" E 363.42' to a point in the centerline of Ochlawaha Drive, thence with the centerline of Ochlawaha Drive, S 17°13'56" E 67.56' to a mag nail, thence S 18°39'06" E 157.80' to a point, thence on a curve to the right with a radius of 125.00' and an arc length of 97.34' (chord S 03°39'25" W 94.90') to a point in the western margin of Ochlawaha Drive, thence S 25°58'04" W 47.05' to a point, thence N 60°14'45" W 82.23' to a point, thence N 53°13'35" W 58.00' to a point, thence N 64°07'55" W 90.81' to a point, thence N 56°54'56" W 68.43' to the point and place of beginning. Containing 1.52 Acres and depicted as Tract 2 on survey by Associated Land Surveyors & Planners, PC, bearing job number S-22-699.



Townes at Martha Kate
C23-62-ANX
PIN: 9569-75-0342
Acreage: 14.20
Satellite Annexation Map
Community Development Department

 Subject Property
 Hendersonville City Limits

+/- 6.5' Between Existing
City Limits and Proposed
Satellite Annexation Limits



CITY OF HENDERSONVILLE
COMMUNITY DEVELOPMENT DEPARTMENT
100 N. King Street, Hendersonville, NC 28792
Phone (828) 697-3010/Fax (828) 698-6185
www.hendersonvillenc.gov

Petition Requesting Annexation

The following are the **required** submittals for a complete application for a Voluntary Annexation. Staff will not review applications until each item has been submitted and determined complete. By placing a check mark by each of the following items, you are certifying that you have performed that task.

- ☒ 1. Completed Application Form
- ☒ 2. A copy of the deed indicating ownership of the property.
- ☒ 3. A Survey Plat of the property prepared by a registered surveyor licensed to practice in the state of North Carolina.
- ☒ 4. A typed boundary description of the property.

A. Property Information

PIN(s): 9569750342

Address(es) / Location of Property: 153 Queen Street

Does this property adjoin the present City Limits? Yes X No

Is the property within the ETJ? X Yes No

Reason for Annexation:

To access City water and sewer

Office Use:

Date Received: _____ By: _____ Fee Received? Y/N

B. Property Owner Contact InformationRick Moore

* Printed Applicant Name

06/05/2023

Date

Townes at Martha Kate, LLC

Printed Company Name (if applicable)

☐ Corporation☒ Limited Liability Company☐ Trust☐ Partnership☐ Other: _____
Property Owner SignatureMEMBER - MSA.
Property Owner Title (if applicable)103 Myrdwell Rd
Address of Property OwnerMiss River, N.C. 28759
City, State, and Zip Code888-891-8900
Telephonerick@mooreandson.net
Email

C. Additional Property Owner Contact Information

RICK MOORE 6-6-23
* Printed Applicant Name Date

TOWNES at MARTHA KATE LLC
Printed Company Name (if applicable)

☐ Corporation ☒ Limited Liability Company ☐ Trust ☐ Partnership

☐ Other: _____

[Signature]
Property Owner Signature

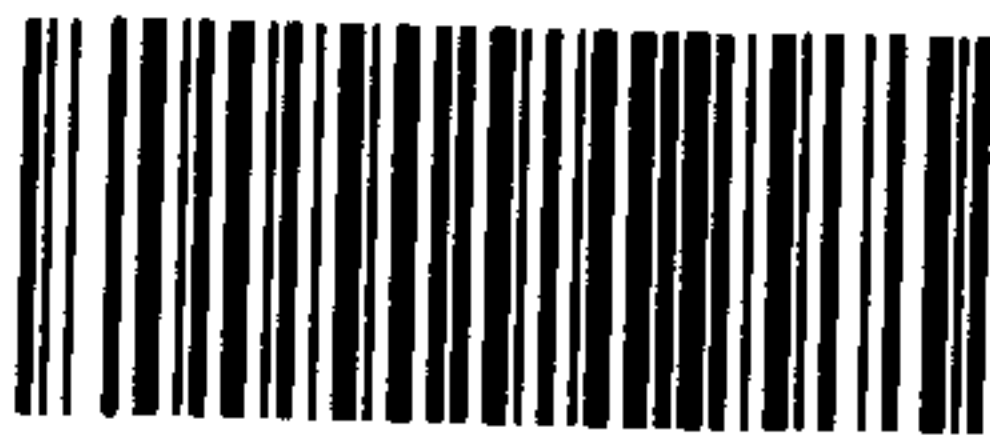
Member Mgr.
Property Owner Title (if applicable)

103 McDOWELL Rd
Address of Property Owner

Mills River, N.C. 28759
City, State, and Zip Code

828-243-4018
Telephone

rick@mooreandson.net
Email



This document presented and filed:
03/28/2023 03:16:19 PM

[Handwritten signature]

WILLIAM LEE KING, Henderson COUNTY, NC
Transfer Tax: \$0.00

→PMA

Doc Stamps \$ - 0 -

Prepared by: B.B. Massagee III
Deed Prep'n Only

This instrument is prepared by B. B. Massagee, III, a licensed North Carolina attorney. Delinquent taxes, if any are to be paid by the closing attorney to the County Tax Collector upon disbursement of closing proceeds.

STATE OF NORTH CAROLINA

DEED

COUNTY OF HENDERSON

THIS DEED is made and entered into this 27 day of March, 2023, by and between Rick Moore and wife, Amy Moore, and Mitch Gaither (also known as Mitchell W. Gauthier) and wife, Wendy L. Gaither (the grantors herein collectively referred to as the "party of the first part" and having a mailing address of 103 McDowell Road, Mills River, N.C. 28759) and Townes at Martha Kate, LLC., a North Carolina limited liability company (the "party of the second part" and having a mailing address of 103 McDowell Road, Mills River, N.C. 28759);

WITNESSETH:

The said party of the first part, for and in consideration of the sum of Ten Dollars (\$10.00) and Other Valuable Consideration to them in hand paid by the said party of the second part, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does bargain, sell, and convey in fee simple unto said party of the second part, its successors and assigns, certain tracts or parcels of land lying and being in Henderson County, North Carolina, more particularly described as follows:

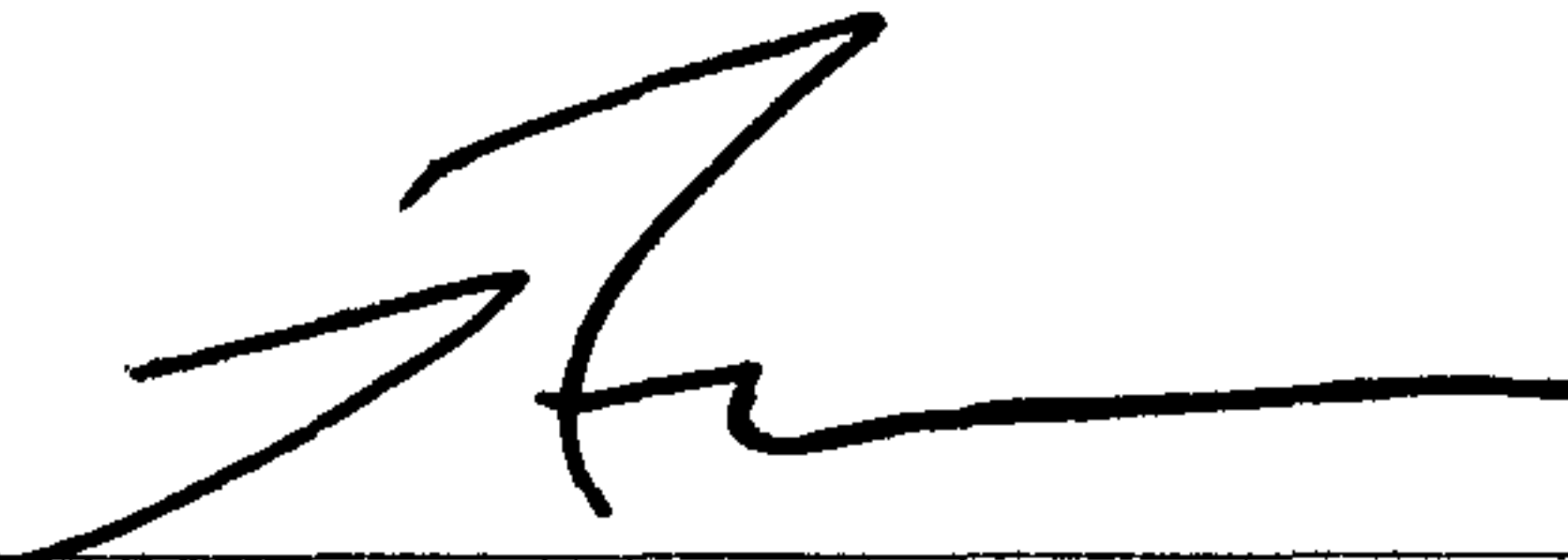
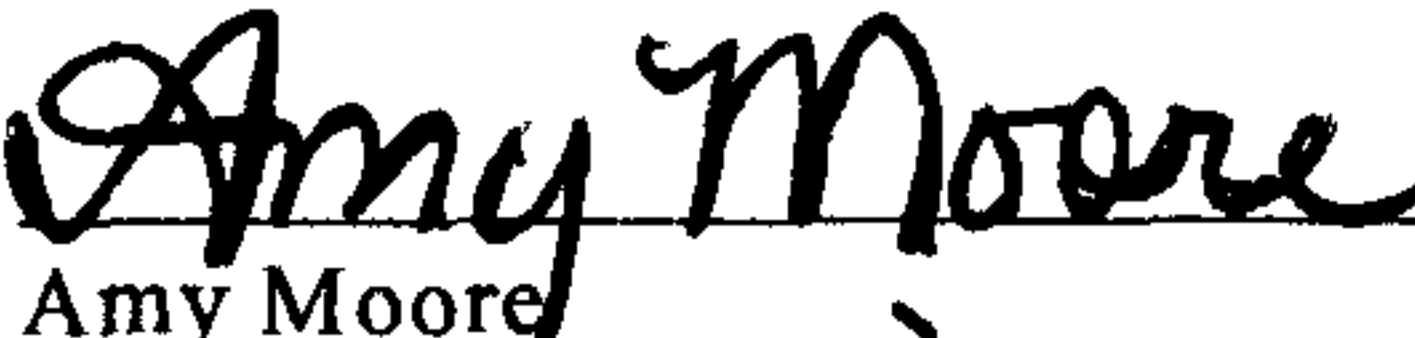
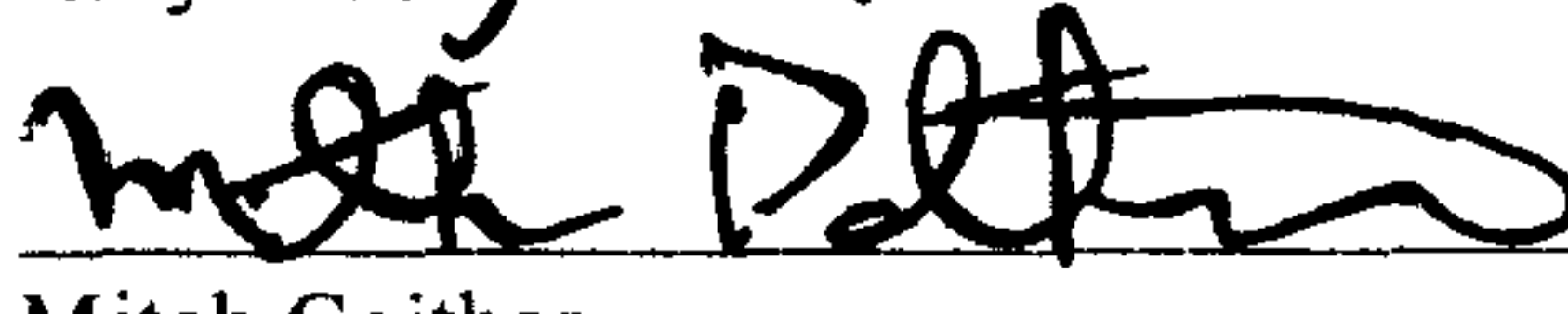

Being all of the 12.68 acres identified as Tract 1 and all of the 1.52 acres identified as Tract 2 on the "Boundary Survey for: Moore & Son Site Contractors, Inc." dated March 30, 2022, and recorded in Plat Slide 14126 of the Henderson County Registry. Also being and including all of that real property conveyed to Jack Lancaster and wife, Martha Kate M. Lancaster, by Eula M. Lyda (widow) by deed recorded in Deed Book 458, Page 641, Henderson County Registry.

Also being all of that real property conveyed to Rick Moore and Mitch Gaither by deed recorded in Book 3902, Page 292, Henderson County Registry.

TO HAVE AND TO HOLD the aforesaid tracts or parcels of land, together with all privileges and appurtenances thereunto belonging, to the said party of the second part, its successors and assigns in fee simple forever. The real property conveyed herein does not include the primary residence of the party of the first part.

IN TESTIMONY WHEREOF, said party of the first part has hereunto set their respective hands and seals the

day and year first above written.

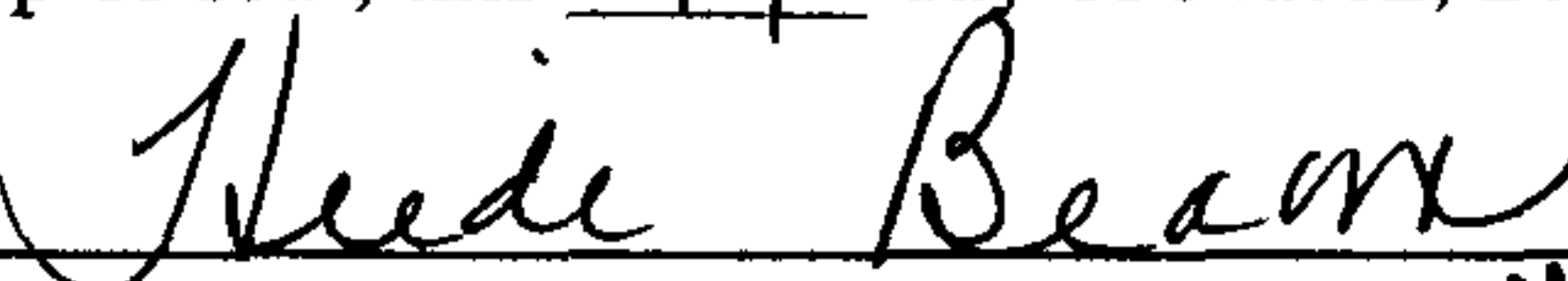

_____(Seal)
Rick Moore

_____(Seal)
Amy Moore

_____(Seal)
Mitch Gaither

_____(Seal)
Wendy L. Gaither

STATE OF NORTH CAROLINA

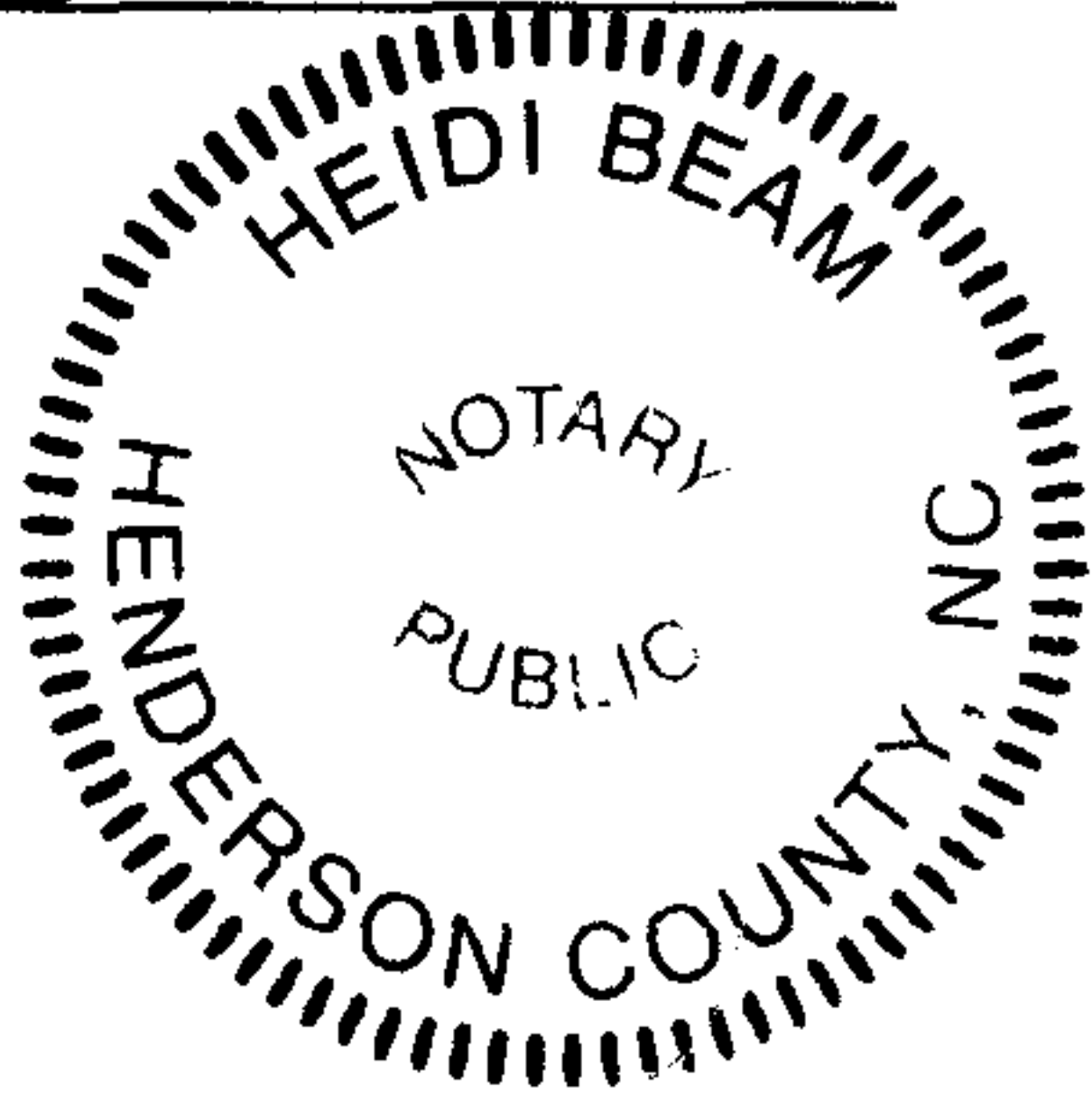
COUNTY OF HENDERSON

I, a Notary Public of the County and State aforesaid, certify that Rick Moore and Amy Moore personally appeared before me this day and acknowledged their voluntary execution of the foregoing instrument for the purpose stated therein. Witness my hand and official stamp or seal, this 27 day of March, 2023.

My Commission Expires:
11-24-2027



Notary Public

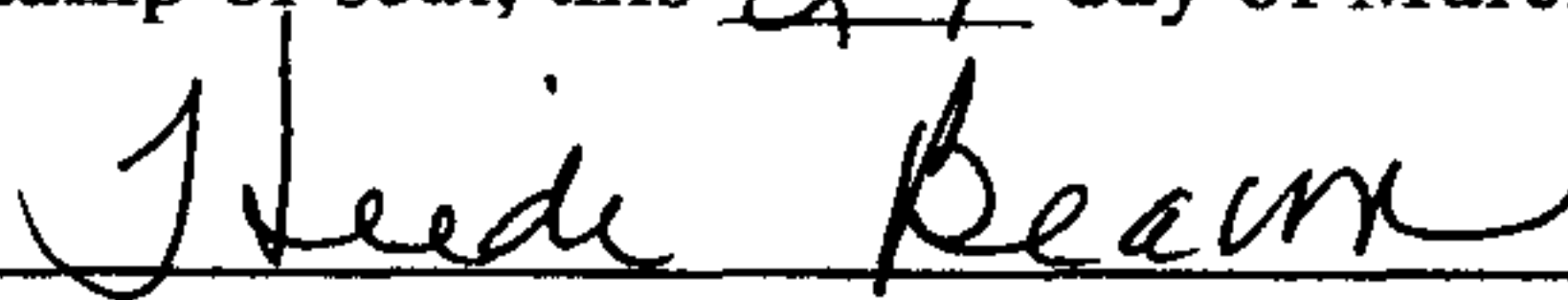


STATE OF NORTH CAROLINA

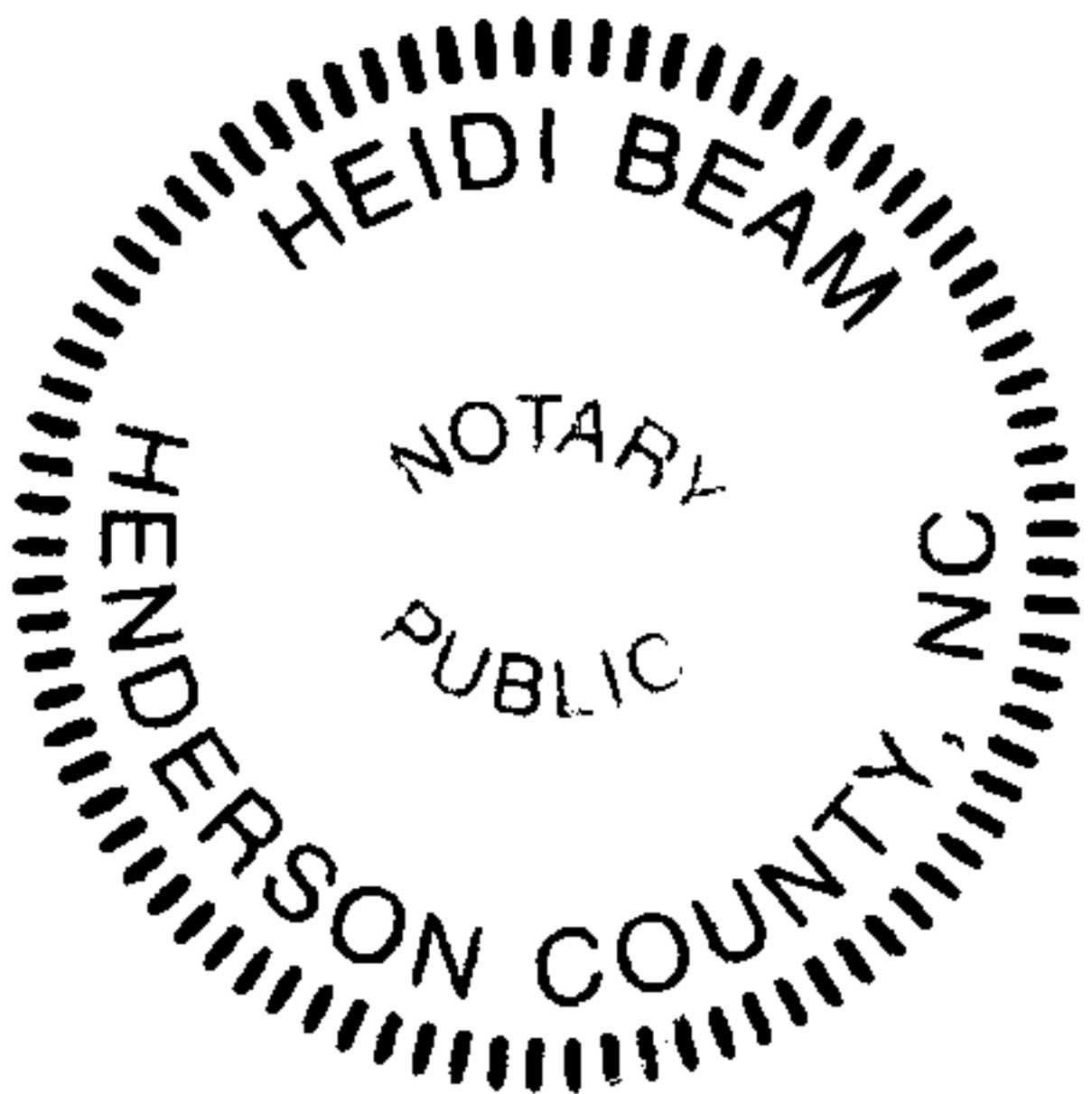
COUNTY OF HENDERSON

I, a Notary Public of the County and State aforesaid, certify that Mitch Gaither and Wendy L. Gaither personally appeared before me this day and acknowledged their voluntary execution of the foregoing instrument for the purpose stated therein. Witness my hand and official stamp or seal, this 27 day of March, 2023.

My Commission Expires:
11-24-2027



Notary Public





CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Brendan Shanahan, Project Division Manager **MEETING DATE:** August 9, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Engineering

TITLE OF ITEM: Utility Extension Agreement for the Orchard View Subdivision – *Brendan Shanahan, Project Division Manager*

SUGGESTED MOTION(S): I move that City Council approve the Resolution authorizing the City Manager to enter into a Utility Extension Agreement with Carrollwood Development LLC and Carrollwood Development Corporation, for the Orchard View Subdivision as presented and recommended by staff.

SUMMARY:

The Orchard View Subdivision located off Chimney Rock Road in Henderson County proposes to extend the City's water system to serve said expansion. The attached Utility Extension Agreement (UEA) outlines the water utility line extension process and assigns responsibilities to the Developer and City. We welcome any questions that you may have.

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

PROJECT NUMBER: 22126

PETITION NUMBER: N/A

ADDITIONAL PETITION NUMBER: N/A

PETITIONER NAME: N/A

ATTACHMENTS:

Utility Extension Agreement – Orchard View Subdivision

Map showing Orchard View Subdivision parcel

Resolution # __-____

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION
AGREEMENT WITH CARROLLWOOD DEVELOPMENT LLC AND CARROLLWOOD
DEVELOPMENT CORPORATION FOR THE ORCHARD VIEW SUBDIVISION**

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

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

WHEREAS, the Developer extends public water 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 processes; and

WHEREAS, Carrollwood Development LLC, the “Developer”, and Carrollwood Development Corporation, the “Owner”, will enter into a Utility Extension Agreement with the City to provide water and sewer services to the Orchard View Subdivision.

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

1. The Utility Extension Agreement with Carrollwood Development LLC, the “Developer”, and Carrollwood Development Corporation, the “Owner”, to provide water service to the Orchard View Subdivision 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 on this 9th day of August 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

Prepared by and return to: Daniel Heyman, Staff Attorney, City of Hendersonville, in the City Box

UTILITY EXTENSION AGREEMENT

THIS AGREEMENT, Made and entered into this 27th day of June, 2023, by and between the **CITY OF HENDERSONVILLE**, a North Carolina municipal corporation, situate in Henderson County, herein referred to as the "City", and **CARROLLWOOD DEVELOPMENT, LLC**, a North Carolina limited liability company, and **CARROLLWOOD DEVELOPMENT CORPORATION**, a Florida corporation, both of the foregoing hereinafter collectively referred to as "Developer,"

WITNESSETH:

THAT WHEREAS, Developer is the owner of, and is desirous of developing and improving, a tract of land situated in Henderson County, State of North Carolina, described as follows:

Consisting of +/- 5.19 acres, and being all of that real property described in that deed recorded in Deed Book 3998 at page 298, Henderson County registry, having REIDs of 10007039, 10007040, 10007046, 10007041, 10007042, 10007043, 10007044, and 10007045, and being all of the property identified as Lots 1, 2, 3, 4, 5, 6, 7, and the "Common Area" as shown on that plat recorded in Plat Book 2022 at page 14580, hereinafter referred to as the "Property"; and

WHEREAS, the Developer has submitted an application for the development of a project known as the Orchard View (project number 22126); and

WHEREAS, in the process of such development and improvement, Developer is desirous of constructing water infrastructure and/or sanitary sewer infrastructure to and on said tract(s) of land, for which the City requires that the Developer enter into a utility extension agreement with the City, said water and/or sewer infrastructure to consist of the following:

Being and consisting of: Water Service Extension consisting of +/- 735 lineal feet of 6" water line (DIP/CL 350), together with all meters, all valves and other appurtenances, connecting to an existing 16" ductile water main; and being more particularly shown and described on those construction plans and specifications, dated March 10, 2023, prepared by Odom Engineering, PLLC, a Civil Engineering firm, said

plans being incorporated herein by reference. The Water Service Extension hereinafter referred to as the "New Infrastructure". It is understood and agreed that the New Infrastructure may be modified or amended from and after the date of this Agreement as may be required to meet the standards of the City of Hendersonville. As used herein, "New Infrastructure" shall be deemed to include any and all of any such modifications and amendments.; and

WHEREAS, the Developer has received zoning approval from the designated governing body for such development and improvement on the Property; and

WHEREAS, the Property is not located within the City's municipal boundaries but is located within the unincorporated area of Henderson County; and

WHEREAS, the City is not obligated to offer water or sanitary sewer service to property outside its corporate limits; and

WHEREAS, Developer desires to have the completed New Infrastructure connected to the City's municipal water system and/or sanitary sewer system and made an integral portion thereof; and

WHEREAS, the City will permit said system(s) to be connected to the municipal system(s) under the terms and conditions heretofore established and agreed upon between the parties and specifically in conformance with the requirements of the most recent extension policy, most recent water and sewer standard construction specifications and details, and the City's Code of Ordinances currently in force.

NOW, THEREFORE, in consideration of the mutual benefits which will result to the parties in carrying out the terms of this Agreement, it is agreed as follows:

1. Developer shall, at Developer's own expense, employ a North Carolina registered and licensed professional engineer ("Engineer") to complete design and permitting of the proposed New Infrastructure in conformance with NCAC Title 15A Subchapter 18C (water) and NCAC Title 15A Subchapter 02T (sanitary sewer), the City's water and sewer standard construction specifications and details, and the City water and/or sewer Master Plan(s).
2. Developer shall require the Engineer to submit plans, reports, technical specifications, fees, permit applications, and any other items as required and approvable by the City ("Required Documents"). The Engineer shall disclose all proposed changes in the approved construction plans to the City in writing. If proposed changes are deemed by the City to be "significant" in nature, the City may require the Engineer to resubmit plans for re-permitting. The determination of whether a change is deemed to be significant shall be in the sole and absolute discretion of the City, and the Developer agrees to be bound thereby. This will require written approval by the City prior to re-submitting to the permitting agency or before proceeding with changes, even if permitting agency re-submittal is not required. City approval of a utility extension is subject to expiration should construction not be completed after a period of two years from the date of approval. Once the Required Documents have been approved by the City, they shall be deemed to be incorporated herein by reference as an amendment to this Agreement to indicate the Developers construction obligations under this Agreement.
3. The City will perform construction inspection during installation of the New Infrastructure and upon project completion submit written certification that the project was completed in accordance with the approved plans

and specifications as required by NCAC Title 15A Subchapter 18C (water) and NCAC Title 15A Subchapter 02T (sanitary sewer). Water and Sewer inspection fees shall be in accordance with the adopted City Fee Schedule as of the date of this agreement. Fees will be paid by the Developer upon certification and acceptance of the New Infrastructure, with amounts due being based on length of lines inspected, certified and accepted.

4. The Developer shall, at his or her own expense, furnish and transfer to the City all on-site and off-site easements, rights-of-way, and real property required for access to and perpetual maintenance and operation of the New Infrastructure and its appurtenances in accordance with the terms of this Agreement as provided herein below.

Developer will be required to enter into the City's standard Deed of Dedication and Conveyance With Associated Easements for conveyance of the New Infrastructure and on-site easements, as amended. Further Developer will be required to use the City's standard Utility Infrastructure Easement Agreement when securing the necessary off-site right of way for the operation and maintenance of the New Infrastructure. For the avoidance of doubt, both standard forms permit use of the easements for the future installation of water, sewer and stormwater lines, and their associated appurtenances and accessories, in addition to the New Infrastructure, by or on behalf of the City. The City shall provide a copy of these standard forms upon request by the Developer.

5. Developer shall convey to the City all of the New Infrastructure and easements, on-site and off-site, prior to selling any of the lots in the development. If the Developer sells a lot within the development to a third-party prior to the conveyance of the New Infrastructure and easements, Developer shall be responsible for all costs associated with obtaining title to the New Infrastructure and easements.
6. Developer shall, at his or her own cost and expense, furnish all materials and all equipment and perform all the work necessary to complete the construction of the New Infrastructure described in the plans and specifications as approved by the City's authorized representative and permitting agency.
7. The installation and construction of the New Infrastructure shall be performed by a reputable and responsible Contractor possessing a valid North Carolina Public Utility Contractor's License directly related to the installation of the New Infrastructure issued by the North Carolina Licensing Board for General Contractors. As used herein, a "responsible Contractor" shall mean one possessing the requisite knowledge, experience, and financial resources to complete the construction of the New Infrastructure in accordance with the plans and specifications within the time allotted.
8. The Engineer shall contact the City prior to the start of construction in order to schedule a preconstruction conference between the Developer, Contractor, Engineer, and City staff. This request should be made at least seven (7) days in advance of the anticipated starting date. Developer or Engineer shall receive a written notice to proceed (NTP) from the City before commencing with construction. If construction is anticipated to be greater than sixty (60) days, a monthly progress meeting shall be scheduled once every thirty (30) days. The date and time of the monthly progress meeting shall be established during the preconstruction conference.
9. Developer shall submit the name, address and the Public Utility Contractor's License Identification Number of the proposed Contractor to the City prior to the preconstruction meeting. The City may investigate the validity

of the Contractor's license and the Contractor's status as a responsible Contractor by methods including but not limited to contacting the owners of past projects for which the Contractor furnished work in order to obtain reference information

10. City staff will be assigned for the express purpose of periodic construction observation and inspection. The City's construction inspector(s) shall have the authority to report all discrepancies identified in all phases of construction to the Engineer regarding conformance with the approved construction drawings and specifications. This report shall in no way relieve the Developer of his or her obligation to engage a professional engineer to perform construction inspection and coordinate construction.
11. During construction, no deviations from the approved plans and specifications shall be allowed without the prior express written approval of the City and permitting agency if deemed necessary by the City.
12. The City Engineer, or authorized representative, shall be authorized to resolve disagreements between Developer's Contractor(s), and the City's construction inspector(s) regarding conformance with approved plans and/or specifications.
13. Upon completion of construction, the Developer shall cause the Engineer to arrange for a final inspection to be performed jointly by the Engineer, the contractor, and the City's construction inspector to determine if the project is acceptable to the City. At this time, a draft as-built shall be submitted to the City. If the project is not immediately acceptable, any deficiencies shall be noted in a written report (punch list) prepared by the City. This report shall be transmitted to the responsible parties. It shall be the responsibility of the Developer to correct any such deficiencies and arrange for a re-inspection of the system.
14. As part of the final inspection process for sewer collection systems, Developer shall satisfactorily complete the following as described in the most recent water and sewer standard construction specifications and details: air test, manhole vacuum tests, and mandrel deflection test. Video of the new sanitary sewer collection system by means of closed-circuit television (CCTV) will be performed by the City. All testing shall be certified and all certifications, along with the related data and any video of the sewer system, shall be submitted to the City before final acceptance of the project is granted by the City.
15. As part of the final inspection process for water distribution systems, Developer shall satisfactorily complete the following: pressure test lines, bacteriological sampling performed by a certified laboratory. The City's certified laboratory may be utilized. All testing shall be certified and all certifications, along with related data, shall be submitted to the City before final acceptance of the project is granted by the City.
16. Once all deficiencies are corrected and the project is deemed acceptable to the City, the Developer shall cause the Engineer to submit as-builts in formats acceptable to the City. The Engineer shall also submit any easements required for the New Infrastructure and any deeds necessary to convey ownership to the City. The Developer shall be responsible for acquiring easements from any third parties owning property over which any portion of the New Infrastructure is constructed, said easements to be titled in the name of the City, using forms to be provided by the City.

17. Prior to the activation of services on the newly constructed New Infrastructure, Developer shall convey unencumbered title and ownership to the City, of the New Infrastructure and its appurtenances, and shall assign and transfer all associated permits, licenses and permissions to the City. If a water extension was permitted for the same or similar project, the City shall receive final approval from the permitting agency. In certain circumstances as approved by the City, activation of services on portion(s) of the New Infrastructure may be permitted after partial certification(s) completion and approval(s).
18. The conveyance, assignment or transfer of (1) all permits, licenses or other permissions, and (2) all property and assets to the City, including but not limited to real or personal property, the New Infrastructure and its appurtenances, easements, rights of way or encroachments, (1) and (2) collectively hereinafter referred to as "Required Conveyances," shall be in form as approved by the City's legal counsel, and unless specifically excepted by the City Attorney, shall be in form proper for recording in the appropriate public registry. The conveyance of real property shall be in the form of a fee simple deed and without encumbrance as approved by the City's legal counsel. The Developer shall cause all affiliates or other third parties or entities having an ownership interest in the New Infrastructure or the Property to join the Required Conveyances, as reasonably determined by the City to be necessary to convey full title to the New Infrastructure and Required Conveyances to the City. With the execution hereof, Developer and City specifically agree that the New Infrastructure shall remain personal property, and shall not become a part of the real property, regardless of whether or not the New Infrastructure is permanently affixed to the real property comprising the Property.
19. The Developer shall provide a written release of the City's interest in the Required Conveyances (in form approved by the City Attorney) from any and all liens or other legal interests held by lenders, vendors or other third parties. The release(s) must be delivered in form for recording in the appropriate public registry, and must be received by the City in conjunction with the City's receipt of the Required Conveyances.
20. To the fullest extent allowed by law, and regardless of the approval(s) of any document(s) by the City's legal counsel, the Developer shall indemnify and hold the City harmless from all actions, causes and claims whatsoever against the City by any persons, firms, and corporations whatsoever relating in any manner to this Agreement (including but not limited to damages to persons or property related to construction and/or installation of the New Infrastructure) or the Required Conveyances. Without limiting the Developer's obligations under this paragraph in any manner, the Developer shall defend any and all claims, causes or actions whatsoever regarding the City's title or ownership in any of the Required Conveyances.
21. Developer shall guarantee the accepted and dedicated New Infrastructure to be free of defects in materials and workmanship and to be properly functioning in all respects for a period of one calendar year from the date of final acceptance by the City. During this year of guarantee, Developer shall correct, or have corrected, any defects that may develop in material, equipment, or workmanship. Should Developer fail to correct defects within a reasonable period of time after being notified, as determined in good faith by the City Engineer or designee, the City may proceed to correct defects and Developer shall be liable for the City's expense in doing so. It shall be the Developer's responsibility to attend, or to provide an authorized representative to attend, a warranty inspection with the City prior to the expiration of said warranty period. For purposes of this paragraph 21, final acceptance shall be the date the Letter of Acceptance is issued by the City as described in paragraph 23 hereinbelow.

22. Before the issuance of final acceptance, the Developer or Engineer shall schedule a project closeout meeting with the City. The Developer or Engineer shall submit to the City, not later than the start of the project closeout meeting, all required closeout documents, including but not limited to recorded easement plats, warranty deeds, affidavits of lien waiver, as-built drawings with georeferenced infrastructure data, final walk-through inspection punch list and evidence of completion of said punch list, utility extension agreements, fixed asset evaluation form and infrastructure testing results. The City shall be under no obligation to [and in the absence of extraordinary circumstances will not] activate any services before receipt of all required documentation. Partial receipt shall be treated as an incomplete project closeout and no services shall be activated. A project closeout form shall be completed and executed by the Developer or by an authorized representative of the Developer and the City for each project. If the project described in this utility extension agreement is divided into phases, a project closeout form shall be executed for each phase prior to issuance of final acceptance. For purposes of this paragraph, and notwithstanding any other provision of this agreement, every required document shall be considered material, and "substantial compliance" shall not apply.
23. Once all items required by the Developer under this Agreement are complete, the City shall issue a formal "Letter of Acceptance" to the Developer for the project. The City shall incorporate the accepted system as an integral part of its utility system and shall furnish service therefrom in accordance with the rules, regulations, rates, and policies established for its customers. For the avoidance of doubt, "final acceptance" as used in this Agreement shall refer only to the date the Letter of Acceptance as described in this paragraph is issued by the City.
24. There shall be no intended nor incidental third-party beneficiaries of this Agreement.
25. This Agreement may not be assigned by the Developer without the express written consent of the City. Any assignment without the express written consent of the City shall be void. Any assignment approved by the City shall be in form approved by the City's legal counsel. Such consent by the City and approval by the City's legal counsel shall be for the sole and exclusive benefit and reliance of the City, and shall not be relied upon by the Developer nor any third party as to the validity or legal effect of an assignment.
26. All inspections of the New Infrastructure performed by the City shall be for the sole and exclusive benefit and reliance of the City. The inspection, approval and acceptance of the New Infrastructure shall not be deemed a warranty or guarantee upon which any person or entity can rely that the construction of the extension was done in a workmanlike manner, or was completed in accordance with the construction contract documents, with standards of the profession in and around Hendersonville, North Carolina, or in accordance with the applicable federal, State, or local laws, rules or regulations.
27. Developer is put on notice, and Developer agrees that, in the event that the meter boxes or cleanouts which are part of the New Infrastructure are installed, set, damaged, moved, or altered in any manner that requires the City to make repairs or adjustments to the meter boxes or cleanouts for their proper operation, or if the City has to perform any work, including but not limited to grading or removal of obstructions, to provide access to the City, Developer shall reimburse the City's full cost and expense incurred.
28. This agreement is executed in the State of North Carolina, and shall be construed in accordance with the laws of the State of North Carolina. Both parties submit their persons to the jurisdiction of the Courts for North

Carolina. Exclusive venue for any action brought in connection with this agreement, its interpretation and breach shall be in the courts for Henderson County, North Carolina.

29. Failure of either party to enforce any terms of this Agreement shall not be deemed a waiver, in whole or in part, to enforcing any of its terms against the other party, unless such waiver is delivered to the other party in writing. Failure of either party to exercise the rights under this Agreement shall not be deemed a waiver or abandonment of such rights unless such waiver or abandonment be delivered in writing to the other party.
30. This Agreement may be recorded in the Henderson County Register of Deeds Office at the option of the City.

PLEASE BE ADVISED: The City shall not allow the activation of any water or sewer services until the City receives partial certification approval or final approval from the permitting agency and shall not allow the issuance of any certificates of occupancy until the City deems the project complete.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, the day and year first above written.

DEVELOPER: CARROLLWOOD DEVELOPMENT, LLC,
a North Carolina Limited Liability Company

THE CITY OF HENDERSONVILLE

BY:  ^{Presid}
 (signature) (SEAL)

BY: _____ (SEAL)
 John F. Connet, City Manager

Print name: Gary F Queen

Title: President Carrollwood Development Corp Manager

DEVELOPER: CARROLLWOOD DEVELOPMENT CORPORATION,
a Florida Corporation

BY:  (SEAL)
 (signature)

Print name: Gary F Queen

Title: President

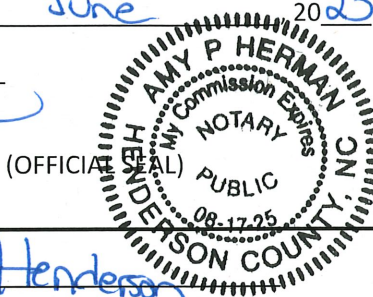
STATE OF NC COUNTY OF Henderson

I, Amy P Herman, (printed name of notary) a Notary Public of said County and State, do hereby certify that Gary F Queen, personally appeared before me this day, and being duly sworn, stated that they are the President (title) for CARROLLWOOD DEVELOPMENT, LLC, and that they executed and acknowledged the foregoing instrument on behalf of CARROLLWOOD DEVELOPMENT, LLC pursuant to the due authorization by CARROLLWOOD DEVELOPMENT, LLC and that the instrument is the act and deed of CARROLLWOOD DEVELOPMENT, LLC

WITNESS my hand and official seal, this 27 day of June, 2023

My commission expires 8-17-2025

Amy P Herman Amy P Herman
Notary Public Signature



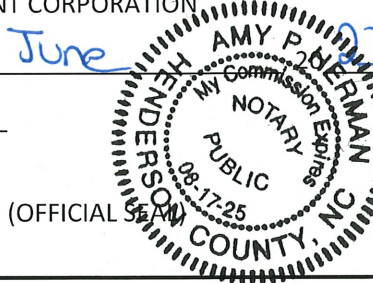
STATE OF NC COUNTY OF Henderson

I, Amy P Herman, (printed name of notary) a Notary Public of said County and State, do hereby certify that Gary F Queen, personally appeared before me this day, and being duly sworn, stated that they are the President (title) for CARROLLWOOD DEVELOPMENT CORPORATION, and that they executed and acknowledged the foregoing instrument on behalf of CARROLLWOOD DEVELOPMENT CORPORATION pursuant to the due authorization by CARROLLWOOD DEVELOPMENT CORPORATION and that the instrument is the act and deed of CARROLLWOOD DEVELOPMENT CORPORATION

WITNESS my hand and official seal, this 27 day of June, 2023

My commission expires 8-17-25

Amy P Herman Amy P Herman
Notary Public Signature



STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, _____, (printed name of notary) a Notary Public in and for the State and County aforesaid, do hereby certify that John F. Connet, personally appeared before me and, being duly sworn, stated that he is City Manager of the City of Hendersonville, North Carolina, and that he executed and acknowledged the foregoing instrument on behalf of the City of Hendersonville pursuant to order of the City Council of said City and that the instrument is the act and deed of the City of Hendersonville.

WITNESS my hand and official seal, this _____ day of _____, 20____

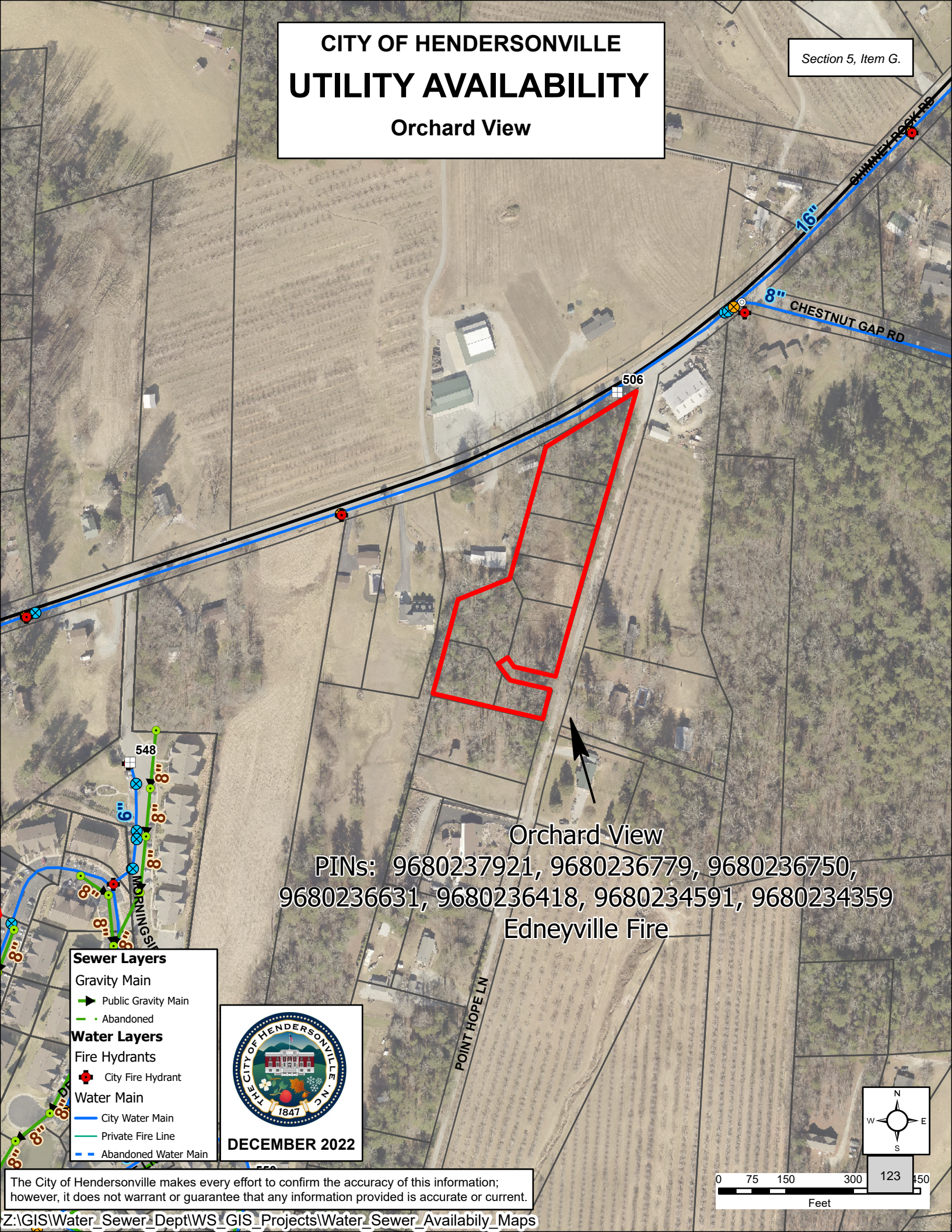
My commission expires _____

Notary Public Signature

(OFFICIAL SEAL)

CITY OF HENDERSONVILLE
UTILITY AVAILABILITY
Orchard View

Section 5, Item G.



Orchard View

PINs: 9680237921, 9680236779, 9680236750,
9680236631, 9680236418, 9680234591, 9680234359
Edneyville Fire

Sewer Layers

Gravity Main

- Public Gravity Main
- Abandoned

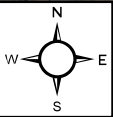
Water Layers

Fire Hydrants

- City Fire Hydrant

Water Main

- City Water Main
- Private Fire Line
- Abandoned Water Main



The City of Hendersonville makes every effort to confirm the accuracy of this information; however, it does not warrant or guarantee that any information provided is accurate or current.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Brendan Shanahan, Project Division Manager **MEETING DATE:** August 9, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Engineering

TITLE OF ITEM: Utility Extension Agreement for the Park Residences at Highland Lake Village Subdivision – *Brendan Shanahan, Project Division Manager*

SUGGESTED MOTION(S): I move that City Council approve the Resolution authorizing the City Manager to enter into a Utility Extension Agreement with Real Places, Inc., (formerly known as Highland Lake, Inc.), for the Park Residences at Highland Lake Village Subdivision as presented and recommended by staff.

SUMMARY:

The Park Residences at Highland Lake Village Subdivision located off Highland Lake Drive in the Village of Flat Rock proposes to extend the City's water and sewer systems to serve said expansion. The attached Utility Extension Agreement (UEA) outlines the water and sewer utility line extension processes and assigns responsibilities to the Developer and City. We welcome any questions that you may have.

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

PROJECT NUMBER: 23111

PETITION NUMBER: N/A

ADDITIONAL PETITION NUMBER: N/A

PETITIONER NAME: N/A

ATTACHMENTS:

Utility Extension Agreement – Park Residences at Highland Lake Village Subdivision

Map showing Park Residences at Highland Village Subdivision parcel

Resolution # __-____

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO ENTER INTO A UTILITY EXTENSION
AGREEMENT WITH REAL PLACES, INC., (FORMERLY KNOWN AS HIGHLAND
LAKE, INC.) FOR THE PARK RESIDENCES AT HIGHLAND LAKE VILLAGE
SUBDIVISION**

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 and gravity sewer services as a part of their development projects; and

WHEREAS, the Developer extends public water and gravity 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 processes; and

WHEREAS, Real Places, Inc., (formerly known as Highland Lake, Inc.), the “Developer” and “Owner”, will enter into a Utility Extension Agreement with the City to provide water service to the Park Residences at Highland Lake Village Subdivision.

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

1. The Utility Extension Agreement with Real Places, Inc., (formerly known as Highland Lake, Inc.), the “Developer” and “Owner” to provide water service to the Park Residences at Highland Lake Village Subdivision 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 on this 9th day of August 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON
Prepared by and return to: Daniel Heyman, Staff Attorney, City of Hendersonville, in the City Box

UTILITY EXTENSION AGREEMENT

THIS AGREEMENT, Made and entered into this ____ day of _____, 20____, by and between the **CITY OF HENDERSONVILLE**, a North Carolina municipal corporation, situate in Henderson County, herein referred to as the "City", and **REAL PLACES, INC.**, (formerly known as HIGHLAND LAKE, INC.) a North Carolina corporation, herein referred to as "Developer,"

WITNESSETH:

THAT WHEREAS, Developer is the owner of, and is desirous of developing and improving, a tract of land situated in Henderson County, State of North Carolina, described as follows:

Consisting of +/- 6.57 acres, and being a portion of that real property described in that deed recorded in Deed Book 999 at page 99 , Henderson County registry, having a REIDs of: 9964846, 9964845, 9964847, 9964849, 9964848, 9964852, 9964851, 9964850, and 9964844, and being the lots identified as (1) Open Space and Common Area 4.24 Acres +/- Parcel A, (2) Open Space and Common Area 0.29 Acres +/- Parcel B, (3) 18' Common Drive (Common Area), and (4) Block 1, lots 1 through 7, on that plat recorded in Plat Book 1999 at page 3162, Henderson County registry, (1) through (4) hereinafter collectively referred to as the "Property"; and

WHEREAS, the Developer has submitted an application for the development of a project known as Park Residences at Highland Lake Village (project number 23111); and

WHEREAS, in the process of such development and improvement, Developer is desirous of constructing water infrastructure and/or sanitary sewer infrastructure to and on said tract(s) of land, for which the City requires that the Developer enter into a utility extension agreement with the City, said water and/or sewer infrastructure to consist of the following:

Being and consisting of: 1) Water Service Extension consisting of +/- 642 lineal feet of 6" ductile iron pipe running within the existing 18' Common Drive connecting to an existing 6" water main along Highland Lake Drive, together with all meters, valves, and other appurtenances; and 2) and a Sanitary Service Extension consisting +/- 448 lineal feet of 8" PVC running within the project confines connecting to an

existing 8" sewer main along the south western boundary of Parcel A, together with all manholes and other appurtenances, 1) and 2) being more particularly shown and described on those construction plans and specifications, dated March 31, 2023, prepared by High Country Engineering, PC engineering firm, said plans being incorporated herein by reference. 1) and 2) collectively are collectively hereinafter referred to as the "New Infrastructure". It is understood and agreed that the New Infrastructure may be modified or amended from and after the date of this Agreement as may be required to meet the standards of the City of Hendersonville. As used herein, "New Infrastructure" shall be deemed to include any and all of any such modifications and amendments.; and

WHEREAS, the Developer has received zoning approval from the designated governing body for such development and improvement on the Property; and

WHEREAS, the Property is not located within the City's municipal boundaries but is located within the Village of Flat Rock, North Carolina; and

WHEREAS, the City is not obligated to offer water or sanitary sewer service to property outside its corporate limits; and

WHEREAS, Developer desires to have the completed New Infrastructure connected to the City's municipal water system and/or sanitary sewer system and made an integral portion thereof; and

WHEREAS, the City will permit said system(s) to be connected to the municipal system(s) under the terms and conditions heretofore established and agreed upon between the parties and specifically in conformance with the requirements of the most recent extension policy, most recent water and sewer standard construction specifications and details, and the City's Code of Ordinances currently in force.

NOW, THEREFORE, in consideration of the mutual benefits which will result to the parties in carrying out the terms of this Agreement, it is agreed as follows:

1. Developer shall, at Developer's own expense, employ a North Carolina registered and licensed professional engineer ("Engineer") to complete design and permitting of the proposed New Infrastructure in conformance with NCAC Title 15A Subchapter 18C (water) and NCAC Title 15A Subchapter 02T(sanitary sewer), the City's water and sewer standard construction specifications and details, and the City water and/or sewer Master Plan(s).
2. Developer shall require the Engineer to submit plans, reports, technical specifications, fees, permit applications, and any other items as required and approvable by the City ("Required Documents"). The Engineer shall disclose all proposed changes in the approved construction plans to the City in writing. If proposed changes are deemed by the City to be "significant" in nature, the City may require the Engineer to resubmit plans for re-permitting. The determination of whether a change is deemed to be significant shall be in the sole and absolute discretion of the City, and the Developer agrees to be bound thereby. This will require written approval by the City prior to re-submitting to the permitting agency or before proceeding with changes, even if permitting agency re-submittal is not required. City approval of a utility extension is subject to expiration should construction not be completed after a period of two years from the date of approval. Once the Required Documents have been approved by the City, they shall be deemed to be incorporated herein by reference as an amendment to this Agreement to indicate the Developers construction obligations under this Agreement.

3. The City will perform construction inspection during installation of the New Infrastructure and upon project completion submit written certification that the project was completed in accordance with the approved plans and specifications as required by NCAC Title 15A Subchapter 18C (water) and NCAC Title 15A Subchapter 02T (sanitary sewer). Water and Sewer inspection fees shall be in accordance with the adopted City Fee Schedule as of the date of this agreement. Fees will be paid by the Developer upon certification and acceptance of the New Infrastructure, with amounts due being based on length of lines inspected, certified and accepted.
4. The Developer shall, at his or her own expense, furnish and transfer to the City all on-site and off-site easements, rights-of-way, and real property required for access to and perpetual maintenance and operation of the New Infrastructure and its appurtenances in accordance with the terms of this Agreement as provided herein below.

Developer will be required to enter into the City's standard Deed of Dedication and Conveyance With Associated Easements for conveyance of the New Infrastructure and on-site easements, as amended. Further Developer will be required to use the City's standard Utility Infrastructure Easement Agreement when securing the necessary off-site right of way for the operation and maintenance of the New Infrastructure. For the avoidance of doubt, both standard forms permit use of the easements for the future installation of water, sewer and stormwater lines, and their associated appurtenances and accessories, in addition to the New Infrastructure, by or on behalf of the City. The City shall provide a copy of these standard forms upon request by the Developer.

5. Developer shall convey to the City all of the New Infrastructure and easements, on-site and off-site, prior to selling any of the lots in the lots in the development. If the Developer sells a lot within the development to a third-party prior to the conveyance of the New Infrastructure and easements, Developer shall be responsible for all costs associated with obtaining title to the New Infrastructure and easements.
6. Developer shall, at his or her own cost and expense, furnish all materials and all equipment and perform all the work necessary to complete the construction of the New Infrastructure described in the plans and specifications as approved by the City's authorized representative and permitting agency.
7. The installation and construction of the New Infrastructure shall be performed by a reputable and responsible Contractor possessing a valid North Carolina Public Utility Contractor's License directly related to the installation of the New Infrastructure issued by the North Carolina Licensing Board for General Contractors. As used herein, a "responsible Contractor" shall mean one possessing the requisite knowledge, experience, and financial resources to complete the construction of the New Infrastructure in accordance with the plans and specifications within the time allotted.
8. Developer shall be required to establish a discharge point for the flushing of the waterlines that are installed pursuant to this Agreement and that provided the City utilizes the method provided by the Developer, the City shall not be liable, and Developer shall, to the fullest extent allowed by law, indemnify and hold the City harmless during the warranty period for any damages whatsoever as a result of the flushing of water lines.

9. The Engineer shall contact the City prior to the start of construction in order to schedule a preconstruction conference between the Developer, Contractor, Engineer, and City staff. This request should be made at least seven (7) days in advance of the anticipated starting date. Developer or Engineer shall receive a written notice to proceed (NTP) from the City before commencing with construction. If construction is anticipated to be greater than sixty (60) days, a monthly progress meeting shall be scheduled once every thirty (30) days. The date and time of the monthly progress meeting shall be established during the preconstruction conference.
10. Developer shall submit the name, address, and the Public Utility Contractor's License Identification Number of the proposed Contractor to the City prior to the preconstruction meeting. The City may investigate the validity of the Contractor's license and the Contractor's status as a responsible Contractor by methods including but not limited to contacting the owners of past projects for which the Contractor furnished work in order to obtain reference information.
11. City staff will be assigned for the express purpose of periodic construction observation and inspection. The City's construction inspector(s) shall have the authority to report all discrepancies identified in all phases of construction to the Engineer regarding conformance with the approved construction drawings and specifications. This report shall in no way relieve the Developer of his or her obligation to engage a professional engineer to perform construction inspection and coordinate construction.
12. During construction, no deviations from the approved plans and specifications shall be allowed without the prior express written approval of the City and permitting agency if deemed necessary by the City.
13. The City Engineer, or authorized representative, shall be authorized to resolve disagreements between Developer's Contractor(s), and the City's construction inspector(s) regarding conformance with approved plans and/or specifications.
14. Upon completion of construction, the Developer shall cause the Engineer to arrange for a final inspection to be performed jointly by the Engineer, the contractor, and the City's construction inspector to determine if the project is acceptable to the City. At this time, a draft as-built shall be submitted to the City. If the project is not immediately acceptable, any deficiencies shall be noted in a written report (punch list) prepared by the City. This report shall be transmitted to the responsible parties. It shall be the responsibility of the Developer to correct any such deficiencies and arrange for a re-inspection of the system.
15. As part of the final inspection process for sewer collection systems, Developer shall satisfactorily complete the following as described in the most recent water and sewer standard construction specifications and details: air test, manhole vacuum tests, and mandrel deflection test. Video of the new sanitary sewer collection system by means of closed-circuit television (CCTV) will be performed by the City. All testing shall be certified and all certifications, along with the related data and any video of the sewer system, shall be submitted to the City before final acceptance of the project is granted by the City.
16. As part of the final inspection process for water distribution systems, Developer shall satisfactorily complete the following: pressure test lines, bacteriological sampling performed by a certified laboratory. The City's certified laboratory may be utilized. All testing shall be certified and all certifications, along with related data, shall be submitted to the City before final acceptance of the project is granted by the City.

17. Once all deficiencies are corrected and the project is deemed acceptable to the City, the Developer shall cause the Engineer to submit as-builts in formats acceptable to the City. The Engineer shall also submit any easements required for the New Infrastructure and any deeds necessary to convey ownership to the City. The Developer shall be responsible for acquiring easements from any third parties owning property over which any portion of the New Infrastructure is constructed, said easements to be titled in the name of the City, using forms to be provided by the City.
18. Prior to the activation of services on the newly constructed New Infrastructure, Developer shall convey unencumbered title and ownership to the City, of the New Infrastructure and its appurtenances, and shall assign and transfer all associated permits, licenses, and permissions to the City. If a water extension was permitted for the same or similar project, the City shall receive final approval from the permitting agency. In certain circumstances as approved by the City, activation of services on portion(s) of the New Infrastructure may be permitted after partial certification(s) completion and approval(s).
19. The conveyance, assignment or transfer of (1) all permits, licenses or other permissions, and (2) all property and assets to the City, including but not limited to real or personal property, the New Infrastructure and its appurtenances, easements, rights of way or encroachments, (1) and (2) collectively hereinafter referred to as "Required Conveyances," shall be in form as approved by the City's legal counsel, and unless specifically excepted by the City Attorney, shall be in form proper for recording in the appropriate public registry. The conveyance of real property shall be in the form of a fee simple deed and without encumbrance as approved by the City's legal counsel. The Developer shall cause all affiliates or other third parties or entities having an ownership interest in the New Infrastructure or the Property to join the Required Conveyances, as reasonably determined by the City to be necessary to convey full title to the New Infrastructure and Required Conveyances to the City. With the execution hereof, Developer and City specifically agree that the New Infrastructure shall remain personal property, and shall not become a part of the real property, regardless of whether or not the New Infrastructure is permanently affixed to the real property comprising the Property.
20. The Developer shall provide a written release of the City's interest in the Required Conveyances (in form approved by the City Attorney) from any and all liens or other legal interests held by lenders, vendors or other third parties. The release(s) must be delivered in form for recording in the appropriate public registry, and must be received by the City in conjunction with the City's receipt of the Required Conveyances.
21. To the fullest extent allowed by law, and regardless of the approval(s) of any document(s) by the City's legal counsel, the Developer shall indemnify and hold the City harmless from all actions, causes and claims whatsoever against the City by any persons, firms, and corporations whatsoever relating in any manner to this Agreement (including but not limited to damages to persons or property related to construction and/or installation of the New Infrastructure) or the Required Conveyances. Without limiting the Developer's obligations under this paragraph in any manner, the Developer shall defend any and all claims, causes or actions whatsoever regarding the City's title or ownership in any of the Required Conveyances.
22. Developer shall guarantee the accepted and dedicated New Infrastructure to be free of defects in materials and workmanship and to be properly functioning in all respects for a period of one calendar year from the date of final acceptance by the City. During this year of guarantee, Developer shall correct, or have corrected,

any defects that may develop in material, equipment, or workmanship. Should Developer fail to correct defects within a reasonable period of time after being notified, as determined in good faith by the City Engineer or designee, the City may proceed to correct defects and Developer shall be liable for the City's expense in doing so. It shall be the Developer's responsibility to attend, or to provide an authorized representative to attend, a warranty inspection with the City prior to the expiration of said warranty period. For purposes of this paragraph 22, final acceptance shall be the date the Letter of Acceptance is issued by the City as described in paragraph 24 hereinbelow.

23. Before the issuance of final acceptance, the Developer or Engineer shall schedule a project closeout meeting with the City. The Developer or Engineer shall submit to the City, not later than the start of the project closeout meeting, all required closeout documents, including but not limited to recorded easement plats, warranty deeds, affidavits of lien waiver, as-built drawings with georeferenced infrastructure data, final walk-through inspection punch list and evidence of completion of said punch list, utility extension agreements, fixed asset evaluation form and infrastructure testing results. The City shall be under no obligation to [and in the absence of extraordinary circumstances will not] activate any services before receipt of all required documentation. Partial receipt shall be treated as an incomplete project closeout and no services shall be activated. A project closeout form shall be completed and executed by the Developer or by an authorized representative of the Developer and the City for each project. If the project described in this utility extension agreement is divided into phases, a project closeout form shall be executed for each phase prior to issuance of final acceptance. For purposes of this paragraph, and notwithstanding any other provision of this agreement, every required document shall be considered material, and "substantial compliance" shall not apply.
24. Once all items required by the Developer under this Agreement are complete, the City shall issue a formal "Letter of Acceptance" to the Developer for the project. The City shall incorporate the accepted system as an integral part of its utility system and shall furnish service therefrom in accordance with the rules, regulations, rates, and policies established for its customers. For the avoidance of doubt, "final acceptance" as used in this Agreement shall refer only to the date the Letter of Acceptance as described in this paragraph is issued by the City.
25. There shall be no intended nor incidental third-party beneficiaries of this Agreement.
26. This Agreement may not be assigned by the Developer without the express written consent of the City. Any assignment without the express written consent of the City shall be void. Any assignment approved by the City shall be in form approved by the City's legal counsel. Such consent by the City and approval by the City's legal counsel shall be for the sole and exclusive benefit and reliance of the City, and shall not be relied upon by the Developer nor any third party as to the validity or legal effect of an assignment.
27. All inspections of the New Infrastructure performed by the City shall be for the sole and exclusive benefit and reliance of the City. The inspection, approval and acceptance of the New Infrastructure shall not be deemed a warranty or guarantee upon which any person or entity can rely that the construction of the extension was done in a workmanlike manner, or was completed in accordance with the construction contract documents, with standards of the profession in and around Hendersonville, North Carolina, or in accordance with the applicable federal, State, or local laws, rules, or regulations.

28. Developer is put on notice, and Developer agrees that, in the event that the meter boxes or cleanouts which are part of the New Infrastructure are installed, set, damaged, moved, or altered in any manner that requires the City to make repairs or adjustments to the meter boxes or cleanouts for their proper operation, or if the City has to perform any work, including but not limited to grading or removal of obstructions, to provide access to the City, Developer shall reimburse the City's full cost and expense incurred.
29. This agreement is executed in the State of North Carolina, and shall be construed in accordance with the laws of the State of North Carolina. Both parties submit their persons to the jurisdiction of the Courts for North Carolina. Exclusive venue for any action brought in connection with this agreement, its interpretation and breach shall be in the courts for Henderson County, North Carolina.
30. Failure of either party to enforce any terms of this Agreement shall not be deemed a waiver, in whole or in part, to enforcing any of its terms against the other party, unless such waiver is delivered to the other party in writing. Failure of either party to exercise the rights under this Agreement shall not be deemed a waiver or abandonment of such rights unless such waiver or abandonment be delivered in writing to the other party.
31. This Agreement may be recorded in the Henderson County Register of Deeds Office at the option of the City.

PLEASE BE ADVISED: The City shall not allow the activation of any water or sewer services until the City receives partial certification approval or final approval from the permitting agency and shall not allow the issuance of any certificates of occupancy until the City deems the project complete.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, the day and year first above written.

DEVELOPER: REAL PLACES, INC,
a North Carolina corporation

THE CITY OF HENDERSONVILLE

BY: _____ (SEAL)
(signature)

BY: _____ (SEAL)
John F. Connet, City Manager

Printed name: _____

Title: _____

STATE OF _____ COUNTY OF _____

I, _____, (printed name of notary) a Notary Public of said County and State, do hereby certify that _____, personally appeared before me this day, and being duly sworn, stated that they are the _____(title) for _____(developer), and that they executed and acknowledged the foregoing instrument on behalf of _____(developer) pursuant the due authorization by _____ (developer) and that the instrument is the act and deed of _____(developer).

WITNESS my hand and official seal, this _____ day of _____, 20____

My commission expires _____

Notary Public Signature (OFFICIAL SEAL)

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, _____, (printed name of notary) a Notary Public in and for the State and County aforesaid, do hereby certify that John F. Connet, personally appeared before me and, being duly sworn, stated that he is City Manager of the City of Hendersonville, North Carolina, and that he executed and acknowledged the foregoing instrument on behalf of the City of Hendersonville pursuant to order of the City Council of said City and that the instrument is the act and deed of the City of Hendersonville.

WITNESS my hand and official seal, this _____ day of _____, 20____

My commission expires _____

Notary Public Signature (OFFICIAL SEAL)

CITY OF HENDERSONVILLE

UTILITY AVAILABILITY

Park Residences at Highland Village

Section 5, Item H.

Park Residences at Highland Village
 PINs: 9577-56-8182, 9577-65-1913,
 9577-66-0083, 9577-66-0141,
 9577-56-9187, 9577-56-9233,
 9577-56-8269, 9577-56-7394,
 9577-66-2132
 Village of Flat Rock
 Village Administrator: Pat Christie
 Flat Rock Village Blue Ridge Fire District

Sewer Layers

Gravity Main

- Public Gravity Main
- Public Force Main
- Proposed Gravity Main
- Abandoned

Water Layers

Fire Hydrants

- City Fire Hydrant

Water Main

- City Water Main
- Raw Water Main
- Private Fire Line
- Proposed Water Main
- Abandoned Water Main

Road Layers

- State Maintained Road
- Non-State Maintained Road



APRIL 2023

The City of Hendersonville makes every effort to confirm the accuracy of this information; however, it does not warrant or guarantee that any information provided is accurate or current.

0 125 250 500
 Feet





CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Buchanan

MEETING DATE: 08/03/2023

AGENDA SECTION: Consent

DEPARTMENT: Finance

TITLE OF ITEM: Approval of United Financial, a Division of HomeTrust Bank to Provide Installment Financing for Vehicles and Equipment Purchased in Fiscal Year 2023-2024 – *John Buchanan, Finance Director*

SUGGESTED MOTION(S):

I move that City Council adopt the Resolution by the City of Hendersonville City Council to Approve the Financing terms for the Purchase of Vehicles and Equipment as presented.

SUMMARY:

As detailed in the Capital Improvement Plan, the City has or will purchase vehicles and equipment totaling \$1,832,500, with \$1,814,250 to be financed. Staff requested proposals earlier in the year for the FY2023 financing and United Financial, a division of HomeTrust Bank was selected. Staff spent significant time working with the lender to develop an agreement that would be easier for our legal team to review and approve future agreements. Staff is requesting that we again use United Financial to provide needed cash flow for purchases for FY2024 vehicle and equipment purchases. There will be two financing agreements, one at 4 years at a principal amount not to exceed \$932,250 with an annual rate of 3.8% and a 7 year at a principal amount not to exceed \$882,000 with an annual rate of 3.93%

BUDGET IMPACT: Detailed Above

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

If no, describe how it will be funded.

ATTACHMENTS:

4-year Proposal

7-year Proposal

Resolution

Resolution #__-____

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
APPROVE FINANCING TERMS FOR THE PURCHASE OF VEHICLES AND
EQUIPMENT**

WHEREAS, The City of Hendersonville has previously determined to undertake a project for the financing of vehicles and equipment,

WHEREAS, United Financial has provided a proposal with the an acceptable interest rate and terms to meet the City's needs; and

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

1. The City of Hendersonville hereby determines to finance the purchase of vehicles and equipment through United Financial, in accordance with the proposal dated July 11, 2023. The amount financed shall not exceed \$932,250 with an annual interest rate of 3.8% for a term of 4 years, and a proposal dated July 19, 2023 with an amount not to exceed of \$882,000 with an annual interest rate of 3.93% for a term of 7 years.
2. All financing contracts and all related documents for the closing of the financing shall be consistent with the foregoing terms. City staff are hereby authorized to and directed to execute and deliver any financing documents, and to take all such action as they may consider necessary to carry out the financing as contemplated by the proposal and this resolution.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 9th day of August, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney



July 11, 2023

City of Hendersonville, NC
160 Sixth Avenue East
Hendersonville, NC 28792

ATT: John Buchanan, Finance Director

Re: Finance proposal for: The acquisition and finance of new rolling stock and equipment.

Dear John,

As per your request, we are enclosing under same cover our proposal for the above captioned transaction. As we discussed in our last conversation this transaction is structured on an annual basis with eight (8) semi-annual payments beginning six months after funding and each six months thereafter. This transaction is calculated at an annual percentage rate of 3.80% and assumes a Non-Bank Qualified Tax Exempt transaction.

United Financial will take a security interest only in the vehicles and related equipment we are financing. There are no direct bank closing costs or origination fees related to the transaction and the rate is fixed for the duration of the financial commitment. Please review the PAYMENTS section of the attached proposal regarding rate lock-in periods. There is a prepayment penalty of 1.0% during the first half of the Installment Contract period. No prepayment penalty for the remaining two years of the transaction.

If you have any questions or need additional information, please contact me at your convenience. Thank you for the opportunity to provide this proposal to you.

Will we utilize the same documentation template used in our most recent transaction as created jointly by the City and Bank legal counsels.

Very truly yours,

John M. Tench
Senior Vice President
Director of Municipal Finance

Ph. #/828-684-5643
Fax #/828-684-5616



July 11, 2023

City of Hendersonville, NC
160 Sixth Avenue East
Hendersonville, NC 28792

ATT: John Buchanan, Finance Director

Amended Proposal for Acquisition & Finance of: New Rolling Stock and Equipment

Dear John,

As a follow-up to your recent request for a proposal regarding the above referenced transaction, United Financial is pleased to offer a finance proposal as follows:

LENDER: United Financial, *A Division of HomeTrust Bank*

BORROWER: City of Hendersonville, NC

COLLATERAL: Rolling Stock and Equipment described above.

AMOUNT: Up to \$902,000.00

START DATE: Anticipated closing date November 15, 2023.

TERM: Four Years

PAYMENTS: Payments will consist of eight (8) semi-annual payments of \$122,601.73 comprised of principal and interest beginning May 15, 2024. (See amortization Schedules B and B1)

Terms will be held through November 15, 2023 (also subject to Expiration and Acceptance terms below).

EXPIRATION: Payment terms quoted herein are subject to transaction being documented by 11/15/2023.

LEGAL TITLE: Legal Title to the Equipment during the Term of the Installment Contract shall vest in the name of the Borrower with Lender perfecting a first security interest through Equipment Title, UCC, or other filing instruments as may be required by law.

INSURANCE: Borrower shall provide evidence of insurance coverage at the time of delivery of the Equipment, in accordance with the provisions of the Installment Contract.

Phone 828-684-5643
Fax 828-684-5616

FINANCIALS: Borrower shall furnish Lender with its last three, (3) fiscal years financial statements and its latest interim financial statements, plus such other pertinent information as Lender may reasonably request.

APPROVAL: Closing of the transaction(s) described herein, and the implementation hereof is expressly conditioned upon approval of Lender's Senior Loan Committee, the receipt, review and acceptance of properly executed documentation acceptable to Lender, and the absence of any material adverse change in Borrower's financial condition prior to deliver and acceptance of the Equipment.

ACCEPTANCE: Borrower acknowledges that the terms and conditions of this proposal are satisfactory and that upon execution hereof by Borrower this proposal shall constitute a valid and binding obligation of Borrower. As further condition to Lender's approval hereof, Borrower must acknowledge its acceptance of this proposal by signing below in the space provided and returning it to the Lender by August 15, 2023.

TERMS PRESENTED IN THIS PROPOSAL SHALL SURVIVE CLOSING.

Important Information You Need to Know About Opening a New Account

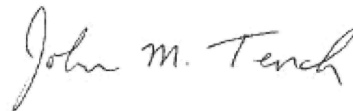
To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each individual or business that opens an account.

What This Means for You

When you open an account, we will ask for your signor(s) name(s) and a copy of their current driver's license if not already on record with the bank.

If you determine that this finance structure meets the needs of your organization, please have the appropriate officer indicate acceptance by placing their signature at the bottom of this page, and return it to us via fax, email or US Postal Service. Upon receipt of the signed proposal, we will be in touch with you to make provision for documenting the finance. Thank you for the opportunity to submit this proposal letter for your review and approval. Should you have any questions or comments regarding the terms and conditions, or if we can be of any further assistance to you, please do not hesitate to call.

Sincerely,



John M. Tench
Senior Vice President
Director of Municipal Finance

ACCEPTED BY:

SIGNATURE: _____

NAME: _____ **TITLE:** _____ **DATE:** _____

REPAYMENT SCHEDULE B1

Compound Period: Semiannual

Nominal Annual Rate: 3.800%

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Payment	Interest	Principal	Concluding Payment
Loan	11/15/2023			\$ 802,000.00	
1	5/15/2024	\$ 109,009.52	\$ 15,238.00	\$ 93,771.52	\$ 715,310.76
2	11/15/2024	\$ 109,009.52	\$ 13,456.34	\$ 95,553.18	\$ 618,802.05
3	5/15/2025	\$ 109,009.52	\$ 11,640.83	\$ 97,368.69	\$ 520,459.68
4	11/15/2025	\$ 109,009.52	\$ 9,790.83	\$ 99,218.69	\$ 420,248.80
5	5/15/2026	\$ 109,009.52	\$ 7,905.67	\$ 101,103.85	\$ 314,984.07
6	11/15/2026	\$ 109,009.52	\$ 5,984.70	\$ 103,024.82	\$ 211,959.25
7	5/15/2027	\$ 109,009.52	\$ 4,027.23	\$ 104,982.29	\$ 106,976.96
8	11/15/2027	\$ 109,009.52	\$ 2,032.56	\$ 106,976.96	\$ -
Grand Totals		\$ 872,076.16	\$ 70,076.16	\$ 802,000.00	

Compound Period: Semiannual

Nominal Annual Rate: 3.800%

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Payment	Interest	Principal	Concluding Payment
Loan	11/15/2023			\$ 100,000.00	
1	5/15/2024	\$ 13,592.21	\$ 1,900.00	\$ 11,692.21	\$ 89,190.87
2	11/15/2024	\$ 13,592.21	\$ 1,677.85	\$ 11,914.36	\$ 77,157.36
3	5/15/2025	\$ 13,592.21	\$ 1,451.48	\$ 12,140.73	\$ 64,895.23
4	11/15/2025	\$ 13,592.21	\$ 1,220.80	\$ 12,371.41	\$ 52,400.10
5	5/15/2026	\$ 13,592.21	\$ 985.74	\$ 12,606.47	\$ 39,274.82
6	11/15/2026	\$ 13,592.21	\$ 746.22	\$ 12,845.99	\$ 26,428.83
7	5/15/2027	\$ 13,592.21	\$ 502.15	\$ 13,090.06	\$ 13,338.77
8	11/15/2027	\$ 13,592.21	\$ 253.44	\$ 13,338.77	\$ -
Grand Totals		\$ 108,737.68	\$ 8,737.68	\$ 100,000.00	



July 19, 2023

City of Hendersonville, NC
160 Sixth Avenue East
Hendersonville, NC 28792

ATT: John Buchanan, Finance Director

Re: Amended Finance Proposal for: The acquisition and finance of new rolling stock and equipment.

Dear John,

As per your request, we are enclosing under same cover our proposal for the above captioned transaction. As we discussed in our last conversation this transaction is structured on an annual basis with fourteen (14) semi-annual payments beginning six months after funding and each six months thereafter. This transaction is calculated at an annual percentage rate of 3.93% and assumes a Non-Bank Qualified Tax Exempt transaction.

United Financial will take a security interest only in the vehicles and related equipment we are financing. There are no direct bank closing costs or origination fees related to the transaction and the rate is fixed for the duration of the financial commitment. Please review the PAYMENTS section of the attached proposal regarding rate lock-in periods. There is a prepayment penalty of 1.0% during the first half of the Installment Contract period. No prepayment penalty for the remaining portion of the transaction.

If you have any questions or need additional information, please contact me at your convenience. Thank you for the opportunity to provide this proposal to you.

Will we utilize the same documentation template used in our most recent transaction as created jointly by the City and Bank legal counsels.

Very truly yours,

John M. Tench
Senior Vice President
Director of Municipal Finance

Ph. #/828-684-5643
Fax #/828-684-5616



July 19, 2023

City of Hendersonville, NC
160 Sixth Avenue East
Hendersonville, NC 28792

ATT: John Buchanan, Finance Director

Amended Proposal (2) for Acquisition & Finance of: New Rolling Stock and Equipment

Dear John,

As a follow-up to your recent request for a proposal regarding the above referenced transaction, United Financial is pleased to offer a finance proposal as follows:

LENDER: United Financial, *A Division of HomeTrust Bank*

BORROWER: City of Hendersonville, NC

COLLATERAL: Rolling Stock and Equipment described above.

AMOUNT: Up to \$882,000.00

START DATE: Anticipated closing date November 15, 2023.

TERM: Seven Years

PAYMENTS: Payments will consist of fourteen (14) semi-annual payments of \$72,675.60 comprised of principal and interest beginning May 15, 2024. (See amortization Schedules B and B1)

Terms will be held through November 15, 2023 (also subject to Expiration and Acceptance terms below).

EXPIRATION: Payment terms quoted herein are subject to transaction being documented by 11/15/2023.

LEGAL TITLE: Legal Title to the Equipment during the Term of the Installment Contract shall vest in the name of the Borrower with Lender perfecting a first security interest through Equipment Title, UCC, or other filing instruments as may be required by law.

INSURANCE: Borrower shall provide evidence of insurance coverage at the time of delivery of the Equipment, in accordance with the provisions of the Installment Contract.

Phone 828-684-5643
Fax 828-684-5616

FINANCIALS: Borrower shall furnish Lender with its last three, (3) fiscal years financial statements and its latest interim financial statements, plus such other pertinent information as Lender may reasonably request.

APPROVAL: Closing of the transaction(s) described herein, and the implementation hereof is expressly conditioned upon approval of Lender's Senior Loan Committee, the receipt, review and acceptance of properly executed documentation acceptable to Lender, and the absence of any material adverse change in Borrower's financial condition prior to deliver and acceptance of the Equipment.

ACCEPTANCE: Borrower acknowledges that the terms and conditions of this proposal are satisfactory and that upon execution hereof by Borrower this proposal shall constitute a valid and binding obligation of Borrower. As further condition to Lender's approval hereof, Borrower must acknowledge its acceptance of this proposal by signing below in the space provided and returning it to the Lender by August 15, 2023.

TERMS PRESENTED IN THIS PROPOSAL SHALL SURVIVE CLOSING.

Important Information You Need to Know About Opening a New Account

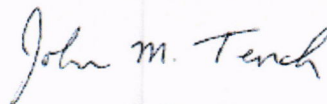
To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each individual or business that opens an account.

What This Means for You

When you open an account, we will ask for your signor(s) name(s) and a copy of their current driver's license if not already on record with the bank.

If you determine that this finance structure meets the needs of your organization, please have the appropriate officer indicate acceptance by placing their signature at the bottom of this page, and return it to us via fax, email or US Postal Service. Upon receipt of the signed proposal, we will be in touch with you to make provision for documenting the finance. Thank you for the opportunity to submit this proposal letter for your review and approval. Should you have any questions or comments regarding the terms and conditions, or if we can be of any further assistance to you, please do not hesitate to call.

Sincerely,



John M. Tench
Senior Vice President
Director of Municipal Finance

ACCEPTED BY:

SIGNATURE: _____

NAME: _____ **TITLE:** _____ **DATE:** _____

REPAYMENT SCHEUDLE B

Compound Period: Semiannual

Nominal Annual Rate: 3.930%

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Payment	Interest	Principal	Balance	Prepayment
Loan	11/15/2023				432,000.00	
1	5/15/2024	35,596.21	8,488.80	27,107.41	404,892.59	1%
2	11/15/2024	35,596.21	7,956.14	27,640.07	377,252.52	1%
3	5/15/2025	35,596.21	7,413.01	28,183.20	349,069.32	1%
4	11/15/2025	35,596.21	6,859.21	28,737.00	320,332.32	1%
5	5/15/2026	35,596.21	6,294.53	29,301.68	291,030.64	1%
6	11/15/2026	35,596.21	5,718.75	29,877.46	261,153.18	1%
7	5/15/2027	35,596.21	5,131.66	30,464.55	230,688.63	1%
8	11/15/2027	35,596.21	4,533.03	31,063.18	199,625.45	None
9	5/15/2028	35,596.21	3,922.64	31,673.57	167,951.88	None
10	11/15/2028	35,596.21	3,300.25	32,295.96	135,655.92	None
11	5/15/2029	35,596.21	2,665.64	32,930.57	102,725.35	None
12	11/15/2029	35,596.21	2,018.55	33,577.66	69,147.69	None
13	5/15/2030	35,596.21	1,358.75	34,237.46	34,910.23	None
14	11/15/2030	35,596.21	685.98	34,910.23	0.00	
Grand Totals		498,346.94	66,346.94	432,000.00		

Last interest amount decreased by 0.01 due to rounding.

Compound Period: Semiannual

Nominal Annual Rate: 3.930%

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Payment	Interest	Principal	Balance	Prepayment
Loan	11/15/2023			\$ 450,000.00		
1	5/15/2024	\$ 37,079.39	\$ 8,842.50	\$ 28,236.89	\$ 421,763.11	1%
2	11/15/2024	\$ 37,079.39	\$ 8,287.65	\$ 28,791.74	\$ 392,971.37	1%
3	5/15/2025	\$ 37,079.39	\$ 7,721.89	\$ 29,357.50	\$ 363,613.87	1%
4	11/15/2025	\$ 37,079.39	\$ 7,145.01	\$ 29,934.38	\$ 333,679.49	1%
5	5/15/2026	\$ 37,079.39	\$ 6,556.80	\$ 30,522.59	\$ 303,156.90	1%
6	11/15/2026	\$ 37,079.39	\$ 5,957.03	\$ 31,122.36	\$ 272,034.54	1%
7	5/15/2027	\$ 37,079.39	\$ 5,345.48	\$ 31,733.91	\$ 240,300.63	1%
8	11/15/2027	\$ 37,079.39	\$ 4,721.91	\$ 32,357.48	\$ 207,943.15	None
9	5/15/2028	\$ 37,079.39	\$ 4,086.08	\$ 32,993.31	\$ 174,949.84	None
10	11/15/2028	\$ 37,079.39	\$ 3,437.76	\$ 33,641.63	\$ 141,308.21	None
11	5/15/2029	\$ 37,079.39	\$ 2,776.71	\$ 34,302.68	\$ 107,005.53	None
12	11/15/2029	\$ 37,079.39	\$ 2,102.66	\$ 34,976.73	\$ 72,028.80	None
13	5/15/2030	\$ 37,079.39	\$ 1,415.37	\$ 35,664.02	\$ 36,364.78	None
14	11/15/2030	\$ 37,079.39	\$ 714.61	\$ 36,364.78	\$ -	None
Grand Totals		\$ 519,111.46	\$ 69,111.46	\$ 450,000.00		

Last interest amount increased by 0.04 due to rounding.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Jenny Floyd, Budget and
Management Analyst

MEETING DATE: August 9th, 2023

AGENDA SECTION: Consent

DEPARTMENT: Administration

TITLE OF ITEM: Fee Schedule Amendments – Jenny Floyd, *Budget and Management Analyst*

SUGGESTED MOTION(S):

I move to adopt the fee schedule amendment ordinance as presented.

SUMMARY:

An agenda item to adopt amendments to the City's fee schedule related to the result of the water and sewer rate study. A clarifying update for additional changes needed.

BUDGET IMPACT: TBD

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

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

ATTACHMENTS:

Ordinance

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND
SECTION 8 OF THE FISCAL YEAR 2023-24 BUDGET ORDINANCE TO AMEND THE FEE
SCHEDULE FOR WATER AND SEWER FEES AND RATES**

SECTION 8: That there is hereby adopted an official Fee Schedule listing specific fees, licenses, and utility rates charged by the City of Hendersonville for the use of City facilities and equipment for the purposes of making them available to the public, utility rates the proceeds of which are for the maintenance and expansion utility systems, the reproduction of public records and other miscellaneous services to cover the actual cost of producing these documents and information under the provision of NCGS 132-6.2 and other various fees associated with enhanced direct services provided by the City. The Fee Schedule is incorporated herein by reference and shall be placed in the office of the City Clerk.

WHEREAS, on June 1st, 2023 the City adopted the FY24 fee schedule; and

WHEREAS, additional changes are needed for the fee schedule to reflect all changes to the updated water and sewer charges.

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

1. Section 8 of the Fiscal Year 2023-24 Budget Ordinance for the City of Hendersonville shall be amended, effective **August 10th, 2023**, to revise the Fee Schedule as follows:

Water		
Outside City Limits		Purposed
Base Charge by Meter Size		
3/4"	\$11.23	
1"	\$13.11	
1 1/2"	\$17.75	
2"	\$23.70	\$31.16
3"	\$37.63	
4"	\$57.51	
6"	\$107.19	
8"	\$166.81	
Volumetric Charges		
Residential		
0 to 6,000 gallons	\$6.05 per 1000 gallons	
6,000 to 14,000 gallons	\$6.65 per 1000 gallons	
14,000 gallons and greater	\$7.56 per 1000 gallons	
Commercial/Industrial		
0 to 40,000 gallons	\$6.05 per 1000 gallons	
40,000 to 200,000 gallons	\$5.78 per 1000 gallons	
200,000 gallons and greater	\$5.13 per 1000 gallons	
Irrigation		
0 to 40,000 gallons	\$7.56 per 1000 gallons	
40,000 gallons and greater	\$8.06 per 1000 gallons	
Sewer		
Inside City Limits		
Volumetric Charges		
All Usage	\$6.33 per 1000 gallons	\$6.88 per 1000 gallons
Sewer Only-Flat Rate	\$32.98 per month	\$37.31 per month

Adopted by the City Council of the City of Hendersonville, North Carolina on this 9th day of August 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

PROFESSIONAL SERVICES QUALIFICATION STATEMENT EVALUATION									
Evaluation Criteria	Firm Name	Jennings Environmental	Wildlands Engineering	RVE	RES				
Michael Huffman	Project Team Qualifications (30)	28	30	27	28				
	Project Approach and Management (20)	17	19	16	17				
	Examples of Past Work (20)	19	20	15	18				
	Experience and Qualifications Related to Federal and State Grant Administration (15)	14	13	12	13				
	Experience and Qualifications in compliance with contracting, procurement, construction contract admin and reporting requirements under both state and federal law (10)	10	10	8	9				
	References (5)	5	5	5	5				
	SUB-TOTAL	93	97	83	90				
	RANK	2	1	4	3				
	Project Team Qualifications (30)	30	30	23	25				
	Project Approach and Management (20)	17	20	15	18				
	Examples of Past Work (20)	19	20	15	17				
	Experience and Qualifications Related to Federal and State Grant Administration (15)	14	14	13	13				
	Experience and Qualifications in compliance with contracting, procurement, construction contract admin and reporting requirements under both state and federal law (10)	8	9	8	8				
	References (5)	5	5	5	5				
	SUB-TOTAL	93	98	79	86				
	RANK	2	1	4	3				
Brent Detwiler	Project Team Qualifications (30)	30	30	22	26				
	Project Approach and Management (20)	18	20	14	17				
	Examples of Past Work (20)	19	20	13	17				
	Experience and Qualifications Related to Federal and State Grant Administration (15)	13	14	12	13				
	Experience and Qualifications in compliance with contracting, procurement, construction contract admin and reporting requirements under both state and federal law (10)	9	10	8	8				
	References (5)	5	5	5	5				
	SUB-TOTAL	95	99	74	87				
	RANK	2	1	4	3				
	Project Team Qualifications (30)	29	30	25	27				
	Project Approach and Management (20)	17	20	15	17				
	Examples of Past Work (20)	19	19	15	17				
	Experience and Qualifications Related to Federal and State Grant Administration (15)	14	15	12	13				
	Experience and Qualifications in compliance with contracting, procurement, construction contract admin and reporting requirements under both state and federal law (10)	10	10	8	8				
	References (5)	5	5	5	5				
	SUB-TOTAL	94	99	80	87				
	RANK	2	1	4	3				
Adela Ramirez Gutierrez	Project Team Qualifications (30)	28	27	27	28				
	Project Approach and Management (20)	17	17	16	19				
	Examples of Past Work (20)	17	17	17	17				
	Experience and Qualifications Related to Federal and State Grant Administration (15)	14	13	12	13				
	Experience and Qualifications in compliance with contracting, procurement, construction contract admin and reporting requirements under both state and federal law (10)	8	8	8	8				
	References (5)	5	5	5	5				
	SUB-TOTAL	89	87	85	90				
	RANK	2	3	4	1				
	AVERAGED RANK	2.00	1.00	4.00	3.00				
Brendan Shanahan	Project Team Qualifications (30)	28	27	27	28				
	Project Approach and Management (20)	17	17	16	19				
	Examples of Past Work (20)	17	17	17	17				
	Experience and Qualifications Related to Federal and State Grant Administration (15)	14	13	12	13				
	Experience and Qualifications in compliance with contracting, procurement, construction contract admin and reporting requirements under both state and federal law (10)	8	8	8	8				
	References (5)	5	5	5	5				
	SUB-TOTAL	89	87	85	90				
	RANK	2	3	4	1				
	AVERAGED RANK	2.00	1.00	4.00	3.00				

Resolution #__-____

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SELECT A FIRM TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR THE LOWER MUD CREEK FLOODPLAIN RESTORATION PROJECT AND DIRECT THE CITY MANAGER TO NEGOTIATE A CONTRACT WITH THE SELECTED FIRM

WHEREAS, the City of Hendersonville advertised a request for qualifications for professional engineering services for the City of Hendersonville and;

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

WHEREAS, firms Jennings Environmental, RES Inc., and RVE, were the next highest-ranking firms in order; and

WHEREAS, a contract for service 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 and enter into contract for professional engineering services for the lower mud creek floodplain restoration project with Wildlands Engineering on behalf of the City and
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, said contract to be consistent with the terms of this Resolution;

Adopted by the City Council of the City of Hendersonville, North Carolina on this 3rd day of August 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

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



June 23, 2023

Michael S. Huffman, CSM

Stormwater Division Manager

Submitted via email to mhuffman@hvlnc.gov

RE: Statement of Qualifications (SOQ) in response to the City of Hendersonville Lower Mud Creek Floodplain Restoration and Flood Risk Reduction Project
RFQ #230067555001

Dear Mr. Huffman,

Wildlands is proposing to partner with Kee Mapping & Surveying, WithersRavenel, ClearWater Environmental Consultants, Traffic Planning & Design, and Ecoforesters to provide a well-equipped project team to execute the Lower Mud Creek Floodplain Restoration and Flood Risk Reduction Project in partnership with the City of Hendersonville (City). The project team has a robust suite of expertise and project site and corridor familiarity, and we are collectively excited about this opportunity to build upon our prior and on-going partnerships with the City in implementing the suite of activities proposed by the two grants.

Wildlands previously led the Multi-Area Streambank Restoration (MASR) project for the City, a successful North Carolina Division of Water Infrastructure (DWI)-funded green infrastructure effort with innovative stormwater, stream, wetland, floodplain, riparian and flood reduction benefits requiring state and federal permitting, contracting and grant milestone and reporting coordination. Wildlands also led the NC Land and Water Fund planning grant (2021-2023) that studied the Lower Mud Creek project corridor and developed the preliminary design vision for the current project. With a wealth of prior experience on comparable restoration projects, a thorough understanding of this project, and excellent relationship with City staff and stakeholders, Wildlands is uniquely equipped to meet the challenges of and capitalize on the opportunities presented by this project.

Based on the DWI grant deadlines, we are proposing an aggressive start to the project with multiple efforts running in parallel during the assessment and survey phase of the project. Our partners will add capacity and expertise in successfully completing this task. While assessment and survey are underway, will collaborate with the City to lay the framework for a successful project that puts ecological restoration, stormwater and floodplain management at the heart of this evolving corridor. Our approach will use City and stakeholder input to stitch together sites and plans around a unified vision for a healthy community and environment. We view clear, early and on-going communication with the City and grantors as keys to successful project delivery, along with close tracking of design and construction phase budget.

The Wildlands Team is committed to the City, its residents, and to positive environmental and social outcomes from this project. We offer a wealth of applicable experience and project-specific understanding to ensure your project's success. We appreciate this opportunity to join with the City in developing a thriving ecosystem.

Sincerely,

Shawn Wilkerson, CEO

swilkerson@wildlandseng.com; (704) 332-7754

Jake McLean, PE, CFM

Senior Water Resources Engineer, Project Manager

jmclean@wildlandseng.com; (828) 545-3865



1.0 Firm Profile Information



Wildlands Engineering (Wildlands) will lead the team and provide full-service water resources planning and engineering capabilities. As a North Carolina employee-owned and operated firm, founded and headquartered in Charlotte in 2007, we are present across the southeast

with additional offices in Asheville and Raleigh, NC; Knoxville, TN; Charleston, SC; and Fairfax, VA. Wildlands specializes in complex water resources projects involving ecological restoration and infrastructure; local, state and federal permitting; and water resource enhancements for park and greenway projects in highly visible settings.

Wildlands has 89 professionals dedicated solely to environmentally-oriented water resources projects, including 15 Professional Engineers, two GIS Professionals, six Certified Floodplain Managers, three Professional Wetland Scientists, one Professional Hydrologist, one Fisheries Professional, ecologists, wetland and riparian buffer vegetation restoration experts.

As detailed in the following sections, our staff have extensive experience assessing and designing streams, wetlands, riparian resources and stormwater and flood mitigation projects in urban stream corridors using our understanding of resource management, municipal infrastructure and ecological restoration techniques. Our staff are working on the state's floodplain resiliency template as the lead for nature-based solutions, comparable large stream-stormwater-wetland-floodplain restoration projects in Durham and Morganton, and we have dozens of recently completed stream, wetland, floodplain and stormwater management projects. Comparable projects, highlighting work for municipal entities, but also projects with unique applicability, are presented in Section 2.5. We have organized a team of local partners that will match our commitment to this project and bring parallel excellence within their respective disciplines. In addition, we have structured the team to efficiently and effectively deliver the project on schedule, within the budget, and in accordance with all grant requirements.

PROJECT TEAM:



Kee Mapping & Surveying (Kee) and Wildlands have worked together on numerous ecological restoration projects where Kee provided all surveying components from initial conditions and topographic surveys to boundary and easement recordation, construction stake-out, and as-built survey.

Services: Topographic and Boundary Surveying | **Location:** Asheville, NC



WithersRavenel (WR) provides traditional stormwater, infrastructure design and surveying services as well as grant management to municipalities across North Carolina. WithersRavenel has worked with the City of Hendersonville on their stormwater database and condition assessments. | **Services:** Boundary Surveying; Stormwater Structure Survey & Evaluation; Utility Engineering; and Peer Review | **Location:** Asheville, NC



ClearWater Environmental Consultants (ClearWater) has served the Hendersonville area since 2002 and provides expert permitting services for a variety of public, private, and non-profit clients. Their expertise includes stream and wetland delineations, threatened and endangered species surveys, and NEPA/SEPA Environmental Assessments. ClearWater will support Wildlands' 401/404 permitting efforts.

Services: Jurisdictional Determinations, T&E Species | **Location:** Hendersonville, NC



Traffic Planning & Design (TPD) is an accomplished East Coast multi-disciplinary A/E/C firm that leverages its local knowledge and focus on staff excellence to provide sustainable solutions. TPD is currently engaged on the Above the Mud project with physical project overlap on the Brevard Church and acquisition sites. They will apply their expertise in greenways and passive park design to support long-term corridor objectives in the context of this project. | **Services:** Park & Greenway Planning | **Location:** Asheville, NC



Ecoforesters (EF) and Wildlands have worked together on numerous ecological restoration projects where Wildlands prepares treatment plans that are implemented by EF field staff.

Services: Invasives Management | **Location:** Asheville, NC

FIRM INFORMATION

Name:

Wildlands Engineering, Inc.

NC Engineering Firm License:

F-0831

Principal Office Where Work Will Be Performed:

167-B Haywood Road,
Asheville, NC 28806

Phone, Website, Email:

(828) 774-5547,

www.wildlandseng.com,

jmclean@wildlandseng.com

Primary Contact & Project

Manager: Jake McLean,

(828) 545-3865,

jmclean@wildlandseng.com



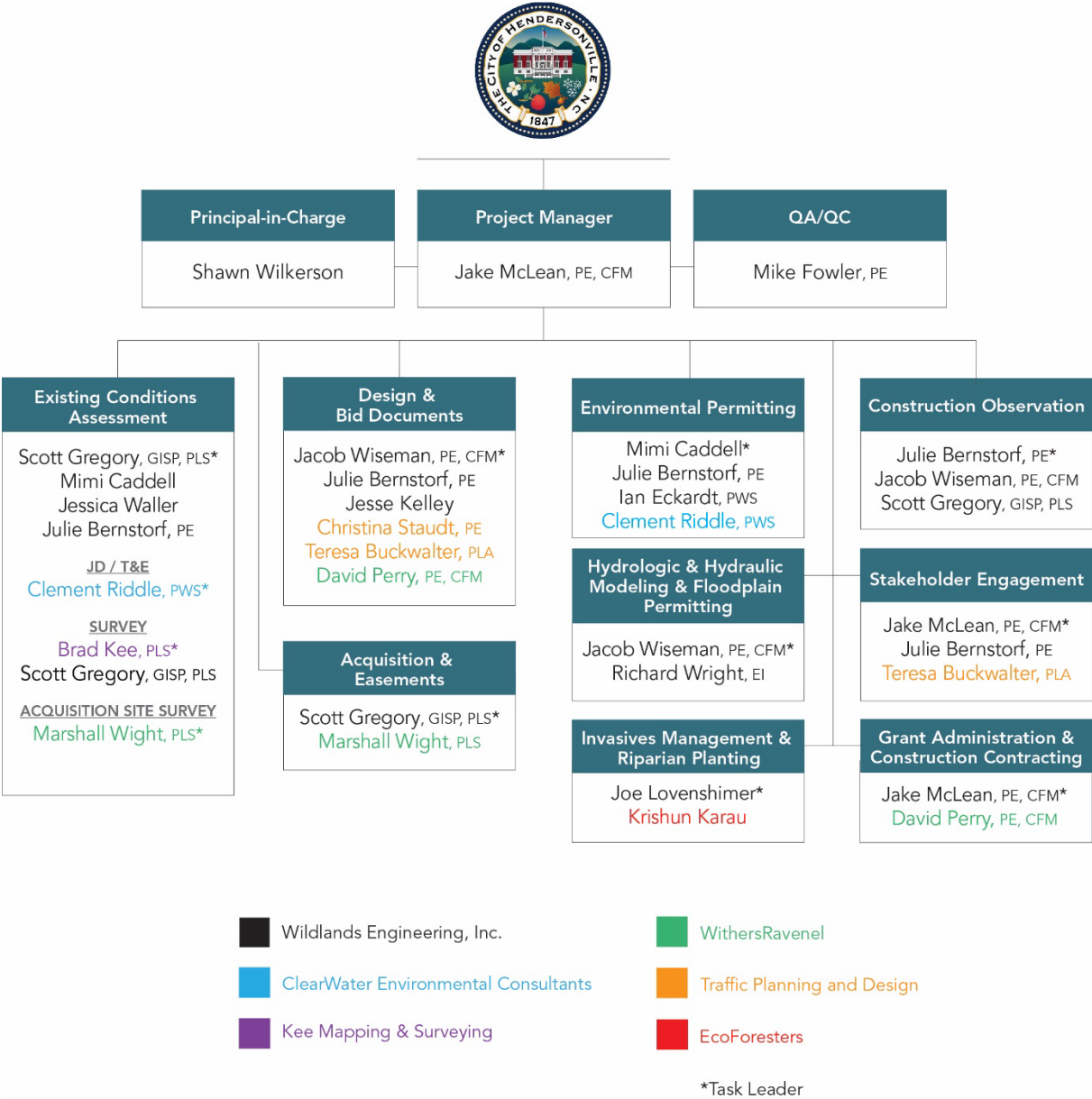
2.0 Proposed Project Team Qualifications

2.1 Organizational Chart

The Wildlands Team is equipped with the best combination of experience and technical expertise to take on the Lower Mud Creek Floodplain Restoration and Flood Risk Reduction project. Our team members have worked together on a variety of projects and based on our past working relationships, we are confident that we can serve the City and the environment well.

ClearWater will add capacity and local knowledge in completing jurisdictional and environmental assessments, surveyors from Kee will conduct topographic survey of Wilson and Brevard Church sites while surveyors from WR will complete acquisition site survey needs. Design professionals from WR and TPD are familiar with greenway and stormwater infrastructure in the corridor and will assist with evaluation of stormwater and transportation infrastructure to make recommendations to facilitate design work with an understanding of other on-going and future needs.

The following organizational chart illustrates our multi-disciplinary group of professionals that comprise the Wildlands Team.



2.2 Resumes of Staff Members



Shawn Wilkerson

CEO

Project Role: Principal-in-Charge

Years at Wildlands: 16 years

MSE, Civil Engineering, University of North Carolina at Charlotte, 1998

BA, English Literature, Appalachian State University, 1993

Mr. Wilkerson has 23 years of professional experience in water resources, focusing on surface water hydrology and restoration. He has managed and designed a diverse range of projects, including wetland/BMP construction and monitoring, stream restoration and enhancement, and watershed planning for flood control and water quality improvements. As a licensed NC Real Estate Broker, Mr. Wilkerson plays a key role in initial site evaluation for mitigation and conservation easement acquisition. Several of his key projects have involved turnkey mitigation solutions. In his role at Wildlands, he also serves as the leader of an 89-person team of scientists and engineers that focuses on ecological restoration. Mr. Wilkerson focuses on integrating ecologically responsible projects within the constraints of impacted landscapes while using his experience and education to manage and create innovative and successful projects.

Multi-area Streambank Restoration Project | City of Hendersonville, *Hendersonville, NC* | Principal-in-Charge

Richland Creek Water Quality Improvement Projects | City of Greenville, *Greenville, SC* | Principal-in-Charge

Chantilly Ecological Sanctuary at Briar Creek | MCSWS, *Charlotte, NC* | Principal-in-Charge

Azalea Park Pond Improvement Project | City of Asheville Parks & Recreation, *Asheville, NC* | Principal-in-Charge

McClures Bog Hydrologic Restoration | The Nature Conservancy, *Etowah, NC* | Principal-in-Charge



Mike Fowler, PE

Senior Project Manager

Project Role: QA/QC

Years at Wildlands: 10 years

MS, Environmental Engineering Sciences, University of Florida, 1991

BS, Civil Engineering, Virginia Polytechnic Institute and State University, 1987

Mr. Fowler has over 27 years of experience in watershed planning, stormwater management, stream and wetland restoration, and design of stormwater management systems. He serves as a senior project

manager and technical advisor for watershed planning, stormwater management, and ecological restoration projects within the firm.

South Ellerbe Stormwater Restoration Project | City of Durham Public Works, *Durham, NC* | Project Manager; Grant Administration

Chantilly Ecological Sanctuary at Briar Creek | MCSWS, *Charlotte, NC* | QA/QC



Jake McLean, PE, CFM

Senior Water Resources Engineer

Project Role: Project Manager, Grant Administration & Construction

Contracting, Stakeholder Engagement

Years at Wildlands: 9 years

MS, Civil Engineering, Auburn University, 2002

BS, Civil Engineering, Auburn University, 2000

Mr. McLean has 21 years of experience in leading, planning and designing ecologically-focused stream and wetland restoration, stormwater, floodplain restoration, flood reduction and mitigation, aquatic passage and recreational infrastructure and access projects in a variety of land use and landscape settings, extensively in Western North Carolina. He has worked on dozens of state and federally-funded grant projects involving water resources and recreational access for municipal, non-profit and federal clients. Mr. McLean has extensive experience with projects involving complex hydraulic, hydrologic and sediment transport considerations and urban constraints. At Wildlands, he is responsible for project management, oversight and design of watershed and water resource planning and design projects, floodplain and flood modeling.

Multi-area Streambank Restoration Project | City of Hendersonville, *Hendersonville, NC* | Project Manager; Designer; Hydraulic Modeling and Floodplain Permitting

Richland Creek Water Quality Improvement Projects | City of Greenville, *Greenville, SC* | Lead Designer; Floodplain Modeling; Construction Oversight

Azalea Park Pond Improvement Project | City of Asheville Parks & Recreation, *Asheville, NC* | Project Manager

Chantilly Ecological Sanctuary at Briar Creek | MCSWS, *Charlotte, NC* | Design Reviewer

McClures Bog Hydrologic Restoration | The Nature Conservancy, *Etowah, NC* | Project Manager





Scott Gregory, GISP, PLS
Senior Environmental Scientist
Project Role: Existing Conditions Assessment, Survey/Data Coordination, Acquisition and Easements; Construction Administration

Years at Wildlands: 10 years

MS, Earth Science, University of North Carolina at Charlotte, 2004

BS, Biology with a Minor in Geography/Chemistry, Radford University, 1995

Mr. Gregory is a senior environmental scientist in the Asheville, NC office and is the leader of Wildlands' GIS and geospatial technology group. He has 20 years of experience in GIS, watershed and stormwater management planning, and natural channel design. He specializes in mapping, 3D spatial analysis and modeling using GIS to provide spatial decision support solutions for a wide variety of water resource, ecological restoration, and environmental planning projects. His experience includes surveying and GPS, easements, construction oversight, and the deployment of mobile and web-based mapping applications using ArcGIS Online (AGOL). Mr. Gregory has assessed over 130 miles of streams in North Carolina and been instrumental in developing watershed/water quality improvement plans and natural channel design approaches for numerous urban and rural watershed and stream projects.

Multi-area Streambank Restoration Project | City of Hendersonville, *Hendersonville, NC* | Stream Assessment; Design/Planning; Permitting; Easements; ArcGIS Applications; Construction Administration

Richland Creek Water Quality Improvement Projects | City of Greenville, *Greenville, SC* | Construction Administration

McClures Bog Hydrologic Restoration | The Nature Conservancy, *Etowah, NC* | GIS Mapping; Stakeholder Graphics; Construction Administration Support

Mouth of Mud Floodplain Restoration Planning Study | Conserving Carolina, *Henderson County, NC* | GIS Mapping; Assessment and Design Planning



Jessica Waller
Environmental Scientist
Project Role: Existing Conditions Assessment
Years at Wildlands: 2 years
 MS, Forest Resources, Clemson University, 2021

BS, Natural Resource Ecology and Management: Conservation Biology, Louisiana State University, 2015

Ms. Waller currently serves in the Wildlands Asheville office as an environmental scientist. Ms. Waller has a combined six years of post-graduate professional and academic experience in the natural resources field. She has worked extensively in coastal cypress swamps, bottomland hardwood forests, and tidal estuarine/marsh environments and is experienced in wetland assessment, permitting, and mitigation.

Shake Rag Mitigation Site | NCDMS, *Henderson County, NC* | T&E Survey; Monitoring

Banner Farm Mitigation Site | NCDMS, *Henderson County, NC* | Existing Conditions Assessment

Henry Fork Mitigation Site | NCDMS, *Catawba County, NC* | Post-Construction Monitoring



Mimi Caddell
Environmental Scientist
Project Role: Existing Conditions Assessment, Environmental Permitting (Lead)
Years at Wildlands: 6 years

BS, Environmental Science, UNC Chapel Hill, 2014

Ms. Caddell has eight years of watershed resources experience and leads the assessment and monitoring team in the Asheville Office. She has experience with geomorphic and vegetation assessments, stream and wetland jurisdictional determinations, site evaluation for stream, wetland and floodplain restoration, stream and wetland gaging studies, watershed planning studies and permitting. She has led community volunteer groups and educational programs. Ms. Caddell's duties at Wildlands include environmental assessment, T&E species evaluation, stream and wetland delineation, vegetation and geomorphic assessments, data processing and GIS mapping, permitting, site stewardship, and maintenance.

Chantilly Ecological Sanctuary at Briar Creek | MCSWS, *Charlotte, NC* | Vegetation Assessment

Banner Farm Mitigation Site | NCDMS, *Henderson County, NC* | Assessment; Permitting

Henry Fork Mitigation Site | NCDMS, *Catawba County, NC* | Assessment; Post-Construction Monitoring

Ward Mill Dam Removal | Blue Ridge RC&D, *Watauga County, NC* | T&E Survey; Assessment; Permitting



**Joe Lovenshimer***Adaptive Management Specialist***Project Role:** Invasives Management and Riparian Planting**Years at Wildlands:** 5 years

MS, Biology, Ecology Concentration, Appalachian State University, 2016

BS, Biology, Brevard College, 2011

Mr. Lovenshimer has 10 years of professional experience related to water resources, restoration ecology, and land management. He has worked with large-scale riparian and upland restoration projects and managed monitoring projects on conserved land. His experience includes invasive plant control, maintenance of restoration plantings, vegetation surveys, and monitoring projects for annual reports. His duties at Wildlands include site stabilization, invasive plant control, vegetation planning, coordinating planting projects, stream bank repair, and monitoring projects.

Azalea Park Pond Improvement Project | City of Asheville Parks & Recreation, *Asheville, NC* | Vegetation Assessment

South Ellerbe Stormwater Restoration Project | City of Durham Public Works, *Durham, NC* | Planting Design Plan

McClures Bog Hydrologic Restoration | The Nature Conservancy, *Etowah, NC* | Vegetation Assessment

Banner Farm Mitigation Site | NCDMS, *Henderson County, NC* | Planting Design Plan; Invasive Species Control

**Julie Bernstorf, PE***Water Resources Engineer***Project Role:** Existing Conditions Assessment, Design and Erosion Control, Construction Observation, Stakeholder Engagement**Years at Wildlands:** 1 year

BS, Biological Engineering, North Carolina State University, 2016

Ms. Bernstorf serves as a water resources engineer for Wildlands in the Asheville, NC office. She has experience in stream and wetland restoration, green infrastructure, erosion and sediment control, and environmental remediation. Ms. Bernstorf's duties include collaborating with teams to implement comprehensive stream and wetland restoration projects including assessment, design, modeling, construction plans and specs, erosion control plans, and construction oversight.

Cornbread Valley Mitigation Site | NCDMS, *Macon County, NC* | Design and Erosion Control; 401/404 Permitting

Southside Stormwater Enhancement | Riverlink, *Asheville, NC* | Construction Management

Armstrong Ford Dam Removal Feasibility Study | Catawba Riverkeeper, *Gaston County, NC* | Design; Public Engagement; Technical Writing

Fortune Stream Restoration | Buncombe SWCD, *Buncombe County, NC* | Design, Permitting, Construction Management

**Jacob Wiseman, PE, CFM***Water Resources Engineer***Project Role:** Design and Bid Documents (Lead), Modeling & Floodplain Permitting (Lead), Construction Observation**Years at Wildlands:** 7 years

MS, Biological and Agricultural Engineering, North Carolina State University, 2011

BS, Biological and Agricultural Engineering, North Carolina State University, 2008

Mr. Wiseman currently serves as an engineer and project manager in the Wildlands Asheville, NC office. He has nine years of experience in hydrologic and hydraulic modeling including two dimensional modeling, stream and wetland design, and has an extensive background in erosion control and stormwater management. As a lead designer, Mr. Wiseman assists with planning, hydrologic and hydraulic modeling, design, and monitoring of ecological restoration and stormwater projects.

Multi-area Streambank Restoration Project | City of Hendersonville, *Hendersonville, NC* | Design; Streambank Restoration; Permitting

Banner Farm Mitigation Site | NCDMS, *Henderson County, NC* | Project Manager; Stream, Floodplain and Wetland Design; Modeling

Richland Creek Water Quality Improvement Projects | City of Greenville, *Greenville, SC* | Design; Site Assessment and Survey; Construction Documents

Britton Creek | City of Hendersonville, *Henderson, NC* | Construction Observation

**Jesse Kelley***Senior Environmental Designer***Project Role:** Construction Documents**Years at Wildlands:** 14 years

BS, English, New Mexico State University, 1996

Mr. Kelley has over 20 years of experience dealing with AutoCAD/Civil 3D in civil design, surveying, and mechanical design. His survey experience has involved collecting data in the field, transferring it to AutoCAD, preparing surfaces, creating project base files, project



design, construction staking, and construction management. His civil design experience ranges from stream and wetland restoration design to civil infrastructure design for master planned residential and commercial projects. Stream and restoration design included existing conditions survey and base map preparation, existing and proposed stream alignments, erosion control structures and BMPs, earthwork balancing, as-built plans, and habitat and planting design. Infrastructure design involved preparation of proposed grading, erosion control and water quality design, storm water drainage, potable water design, sewer design, roadway design, construction management, and project coordination with clients, designers, and multiple jurisdictions and utilities.

Reedy Creek Design-Build Stream Restoration Project | CMSWS, *Charlotte, NC* | Existing Conditions Assessment; Design; Plan Production

Chantilly Ecological Sanctuary at Briar Creek | CMSWS, *Charlotte, NC* | Existing Conditions Assessment; CADD Design; Grading and Plan Production

Richland Creek Water Quality Improvement Projects | City of Greenville, *Greenville, SC* | CADD Design; Surface Modeling

Torrence Creek at Huntersville Business Park Stream & Water Quality Enhancement – Phase I | CMSWS, *Huntersville, NC* | CADD Design Support; Surface Modeling; Construction Administration



Ian Eckardt, PWS

Senior Environmental Scientist

Project Role: Permitting Oversight/Review

Years at Wildlands: 10 years

MS, Earth Science, North Carolina State University, 2007
BS, Geology, North Carolina State University, 2001

Mr. Eckardt has 16 years of experience in stream geomorphic assessments, stream classification, wetland delineation, protected species surveys, sediment sampling and analysis, water quality monitoring, groundwater monitoring, surveying, and vegetation assessment. As a senior staff member, he assists with training and oversight of junior staff and review of regulatory permitting submittals, agency correspondence, delineations, assessment, T&E surveys, and post-construction monitoring work and continues to also perform these tasks himself.

South Ellerbe Stormwater Restoration Project | City of Durham Public Works, *Durham, NC* | Wetland Delineation; Permitting

Chantilly Ecological Sanctuary at Briar Creek | MCSWS, *Charlotte, NC* | Jurisdictional Determination; 401/404 Permitting

McClures Bog Hydrologic Restoration | The Nature Conservancy, *Etowah, NC* | Permitting

Multi-area Streambank Restoration Project | City of Hendersonville, *Hendersonville, NC* | Permitting



Richard Wright, EI

Environmental Designer

Project Role: Hydro Design and Floodplain Permitting

Years at Wildlands: 2 years

BS, Biological Engineering, Ecological Engineering Concentration, North Carolina State University, 2019

Mr. Wright has four years of experience in water resources engineering and ecological restoration. He currently serves as an Environmental Designer for Wildlands' Knoxville, TN office. Mr. Wright has experience working on a variety of public and private projects including stream and wetland restoration, stormwater management, erosion and sediment control, and hydrologic and hydraulic modeling, including 2-D hydraulic modeling. His responsibilities include site analysis, report preparation, stream and wetland design, modeling, permitting, and construction administration.

South Ellerbe Stormwater Restoration Project | City of Durham Public Works, *Durham, NC* | Existing Conditions Assessment

Dynamite Creek Mitigation Site | NCDMS, *Rockingham County, NC* | FEMA Flood Study; Permitting

Liberty Rock Mitigation Site | NCDMS, *Liberty, NC* | FEMA Flood Study; Permitting



Christina Staudt, PE

NC Regional Manager

Project Role: Greenway Plan/Design

Years at TPD: 23 years

BS, Civil Engineering Systems, University of Pennsylvania, 1998

Ms. Staudt is a senior project manager for public sector design and planning projects. She approaches projects with an eye on context sensitivity and awareness of mobility needs for all users. Her experience ranges from project planning and grant writing to conceptual, preliminary, and final design. Ms. Staudt has also provided project oversight through bidding and construction inspection. She has reviewed hundreds of land development and transportation improvement plans including corridor

studies, access plans, traffic impact studies, internal circulation, roadway safety reviews, traffic calming, municipal consulting, MUTCD compliance and ADA compliance reviews. Ms. Staudt's experience also includes extensive public involvement outreach.

Ecusta Rail Trail | Henderson County, *Hendersonville, NC* | Project Management; Planning; Engineering; Conceptual Plan Development

Karen Cragolin Park Greenway | River Link, Inc., *Asheville, NC* | Drainage Design; Floodplain Analysis; Line and Trail Work Grading

Swannanoa River Greenway (Fonta Flora Trail)

Feasibility Studies and 65% Design | City of Asheville, *Asheville, NC* | Road/Bridge Network Evaluation/Design; Trail/Road Crossing and Safety Recommendations; Stakeholder Outreach; Cost Estimating

OLLE Art Walk (Old Lenoir Walk Multi-Use Trail) | City of Hickory, *Hickory, NC* | Traffic Analysis; Community Engagement; Crossing Evaluation; Design; Cost Estimating



Teresa Buckwalter, PLA

Multimodal Transportation Planner

Project Role: Park and Greenway Plan/Design, Stakeholder Engagement

Years at TPD: 1 year

MLA, Landscape Architecture, University of Michigan, 2001

BS, Natural Resource-Based Recreation Management, Michigan State University, 1993

Ms. Buckwalter is a registered landscape architect in North Carolina and Virginia. Combining landscape architecture, community and land planning, Ms. Buckwalter brings a 20-year track record of project management of public projects. She has helped communities throughout Western NC plan and design both engaging and functional spaces. Ms. Buckwalter has helped clients execute their vision on numerous greenway, park, and transportation projects including the Middle Fork Greenway, the Fonta Flora State Trail, and the Overmountain Victory National Historic Trail.

Ecusta Rail Trail | The City of Brevard, *Brevard NC* | Planning; Conceptual Plan Development

Karen Cragolin Park Greenway | River Link, Inc., *Asheville, NC* | Design Compliance Standards; Erosion and Sediment Control Specifications

NC 107 Greenway Feasibility Evaluation | Town of Cullowhee, *Cullowhee, NC* | Community Engagement; Stakeholder Coordination

Double Bluff Recreation Area | Town of Jonesville, *Jonesville, NC* | Master Planning; Analysis; Design; Community Engagement



Clement Riddle, PWS

Senior Scientist

Project Role: JD/T&E, Permitting

Years at ClearWater: 21 years

MS, Planning, University of Virginia, 1998

BS, Natural Resources, University of the South, 1991

Mr. Riddle has over 32 years of experience with wetland permitting, environmental planning, and natural resource studies in North Carolina. He oversees all environmental projects and serves as the principal for large and technical permitting projects. Ongoing representative projects include mitigation design and monitoring, 404 permitting for golf courses, master-planned communities, retail shopping malls, industrial developments, and environmental assessments for NEPA/SEPA compliance. He has extensive experience managing wetland/stream permitting and has worked extensively with the USACE, Wilmington District, and NCDENR.

Multi-area Streambank Restoration Project | City of Hendersonville, *Hendersonville, NC* | Permitting

City of Hendersonville Water Intake | Hendersonville Sewer and Water, *Hendersonville, NC* | Stream delineation; Permitting



Brad Kee, PLS, CFS

Professional Surveyor

Project Role: Survey

Years at Kee: 20 years

BS, Geography, GIS Concentration, Appalachian State University, 1997

With over 20 years of experience in land surveying, Mr. Kee has been a leader in providing high quality site surveys for clients ranging from land developers to conservation agencies. Mr. Kee is experienced in geomorphic assessment surveys, conservation easement surveys, boundary surveys for property net verification, GPS control for NC State Plane survey work, easement platting, legal descriptions, and easement monumentation. For projects large and small, Kee uses the same care and integrity to achieve accurate documentation.

Multi-area Streambank Restoration Project | City of Hendersonville, *Hendersonville, NC* | Project Surveyor; Easement Plats

Banner Farm Mitigation Site | NCDMS, *Henderson County, NC* | Project Surveyor; Easement Plats

Reedy Creek Design-Build Stream Restoration Project | CMSWS, *Charlotte, NC* | Survey Project Manager; Topographic Survey





Marshall Wight, PLS
Survey Group Director
Project Role: Acquisition Site Survey, Acquisition and Easements
Years at WithersRavenel: 8 years
BS, Agriculture Environmental Technology, North Carolina State University, 2002

Mr. Wight is a surveyor and survey project manager with a background in conventional and GPS field procedures, research, and data processing. He performs boundary topographic surveys; bathymetric surveys; boundary resolution; as-built; monitoring; planimetric and topographic mapping, recombination, right-of-way dedication, and easement mapping. Mr. Wight specializes in remote sensing technologies, including high-definition 3D laser scanning, unmanned aerial systems (UAS) legality, flight planning, 3D modeling, orthophoto/surface model generation.

Wake County Flood Control | Wake County, Raleigh, NC | Survey Manager

Indian Creek Greenway Easement | Town of Morrisville, Morrisville, NC | Project Manager

Tryon SRF Sewer Rehab and Replacement | Town of Tryon, Tryon, NC | Survey Manager



David Perry, PE, CFM
Senior Project Manager
Project Role: Design and Bid Documents, Grant Administration and Construction Contracting
Years at WithersRavenel: 2 years

MS, Civil Engineering, University of North Carolina at Charlotte, 2014

BS, Civil Engineering, Carnegie Mellon University, 1997

Mr. Perry ensures stormwater infrastructure design that meets all of our clients' goals. He has more than 25 years of experience, both in the public and private sectors, including more than five years with the City of Charlotte Storm Water Services. He is responsible for overall design and project management, along with practical, cost-effective, and constructible solutions for hydraulic designs. His experience includes design of Stormwater Control Measures (SCM), stream restoration, closed systems, flood control measures, and floodplain analysis.

Jump and Run Branch Watershed Analysis Study | City of Salisbury, Salisbury, NC | Project Manager

Mountain View Dr. Culvert Replacement | Buncombe County, Asheville, NC | Project Manager

Niblick Drive Culvert Replacement | City of Gastonia, Gastonia, NC | Project Manager



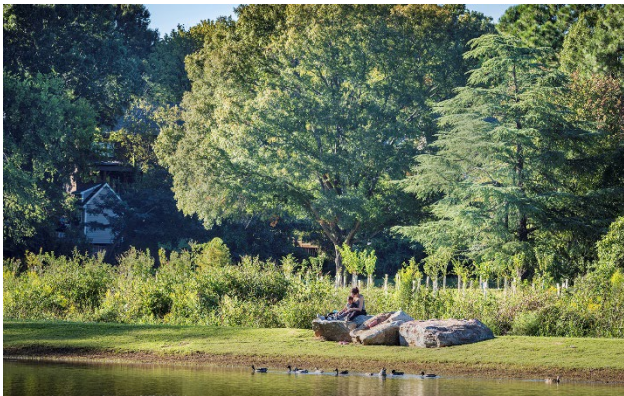
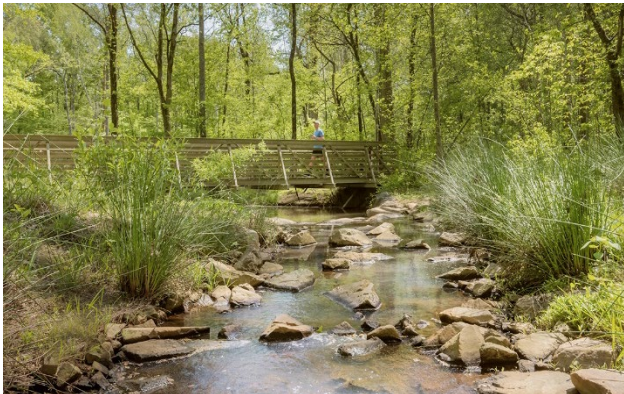
Krishun Karau
Forest Stewardship Director
Project Role: Invasives Management and Riparian Planting
Years at EcoForesters: 4 years
BS, Wildlife Ecology and Biology, University of Wisconsin-Stevens Point, 2012

Ms. Karau has 10 years of experience in planning and leading implementation of invasive species and forest management efforts. She leads invasive species management planning and implementation efforts on stream, wetland and floodplain mitigation sites.

Oak Hill Dairy Mitigation Site | NCDMS, Cherryville, NC | Crew Director, Invasives Treatment Implementation

Shake Rag Mitigation Site | NCDMS, Madison County, NC | Crew Director, Invasives Treatment Implementation

Southside Stormwater Enhancement Project | Riverlink, Asheville, NC | Crew Director; Invasives Treatment Implementation; Riparian Planting



Wildlands urban stream restoration projects within natural and recreational corridors



2.3 Staffing Summary and Availability

Wildlands completes workload planning for nine to twelve months in advance and has allocated the proposed project team to this project through bid and design package approval in July of 2024. Our schedule is front-loaded to allow for critical path tasks to run in parallel in the first quarter of the project and we have added both environmental assessment and survey capacity to ensure that the assessment phase of the project can proceed rapidly to facilitate the project schedule. Participating firms have reviewed the proposed project schedule and agree to provide the necessary resources to implement the project within the design budget. Partner project roles are described in Section 2.1 and individual roles are provided with resumes.

As the project manager, Mr. McLean will have 25-50% of his time allocated to this project on a quarterly basis in order to coordinate task leader activities, manage the project schedule and budget, guide and assist with design and modeling work to ensure that appropriate approaches are used for the project. Mr. McLean will coordinate reviews with QA/QC reviewer, Mike Fowler, who is working as the Project Manager on a comparable project for Durham funded by the same two grant sources. Wildlands has two other senior project managers that have been involved extensively in municipal projects of this nature in Charlotte, Morganton, Greenville, SC, and other municipalities that are available to provide review and input as requested. WithersRavenel is available for peer review of DWI and grant submittals, or comment response advice and assistance. They are going to be leading any necessary boundary survey activities on the acquisition site and are poised to assist with additional services on the acquisition site if additional design funding becomes available.

Mr. McLean will coordinate with the City through project meeting and progress updates on a biweekly or monthly basis, at the City’s discretion, including periodic updates to City staff outside of the stormwater department to obtain input on project decisions affecting multiple department’s long-term objectives for the sites. Progress meetings will ensure that deliverables are progressing on schedule. If a lag occurs in the design schedule, Mr. McLean will work with Wildlands leadership to evaluate and implement staffing adjustments to get back on schedule. At each stage, risks and opportunities will be evaluated internally and with the City to guide the timing and approach to key considerations. Identified approaches to risks and challenges are further discussed in Section 3.0 and highlighted in summary boxes in that section.

Mr. McLean will execute the project through Task Leaders Scott Gregory, Jacob Wiseman, Mimi Caddell and Julie Bernstorf, who will have 25-50% of their time assigned to the project on a quarterly basis to oversee their respective tasks. During periods of intensive work, time allocation is likely to be 50-75%. Staff are predominantly long-serving Wildlands Team members, highly experienced in their respective disciplines, and have served on comparable projects in similar roles before, including for the City of Hendersonville. Mr. McLean will coordinate invasive species management planning and implementation through Joe Lovenshimer who will prescribe and coordinate treatment through Ecoforesters, a local non-profit and forest management group that works extensively with Wildlands on ecological restoration work. Wildlands project and task managers will coordinate with Kee, WithersRavenel, ClearWater and TPD on topographic surveys, boundary and offsite structure surveys, jurisdictional determinations and T&E species evaluation, and park & greenway planning/design, respectively.



Wildlands Ecological
Restoration Team

2.4 Delivering Services On-Time and Within Budget

Our philosophy on effective project management requires clear communication, effective task schedule management, efficient budget tracking, and adherence to our QA/QC program. Each of these components supports adherence to the overall project schedule. In addition, multiple risks have been identified and discussed in the approach section. The project manager, QA/QC manager and the City will review risks and status of risk management activities at milestone stages and at critical intermediate stages. QA/QC and peer review will also reduce permitting and review comments to keep late-stage project efforts moving according to schedule. Communication on the project will include a kickoff meeting to share project vision with Design Team and City staff, monthly project reports, meeting minutes, and agency and stakeholder discussions. Clear communication and proper follow-up documentation will help ensure that critical information is communicated and recorded.

We have developed a detailed project schedule in Section 4.0. Our project schedules are linked with company-wide weekly and quarterly workload spreadsheets, where principals and project managers can allocate resources between multiple projects. As Chief Operating Officer, Andrea Eckardt is charged with allocating resources at a company-wide level so that all projects run on schedule and budget. Our project manager meets with Andrea monthly to review upcoming staffing needs. Wildlands project managers work together to share resources during non-critical path work periods in order to get ahead of schedule to alleviate future crunch periods.

For the Lower Mud Creek project, construction grant funding is a key project cost that will be visited and revisited, early and often.

Wildlands will work with internal construction specialists and estimators from our in-house construction team, as well as senior design staff to ensure that evolving construction costs are tracked and planning and design forethought is in place. Construction specialists are also able to assist during design in advising on challenging constructability and access considerations that may provide critical to a smooth-running construction phase. This approach, which will also include consideration of potential add-alternate bid items starting at the 60% phase, will reduce the risk of cost overruns and identify value engineering opportunities as appropriate in order to ensure the design is commensurate with the available project construction funding.

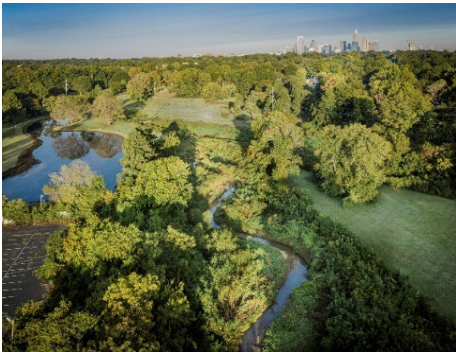
For our mitigation bank projects, Wildlands functions as its own client, so the importance of cost-control to project success hits home for us. Cost efficiency is at the forefront of our minds in all aspects of a project, from supplementing ground run topography with Statewide Quality Level 1 (QL1) Lidar, to tailoring designs elements to meet specific project goals and budgets, to finding clever ways to reuse onsite materials for channel stability and habitat. Our project management team is very experienced and knows how to keep a project running on budget. Quite simply, we do not let projects go over budget.

2.5 Prior Experience and Qualifications

Apart from prior work for Hendersonville, Wildlands is currently working on or has recently completed the following large-scale municipal stream, wetland, stormwater and flood-focused projects:

- City of Durham Stream and Stormwater Wetland (On-going and highlighted project)
- Town of Morganton Bethel Park (On-going)
- City of Greenville, SC Richland Creek Projects (Complete and highlighted project)
- Charlotte-Mecklenburg Stormwater Chantilly Ecological Sanctuary (Complete and highlighted project)
- Charlotte-Mecklenburg Stormwater Reedy Creek Preserve (Complete)

The following highlighted projects demonstrate our prior experience and qualifications for municipal and non-municipal clients on comparable projects.



Urban stream restoration, stormwater and flood mitigation project designed by Wildlands



Hendersonville Multi-area Streambank Restoration Project



Location: Hendersonville, NC
Owner: City of Hendersonville

Contact Information:
Brent Detwiler
305 Williams Street,
Hendersonville, NC 28792
bdetwiler@hvlnc.gov,
(828) 697-3060

Project Duration: 2017-2021

Project Budget:
Engineering: \$454,500
Construction: \$2,240,000

Project Staff and Role:
Shawn Wilkerson, *Principal*
Jake McLean, *Project Management; Design; Flood Studies; Bidding; Construction Oversight*
Scott Gregory, *Field Data Collection; Permitting; Design; Construction Oversight*
Jacob Wiseman, *Design; Permitting; Flood Studies; Bidding*
Brad Kee, *Surveyor*
Clement Riddle, *Delineations, T&E*

✓	Flood Mitigation, Permitting & Modeling
✓	Stream and Wetland Restoration
✓	Innovative SCM Design
✓	Hydraulic & Hydrologic Modeling / FEMA
✓	Federal & State Grant Coordination, Administration, & Closeout
✓	Federal & State Regulations
✓	Project Management

The project was completed within budget and schedule targets, with approved adjustments to accommodate additional activities.

The Multi-Area Streambank Restoration Project was a City initiative to restore approximately 11,000 LF of streambanks at 13 sites throughout the City.

The project purpose was to protect sanitary sewer and other City infrastructure, as well as improve water quality in Mud Creek, an impaired stream on the state’s 303(d) list, using a green infrastructure-focused approach. Grant funding through the Division of Water Infrastructure (DWI) required state review of the project bid package and the acquisition of easements on each parcel.

Wildlands collaborated with the City to select a variety of approaches to address site needs including natural channel design, buffer enhancement, stormwater retrofits, streambank restoration, and stabilization measures. Project components included site assessment, preliminary design, community outreach, project easement development, final design, permitting, construction oversight, and monitoring. The project was completed in 2021.

Wildlands used ArcGIS online and other cloud-stored data to facilitate easements, public outreach, and construction phase tracking.

As part of the project, T&E species, evaluations, and jurisdictional determinations (stream and wetland delineation) were completed. 404/401 environment permits and floodplain development permits were obtained for the majority of sites. Six flood studies and hydraulic analysis reports were completed to support floodplain development permits. An erosion control permit was also obtained for the project from NCDEQ DEMLR.



South Ellerbe Stormwater Restoration Project



Location: Durham, NC
Owner: City of Durham Public Works,
Stormwater and GIS Services

Contact Information:
Sandra Wilbur
101 City Hall Plaza
Durham, NC 27701
Sandra.Wilbur@durhamnc.gov
(919) 560-4326

Project Duration: 2017-present

Project Budget:
Engineering: \$2.3M
Construction: \$25M

Project Staff and Role:
Mike Fowler, *Project Management;
Grant Administration*
Jesse Phillips, *Water Quality
Modeling; H&H Modeling; Design;
Construction Documents*
Joe Lovenshimer, *Planting Plan
Design*
Ian Eckardt, *Permitting; Wetland
Delineations*
Richard Wright, *Existing Conditions
Assessment*

Project Applicability:

✓	Flood Mitigation, Permitting & Modeling
✓	Stream and Wetland Restoration
✓	Innovative SCM Design
✓	Hydraulic & Hydrologic Modeling / FEMA
✓	Federal & State Grant Coordination, Administration, & Closeout
✓	Federal & State Regulations
✓	Project Management

Wildlands is finalizing bid documents.
Construction is scheduled for May
2024.



Wildlands is currently contracted by the City of Durham to complete design, permitting, and construction administration for the South Ellerbe Stormwater Restoration Project, an urban stormwater quality retrofit near downtown Durham.

Wildlands has supported the City on an extensive public outreach program that has used public meetings, a design workshop, project-related videos, public surveys, and social media (Facebook, Twitter, YouTube) to solicit input from Durham residents and key stakeholders and develop the Conceptual Design, which includes:

- Restoration of two tributaries to South Ellerbe Creek; including daylighting one 700-foot long tributary
- Creation of a 7-acre stormwater wetland with multiple terraces and vegetation communities to improve water quality in South Ellerbe Creek and ultimately in Falls Lake
- Streetscape improvements and installation of community amenities such as an expanded greenway trail, bioretention system, demonstration garden, and plazas

The project site provides a unique opportunity to provide treatment of stormwater runoff from a 585-acre highly urbanized watershed that lacks stormwater controls. The project will also assist the City to meet nutrient reduction requirements in the Falls Lake Nutrient Management Strategy.



Richland Creek Water Quality Improvement Projects



Location: Greenville, SC

Owner: City of Greenville

Contact Information:

Paul Dow
206 S Main Street
Greenville, SC 29601
pdow@greenvillesc.gov,
(864) 467-4410

Project Duration: 2017-2021

Project Budget:

Engineering: \$342,000
Construction: \$972,000

Project Staff and Role:

Jacob McLean, *Design; Construction Manager*

Scott Gregory, *Assessment; Construction Oversight*

Jacob Wiseman, *Design*

Project Applicability:

✓	Flood Mitigation, Permitting & Modeling
✓	Stream and Wetland Restoration
✓	Innovative SCM Design
✓	Hydraulic & Hydrologic Modeling / FEMA
✓	Federal & State Grant Coordination, Administration, & Closeout
✓	Federal & State Regulations
✓	Project Management

The project was completed within budget and schedule targets.



Wildlands completed multiple stream, innovative stormwater, flood mitigation and riparian buffer restoration projects in the Richland Creek watershed, an urban tributary to the Reedy River in Greenville, SC. Projects were funded through federal grant (EPA 319), emergency repair, and floodplain mitigation funding sources.

In 2017, Wildlands designed, permitted, and oversaw construction of an emergency streambank bioengineering restoration project on a short reach of Richland Creek in Cleveland Park where bank erosion was threatening underground utilities and a parking lot. In 2018-2019, Wildlands completed design, permitting, bidding and construction oversight based on state and federal requirements for stream restoration, stormwater green infrastructure (SCMs) and riparian buffer enhancements associated with parks and greenways. Wildlands assisted the City with grant administration requirements.

During this same period, Wildlands also completed flood mitigation design and implementation oversight involving floodplain benching and grading to offset sanitary sewer construction impacts.

Wildlands completed T&E species survey, jurisdictional determination for streams and wetlands, and secured 404 & 401, floodplain development, and erosion and sediment control permits for the projects. Wildlands led bid package development, bidding, and construction oversight to meet all state and federal grant and permitting requirements. Wildlands developed an adaptive management plan for the City that identified practices and vegetation inspection and maintenance needs to improve the self-sustaining nature of the site over time.



Chantilly Ecological Sanctuary at Briar Creek



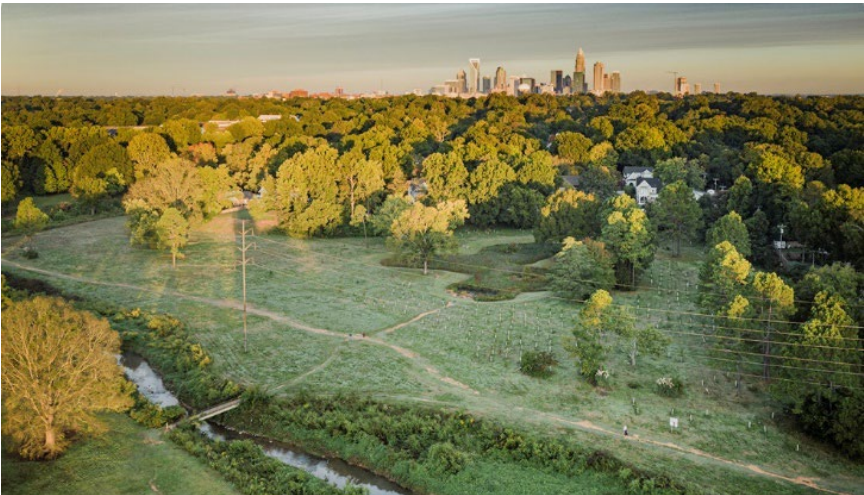
Location: Charlotte, NC
Owner: Charlotte-Mecklenburg Storm Water Services
Contact Information:
Crystal Goode
2145 Suttle Avenue
Charlotte, NC 28208
crystal.goode@mecklenburgcountync.gov
(980) 314-3223

Project Duration: 2012-2019
Project Budget:
Engineering: \$844,873
Construction: \$4,202,185
Project Staff and Role:
Shawn Wilkerson, *Principal-in-Charge*
Mike Fowler, *QA/QC*
Jake McLean, *Bid Package and Design Review*
Ian Eckardt, *Permitting*
Jesse Kelley, *CADD Design, Plan Production*

Project Applicability:

✓	Flood Mitigation, Permitting & Modeling
✓	Stream and Wetland Restoration
✓	Innovative SCM Design
✓	Hydraulic & Hydrologic Modeling / FEMA
✓	Federal & State Grant Coordination, Administration, & Closeout
✓	Federal & State Regulations
✓	Project Management

The project was completed within budget and schedule targets.



Charlotte-Mecklenburg Storm Water Services and the City of Charlotte’s Storm Water Services partnered on this stream restoration, enhancement, and stormwater quality retrofit project along Briar Creek in a densely urban area of the City of Charlotte. The overall goals of the project were to restore Briar Creek, Edwards Branch, and Chantilly Tributary, improve water quality through improved stormwater management, and obtain stream mitigation credits for the City of Charlotte’s Umbrella Mitigation Bank.

Prior to the project, Mecklenburg County purchased and demolished flood-prone buildings as part of the FEMA flood mitigation buyout program. This buyout provided the space necessary to expand the existing community park, incorporate stormwater quality retrofits, and restore portions of degraded streams.

Over 4,450 LF of stream restoration and enhancement were performed, two stormwater quality BMPs were installed within the floodplain of Briar Creek, and the ground was prepared for greenway and recreational trails to be expanded in the future.

Extensive hydraulic analysis was required to support a floodplain no-rise certification. Wildlands integrated hydraulic modeling with design to avoid raising floodplain elevations on adjacent private parcels. Wildlands also prepared a feasibility study and an alternatives analysis for the Chantilly Tributary and BMP components of the project. Wildlands Realty, our sister realty firm, negotiated five donated stormwater easements on private parcels. Construction was completed in 2018.



Azalea Park Pond Improvement



Location: Asheville, NC

Owner: City of Asheville

Contact Information:

Al Kopf (or Susannah Horton)
70 Court Plaza
Asheville, NC 28801
akopf@ashevillenc.gov
(828) 259-5800

Project Duration:

January 2021-December 2021

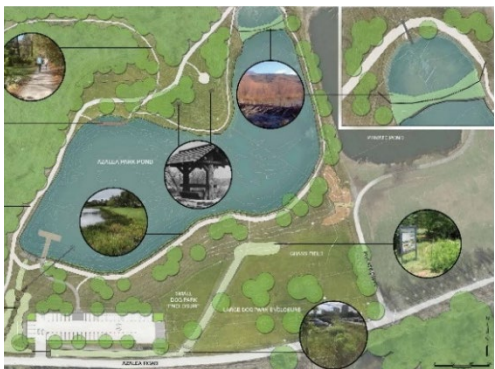
Project Budget:

Engineering: \$35,850

Project Staff and Role:

Jake McLean, *Project Manager, Designer, H&H, Permitting*
Joe Lovenshimer, *Invasives Planning*

The project was completed within budget and schedule targets.



Wildlands provided assessment, planning, preliminary design, and cost estimating to rehabilitate the Azalea Park Pond outlet structure as well as park functionality. The site was hydraulically complex with multi-dimensional flow, pipe, weir and pond storage considerations. The approach considered Swannanoa River and tributary flooding regimes. Wildlands used

PC-SWMM to model existing conditions and prescribe a suitable retrofit that would manage hydrology to ensure pond stability and enhance water quality objectives. Overall site design enhanced water quality, riparian and wetland habitat, park functionality, and passive use opportunities. Project solutions also mitigated private property impacts from flooding, invasive species, and met floodplain, 404/401 and local permitting requirements. Innovative design features included a beaver dam analog forebay and a parking layout retrofit to include stream restoration and stormwater concepts. Wildlands completed trail layout, passive park concepts including a boardwalk, and maintenance access design.

Project Applicability: *Hydrologic and Hydraulic Modeling (PC-SWMM); Park Planning; Innovative Stream Restoration and SCM Design; Local, State and Federal Permitting.*

McClures Bog Hydrologic Restoration



Location: Henderson County, NC

Owner: The Nature Conservancy

Contact Information:

Adam Warwick,
46 Haywood St, Ste 222
Asheville, NC 28801
awarwick@TNC.ORG
(828) 350-1431

Project Duration:

2017- 2020

Project Budget:

Engineering: \$80,000
Construction: \$102,000

Project Staff and Role:

Jake McLean, *Project Manager, Design*
Scott Gregory, *GIS mapping*
Ian Eckardt, *Permitting*

The project was completed within budget and schedule targets.



Wildlands completed design-build project to manage stormwater runoff and flooding upgradient of McClure's Bog, a candidate for the Mountain Bogs National Wildlife Refuge due to its unique community of threatened and endangered species. McClure's Bog is fed by groundwater and a first order

tributary draining a 26-acre subwatershed contributing flooding and nutrients to the bog. Wildlands designed an innovative stream-wetland complex with sufficient wetland storage volume to treat and infiltrate approximately 1.5" of rainfall on the watershed. Assessment efforts included groundwater and surface water gaging, soils evaluations, threatened and endangered species, invasives mapping and reference site plant surveys. With input from stakeholders, a series of tiered wetland basins was designed to divert and treat runoff from the incoming tributary while minimizing grading and disturbance to mature trees on the site. The site was treated for non-native invasive species pre-construction and planted with a diverse suite of herbaceous, shrub and tree species upon completion. Wildlands completed grant management, 3D graphic renderings in ArcGIS online, 404/401 environmental permitting, erosion control and floodplain permitting, design, and construction oversight.

Project Applicability: *Hydrologic Assessment; Hydraulic Modeling and Outlet Structure Design; Flood and Water Quality Mitigation; Invasives Management; Innovative Stream Restoration and SCM Design; and Local, State and Federal Permitting.*



Karen Cragnolin Park Greenway

Location: City of Asheville,
Buncombe County, NC

Client: Riverlink, Inc.

Point of Contact:

Lisa Raleigh, Ph.D.
170 Lyman Street
Asheville, NC 28801
828.252.8474 x 116

Project Duration: Design: 2022 /
Construction: 2023 (Anticipated)

Project Budget: \$58,198.75

Key Team Members:

Christina Staudt, *Project Lead*
Teresa Buckwalter, *Planner*

*The project is on budget and
construction is scheduled for on
time completion in August 2023.*

This project consisted of design, permitting, and construction management services for an important greenway section between Carrier Park and Amboy Road River Park along the French Broad River in Asheville, NC. The greenway development is a crucial missing link in this network of parks, river access sites, and trails - the first phase of the future Karen Cragnolin Park, a RiverLink project. The park is planned on a brownfield site, which has undergone a decade of remediation by RiverLink and partners.

TPD completed tasks including vertical and horizontal trail design, marking and signing plan, utility coordination, drainage and erosion & sediment control design, floodway modeling for floodplain development permit, permanent and temporary easement exhibits and property owner coordination, and NCDOT, Duke and Buncombe Metropolitan Sewerage District (MSD) project coordination and permitting. TPD also conducted construction administration.

Project Applicability: *Park and Greenway Planning/Design; Easement Coordination; Hydraulic & Hydrologic Modeling / FEMA.*



Henry Fork Stream and Wetland Mitigation Site

Location: City of Hickory, Catawba
County, NC

Client: NC Division of Mitigation
Services

Point of Contact:

Matthew Reid, (828) 231-7912,
matthew.reid@ncdenr.gov

Project Duration: 2013 - 2023

Project Budget: \$1.8m

Key Team Members:

Jake McLean, *PM, Design*
Mimi Caddell, *Assessment*
Jessica Waller, *Post-construction
Monitoring*
Joe Lovenshimer, *Invasive Species
Management*
Scott Gregory, *GIS mapping*
Ian Eckardt, *Permitting*

*The project was completed within
budget and schedule targets.*

This project involved a 50-acre acquisition and restoration of streams, wetlands and floodplain storage on the Henry Fork River floodplain on the site of a former golf course. Historic ditching, berming and filling of streams and wetlands had resulted in impaired stream, wetland and floodplain function. The project efforts restored multiple first order tributaries and several acres of wetlands, provided over two acre-feet of new flood storage, and reestablished native riparian and wetland plant communities. The design was supported by soil and hydrology assessments, as well as hydraulic modeling to meet floodplain activation and wetland restoration targets. Ditched and altered streams and wetlands were restored to their appropriate geomorphology and location in the landscape. Wildlands identified suitable locations to dispose of thousands of yards of excess soil while maintaining construction efficiency and meeting FEMA permitting requirements. The project used on-site transplants, sod mats, and wood to enhance stream restoration efforts while minimizing the environmental footprint of the project. The project closed out in Spring, 2023, after successfully completing seven years of post-construction monitoring and invasive species management.

Project Applicability: *Flood Mitigation; Permitting & Modeling; Stream and Wetland restoration; Hydraulic & Hydrologic Modeling / FEMA; Federal and State Regulations; Project Management.*



3.0 Project Approach and Management

Our Team has crafted an approach that will provide for successful project outcomes and implementation. This approach includes: an ecological and community focus, a carefully planned schedule, deliverables driven by grant, state, and federal requirements, and a methodical and creative mindset to solving challenges, minimizing key risks and maximizing opportunities. Our primary goal is to achieve grant design deliverables on time and on budget in a manner that complements and facilitates future City greenway and open space planning within these corridors. Wildlands will follow internal QA/QC of work products and deliverables and involve senior staff working on similar municipal project and grants to provide input and ideas on the project.

Our project schedule in Section 4.0 is divided into tasks and primary subtasks, however, the following approach is divided into project phases with concurrent tasks being discussed together.

Project Kickoff

Wildlands proposes a 1-hour project overview to discuss the goals and deliverables of the project followed by 2-hour corridor site walk as a project kickoff activity to familiarize team members and key stakeholders with the corridor and site features. Grant concept drawings will be used for initial City and key stakeholder coordination. Required and optional design goals will be reviewed in order to guide integration of stakeholder considerations and refinement of design goals. The site walk will look at key areas of concern or that are in flux due to various on-going or future proposed private and public projects. Late July or early August is the suggested time period for the kickoff.

Assessment and Preliminary (30%) Design & Modeling

Design approaches developed under the planning and grant proposal stage require additional validation and development based on in-depth and comprehensive assessment activities. These activities will include soils evaluation, topographic survey, hydraulic structure survey, jurisdictional determinations, hydrologic data collection, vegetation surveys, and engineering constraints and constructability reviews. With Wildlands’ staff and the help of subconsultant team members, Kee, WithersRavenel and ClearWater, we will conduct these activities in parallel as part of an aggressive schedule for existing conditions data collection.

Hydrology data collection and hydraulic modeling are key design drivers for this project. Hydrology data will be evaluated from gages on headwater streams, Mud Creek, and floodplain wetlands located both on and adjacent to project sites. Gage data will be used to develop design storms that typify high to moderate frequency flow events that typify water quality event conditions. As part of this, rainfall totals and intensity data from the City Operations Center rain gage will be compared against NOAA Atlas 14 data to estimate rainfall frequency. High flows, land use, and climate change trends will be considered in the development of simulations. For FEMA purposes, the base flood will be the effective discharge as determined in the Flood Insurance Study.



Wildlands stream restoration in Greenville, SC

Assessment and 30% Design & Modeling

Key Dates: Oct-Nov 2023: Completion of 30% design and presentation at public meeting.

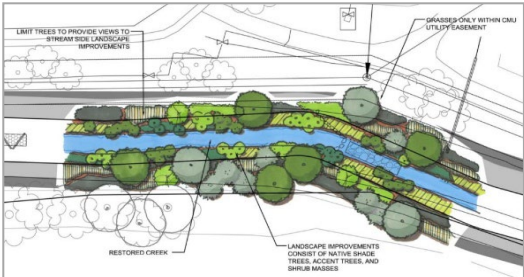
Deliverables: 30% Design with preliminary grading; technical memo with summary of assessment task findings; decision making rationale based on assessment; preliminary design, modeling and stakeholder engagement.

Risks and Opportunities Addressed: Use subconsultants with corridor knowledge and insight to provide a well-rounded and prepared design team. Have survey and assessment teams work in parallel to provide modeling and design data at an earlier date. Develop a clear modeling protocol to guide design-model iterations and define project success metrics. Coordinate with City to secure TCE for site access for construction on Wilson Site. Evaluate earthwork balance and export if needed on both sites as major project cost. Plan and start pre-construction invasives treatment to reduce risk of spreading. Conduct discussions with City park and greenway staff to plan for accommodation of future greenway and passive recreational opportunities. Grant-phase cost estimates will be updated with more detailed estimates. Grant deliverables to be summarized and any significant changes reviewed



Detailed hydraulic modeling of existing conditions will start with existing two-dimensional (2-d) modeling from the planning phase and will be updated with topographic survey data from project sites, to be collected by Kee, and structure survey data (of offsite culverts and bridges affecting corridor hydraulics), to be collected and summarized by WithersRavenel. Modeling team members will develop site roughness values and other existing conditions model input, including preliminary processing of hydrologic data in order to prepare draft models for calibration. Another early activity will be to develop an approach and flow chart for model calibration, proposed model development, and QA/QC review.

During the 30% design phase, we will create a revised concept plan based on the initial design concepts that will synthesize the required water resource and ecological goals, grant targets, and additional planning for public access, amenities, and maintenance needs. This process will facilitate the future vision for passive recreational spaces and greenways in this corridor by accommodating these uses into the water resources design features. While there is no funding currently available to complete park and greenway design and implementation, our Project Team is well-positioned to advise on Mud Creek Greenway planning and other park considerations, ensuring our designs accommodate future park and greenway opportunities.



Greenway and stream restoration integration

This revised concept plan will be used during a site visit with key stakeholders proposed for late September or early October, 2023, for the purpose of soliciting feedback on future public access as well as the stated ecologic and hydrologic goals. Key stakeholders that will be involved include the Henderson Water & Sewer Department, who is completing the Mud Creek Interceptor within the corridor; Public Works for their role in Parks master planning, development and maintenance; and staff involved in greenway planning and engineering; along with other internal or external partners as identified by the Stormwater Administrator. Our Team is experienced in grant writing for parks and greenways, specifically NC’s Parks and Recreation Trust Fund Grant (PARTF) and Division of Water Resources (DWR) grants. This experience will allow us to view the project so that the City can seek relevant grant funding for this project in conjunction with ongoing park master planning, if desired.

Stakeholder input will be used to prepare a 30% plan set with preliminary alignment and grading that incorporates the location of future passive uses in relationship to project activities. Feedback from the plan set and associated technical memo will guide the direction of design efforts moving into the 60% phase and beginning of proposed conditions modeling, as well as help to finalize a list of key considerations for outreach and solicitation of feedback from the general public, proposed for November. The Team will work with the City to design a method to receive public feedback, anticipated to be through a public meeting and/or online options supported by a graphic representation.

60% Design and Modeling

During 60% design, the Design Team will iteratively develop a grading plan and associated hydraulic model that meets target design goals and achieves a no-rise condition (FEMA). Grading will consider project construction budget limitations while seeking to achieve target DWI grant design objectives for streams, wetlands, floodplain and riparian areas, as well as NCLWF grant objectives for flood reduction. Hydraulic design will include planning for offline stormwater wetlands with stormwater volume storage, as well as simple grassed weir outlets or other hydraulic controls to enhance flood storage for low-magnitude, high-frequency storm events. The berms and weirs used in the stream-wetland complex at McClures Bog are an example of the types of structures that



Vegetated depressional wetlands and associated weir outlets retain stormwater for water quality and flood reduction benefits at McClures Bog

will be considered for meeting ecological, stormwater and flood reduction objectives on the Lower Mud Creek sites. 2-d modeling will compare proposed conditions to existing conditions to document project performance and FEMA no-rise. Our Team’s landscape architect and greenway design staff will help define space allocation, appropriate site grading, and maintenance access considerations to allow for future passive use implementation. In this way, the site’s project objectives will blend with the future park and greenway vision. Haul routes will be needed during the construction phase - the routes present an opportunity to align with future recreation uses, such as trails. These, and other site access considerations, will be finalized and temporary and/or permanent easements will be sought and obtained for construction and/or long-term access. A planting plan will be developed with plant lists for herbaceous and woody native riparian species. Plan and profile sheets will be completed to draft stage, a refined grading plan will be developed and typical sections and project details will be drafted. A draft bid sheet and cost estimate will be prepared. Bid items will be separated by funding source and any additional clarification provided as an appendix to the 60% technical memo. As part of stakeholder outreach, Wildlands will conduct outreach to regulatory agencies to discuss the project plans at the 60% stage and determine if any concerns are present that should guide completion of the 90% design.

Acquisition and Easements

Our Team will provide acquisition support for the NCLWF acquisition parcels. Support is anticipated to involve boundary survey, potential subdivision, or recombination of parcels to separate purchase of land from structures that are currently present. The project manager will work with the City to identify temporary or permanent easement needs during the 30% and 60% design stages and will provide exhibits for necessary easements. No boundary survey work is anticipated to be required for the Wilson or Brevard Church sites. It is anticipated that a construction access easement through a private landowner will be required for the Wilson Site. On both sites, Wildlands will include NCDOT in stakeholder discussions and will determine by the 60% submittal stage what temporary encroachment agreements are required to facilitate construction activities, such as an anticipated construction entrance on South Grove Street.

90% and Final Design and Permitting

During 90% design, the design team will finalize grading and design and no-rise modeling, all project alignments, profiles and typical sections, details, planting plan, and erosion control. Future potential park and greenway features, areas and corridors will be identified for reference. Any additional details regarding these features will

60% Design and Modeling

Key Dates: Dec, 2023: Completion of 60% design and preliminary proposed modeling.

Deliverables: 60% Design plan set with stream, wetland and stormwater grading and preliminary details; technical memo with summary of design approach and rationale; draft proposed condition model demonstrating no-rise and design performance; updates to project decision making rationale based on additional assessment, design, stakeholder input. Primary stakeholder and agency outreach complete.

Risks and Opportunities Addressed: Follow iterative design-modeling process to validate approach with key no-rise requirement and to document performance for grant deliverables. Continue inter-department coordination and integration of future use concepts into design layout considering construction phase opportunities to use haul/access routes as future trail alignments. Develop detailed grading plan, quantities and ensure that no-rise condition and project budget are compatible. Establish refined cost estimate twelve months in advance of construction and establish clear delineation of construction pay items to provide clear separation of DWI versus NCLWF grant activities. Start to identify add-alternates that can be bid separately from base bid as a form of construction budget control.

Acquisition and Easements

Key Dates: Easements for DWI must be in place prior to approval of bid and design package in July 2024. Target any temporary construction easements to be in place by Feb 2024. NCLWF acquisition easement schedule will be established with grant deadline and City input at onset of project.

Deliverables: Easement exhibits, acquisition plats.

Risks and Opportunities Addressed: Have separate survey team (WithersRavenel) to focus on NCLWF acquisition and any supplemental acquisition site survey activities to allow Kee to focus on topographic surveys. Start working on temporary easements for access early as these are critical to project success and factor into various assessment and design efforts. Review NCDOT project plans and encroachment requests early to understand considerations for agreements and coordination.

be provided in planning format within a technical memo, as park and greenway elements are not funded under the current grants. Erosion control plan sheets and details will prescribe best management practices for construction implementation. A site preparation plan will delineate how to limit site compaction and treat invasives, as well as how to amend soils for target plant growth. Bid items will be separated by funding source. We will prepare DWI’s bid and design document submittal checklist, notably to include environmental documentation, permit submittal verification and status, easement/encroachment agreement information, a line-item cost estimate for the project, bid alternate information, statute compliance verification, final review plans, and engineering specifications. The DWI submittal package will be reviewed by a QA/QC reviewer. As a deliverable, the 90% design phase will result in final drawings sealed for review by DWI. Also, drawing sets will go out for permitting at various stages between 60-90% as information is sufficient to pursue various permits. All DWI and other permitting agency comments will be addressed on the plans, specifications and bid package. The final bid and design review package will be submitted by June 2024.

Bidding, Implementation and Monitoring

Wildlands will determine, in conjunction with the City, whether to pre-qualify bidders identify contractors with suitable experience. Pre-qualification is also a way to formally introduce contractors to the project at an early stage, familiarize them with the schedule, and generate interest from potential contractors. We propose to bid the project in Aug-Sep, 2024, in order to allow for sufficient time for re-bidding if insufficient bids or other federally required conditions are not adequately met. This schedule allows for construction contract award by December 2024. Construction will commence in Winter 2024-2025 and all tree clearing will be completed prior to April 1 to avoid impacts to T&E bat species. Wildlands anticipates being on-site multiple times per week over a period of 9-12 months during construction and subsequent planting, with construction anticipated to be completed in winter 2025-2026. It is anticipated that permitting requirements will include monitoring for stream stability. Hydrologic monitoring and project evaluation and outreach through reporting at professional conferences or in similar settings have been proposed under the DWI grant. Wildlands will prepare an operations and maintenance plan that prescribes target activities for site stewardship.

90% and Final Design and Permitting
Key Dates: Feb-Mar, 2024: Submittal of permitting packages for 404/401, floodplain and ESC permits
Apr 2024: Completion and submittal of DWI review package and final sealed plans, specifications and bid package for review purposes.
May-June, 2024: Receive all permits and address all comments from initial DWI submittal for Jun, 2024 resubmittal.
Deliverables: Sealed final drawings for review with technical memo summarizing updates to project decision making rationale based on final design; final proposed condition model demonstrating no-rise; all permit packages complete and submitted; DWI review package submittals.
Risks and Opportunities Addressed: Provide close attention to vegetation management, a large factor in long-term site success. Maintain schedule targets for permitting and DWI submittals. Estimate anticipated construction costs as early step in draft final design in order to allow for consideration of strategies to stay within budget as it related to bid document preparation and presentation of base and alternate bid items.

Bidding, Implementation and Monitoring
Key Dates: June 2024: Final DWI bid and design package submittal. Fall 2024: Bidding. Dec 2024: Contract. Dec. 2025 +/-: Construction Complete
Deliverables: Final bid package. Bid documentation for authority to award request. Construction observation summaries and progress tracked in ArcGIS Online application.
Risks and Opportunities Addressed: Generate interest from contractors early. Bid requirements must be met including three bidders participating. Conduct QA/QC and peer review of external work products for DWI and review of bid methods, including base versus alternate bid items. Give proper attention and consideration to post-construction monitoring, maintenance and stewardship of project.



Wildlands’ Land Stewardship Team oversees maintenance of over 70 stream, wetland and riparian buffer mitigation sites

4.0 Proposed Schedule

[illegible]

5.0 References

The following contacts can speak to Wildlands' qualifications, experience, and involvement with similar projects.

Contact	Contact Info	Notable Services Provided
References to verify the Team's qualifications, experience, and involvement in the stated activities and projects.		
Paul Dow, <i>City Engineer,</i> City of Greenville, SC	(864) 467-4410, pdow@greenvillesc.gov, 206 S Main St, Greenville, SC 29601	Stream restoration and innovative stormwater design, floodplain mitigation, modeling/FEMA, permitting, federal grant administration
Susannah Horton, <i>Parks & Recreation Project Manager,</i> City of Asheville, NC	(828) 450-4595, shorton@ashevillenc.gov, 70 Court Plaza, Asheville, NC, 28802	Park and trail planning, stream and wetland restoration, innovative stormwater SCM design, floodplain/FEMA modeling and permitting
Paul Wiesner, <i>Western Regional Supervisor,</i> North Carolina DEQ NC Division of Mitigation Services	C: (828) 273-1673, paul.wiesner@ncdenr.gov, 2090 US 70 HWY, Swannanoa, NC 28778	Stream and wetland design, riparian buffer planting and invasives management, conservation easements, floodplain/FEMA modeling and permitting
References to verify the Team's qualifications, experience and success in administering projects funded by private, federal and state grants.		
Renee Fortner, <i>Watershed Resources Manager,</i> Riverlink (on vacation)	(828) 252-8474 x 114 renee@riverlink.org, 170 Lyman St, Asheville, NC 28801	Private, state, and federal grant development and administration, innovative stormwater design, stream and wetland design, riparian buffer planting and invasives management, park and amenity planning/design
Alt.: Lisa Raleigh, <i>Executive Director</i>	Alt. : 828.252.8474 x 116	
Jason Meador, <i>Aquatic Programs Manager,</i> Mainspring Conservation Trust	(828) 524-2711 x309, jmeador@mainspringconserves.org, 557 E. Main St, Franklin, NC 28734	Grant development, administration support, private, federal and state grants including LWF, EPA 319
Anne Phillip, <i>Stormwater Technician,</i> Town of Black Mountain	(828) 419-9374, Anne.Phillip@tobm.org, 160 Midland Ave, Black Mountain, NC 28711	Successfully implemented EPA 319 project and provided administration support to Land of Sky, successfully implemented state funded stream restoration projects
References to verify the Team's qualifications, experience, and success in compliance with federal and state law requirements for contracting, procurement, and construction administration and reporting for federally funded projects.		
Rob Winkler, <i>Special Projects Manager,</i> City of Morganton, NC	(828) 438-5278, rwinkler@morgantonnc.gov, 305 E. Union St, Suite A100, Morganton, NC 28680	Flood mitigation, stream and wetland design, innovative stormwater design, LID water quality treatment, riparian buffer development, invasive species management, park and amenity planning support, FEMA, grant administration/ closeout support, agency coordination, public outreach
Mary Roderick, PhD <i>Regional Planner,</i> Land of Sky Regional Council	(828) 251-7444, Mary@landofsky.org, 339 New Leicester HWY, Suite 140, Asheville, NC 28806	Grant development, administration support, private, federal and state grants for Town of Black Mountain and others
Sandra Wilbur, <i>Manager Stormwater Special Projects,</i> City of Durham, NC	(919) 560-4326, Sandra.Wilbur@durhamnc.gov, 101 City Hall Plaza, Durham, NC 27701	Stream and wetland restoration, innovative stormwater design, floodplain mitigation, modeling & FEMA, permitting, federal and state grant administration



6.0 Fee Rate Table

The following table presents staff rates for anticipated key and support staff.

Survey and Field Crew and Staff Scientist rates for Kee, WithersRavenel, Ecoforesters, and ClearWater are provided below as field staff have not been included in resumes due to page limitations. Resumes are available upon request.

PROFESSIONAL CLASS	TEAM MEMBERS	HOURLY RATE *
Wildlands Engineering		
Principal	Shawn Wilkerson	\$295.00
Senior Project Manager	Mike Fowler, PE	\$235.00
Senior Engineer II / Senior Project Manager	Jake McLean, PE, CFM	\$215.00
Senior Scientist I	Ian Eckardt, PWS Scott Gregory, GISP, PLS	\$165.00
Engineer I	Jacob Wiseman, PE, CFM Julie Bernstorff, PE	\$155.00
Designer II	Jesse Kelley Richard Wright, EI	\$155.00
Designer I	Miriam Badre, EI (starts 8/1/23)	\$136.00
Scientist III	Joe Lovenshimer Mimi Caddell	\$130.00
Scientist II	Jess Waller	\$120.00
Traffic Planning & Design		
Greenway Designer	Christy Staudt, PE	\$205.00
Landscape Architect	Teresa Buckwalter, PLA	\$145.00
ClearWater		
Senior Scientist II	Clement Riddle, PWS	\$175.00
Biologist II/III	TBD	\$113.00
WithersRavenel		
Engineer II	David Perry, PE, CFM	\$210.00
Surveyor	Marshall Wight, PLS	\$170.00
Survey Crew (3)	TBD	\$225.00
Survey Crew (2)	TBD	\$190.00
Kee Mapping & Surveying		
Surveyor	Brad Kee, PLS	\$120.00
Survey Crew (3)	TBD	\$175.00
Survey Crew (2)	TBD	\$150.00
Ecoforesters		
Foreman	Krishun Karau	\$75.00
Invasives Crew (5)	TBD	\$250.00

* Rates may be adjusted up to 5% annually.



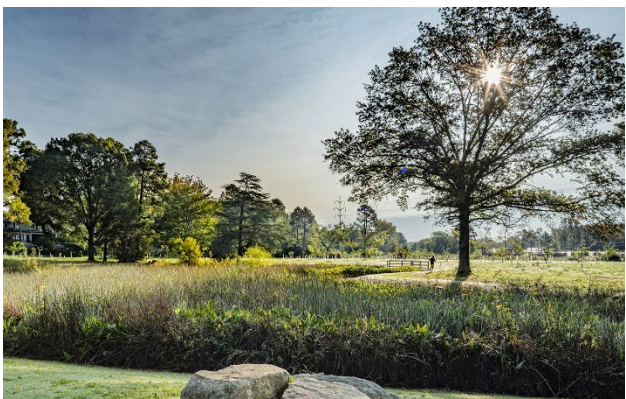
7.0 Closing Statement

Wildlands is a full-service, vertically integrated ecosystem restoration firm with the knowledge, experience, and passion necessary to lead the Lower Mud Creek Floodplain Restoration and Flood Risk Reduction Project to success for the City of Hendersonville. The key individuals on the Wildlands Team have worked together on a multitude of projects right here in Western North Carolina and will operate smoothly as a cohesive unit. Mr. McLean will have support from principal and QA/QC staff, Mr. Wilkerson and Mr. Fowler, as well as from senior local staff such as Mr. Gregory and Mr. Wiseman, who provide a foundation for the oversight and fulfillment of key project activities.

The Wildlands Team includes TPD staff to provide greenway and park input. TPD’s current local work on Above the Mud, pedestrian projects and rail trails will provide timely and insightful contributions, including at the downstream interface of the acquisition site with the Saluda Rail Trail. WithersRavenel will provide additional survey capacity and familiarity with stormwater infrastructure. They recently completed planning and structure assessments for the City in order to evaluate failing relief culverts on the acquisition site. They will conduct relevant topographic or condition assessment to aid with modeling and design planning. They are also available to support other utility and infrastructure design consideration review as needed in these highly urbanized settings.

Mr. McLean has worked on several comparable and analogous projects in Hendersonville, Henderson County, and Western North Carolina. He excels at ensuring quality delivery of technically and socially complex projects at the intersection of ecological restoration, open space, and recreational planning. He has been extensively involved in greenway and park projects; he understands the collaborative efforts with partner firms who have a deeper level of expertise in these areas. The Wildlands Team will work to establish a clear design decision matrix in order to acquire quality input and consensus from stakeholders that can result in meaningful outcomes.

Wildlands holds the City as one of its best partners and values the relationship it shares with City staff immensely. As local citizens, we are not only honored but are excited at the chance to continue serving the City of Hendersonville in its conservation efforts to restore Mud Creek, its tributaries, and other local waters to enhance the ecological and civic value of its natural and recreational corridors.



Wildlands urban stream restoration projects within natural and recreational corridors



Resolution #__-____

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL AUTHORIZING
AN AMENDMENT TO THE WK DICKSON CONTRACT FOR THE COMPREHENSIVE
STORMWATER MASTER PLANNING PROJECT**

WHEREAS, the City of Hendersonville advertised a request for qualifications for comprehensive master planning services for the City of Hendersonville and;

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

WHEREAS, City Council previously authorized an agreement with WK Dickson in an amount not to exceed \$500,000; and

WHEREAS, City stormwater management staff, along with WK Dickson, have secured additional funding, bringing the total available funds for this project to \$530,000;

WHEREAS, staff has requested City Council to authorize an amendment to the WK Dickson agreement to increase the maximum authorized amount to \$530,000;

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 and enter into an amendment to the contract for the stormwater master planning project with WK DICKSON on behalf of the City in consultation with the City Attorney, upon such terms and conditions as he deems appropriate, including but not limited to:
 - a. Determining the scope of work;
 - b. Breaking the scope of work into Phases if appropriate, and
 - c. Amending the contract in the future to amend the scope of work or activate future phases,

Provided, however, that the following conditions shall apply:

- a. The contract and any amendment(s) entered now or in the future shall only obligate the City to budgeted and available funds as of the date of the contract or any such amendment; and
- b. The total of funds authorized under this Resolution shall not exceed \$530,000.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 9th day of August, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

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

Resolution #R-22-108

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SELECT A FIRM TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR THE COMPREHENSIVE STORMWATER MASTER PLANNING PROJECT AND DIRECT THE CITY MANAGER TO NEGOTIATE A CONTRACT WITH THE SELECTED FIRM

WHEREAS, the City of Hendersonville advertised a request for qualifications for a comprehensive master planning services for the City of Hendersonville and;

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

WHEREAS, firms Withers Ravenel, McGill Associates, McAdams, Blue Earth, Geosyntec, RVE, and LJB were the next highest-ranking firms in order; and

WHEREAS, a contract for service 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 and enter into contract for the stormwater master planning project with WK DICKSON on behalf of the City in consultation with the City Attorney, upon such terms and conditions as he deems appropriate, including but not limited to:
 - a. Determining the scope of work;
 - b. Breaking the scope of work into Phases if appropriate, and
 - c. Amending the contract in the future to amend the scope of work or activate future phases,


Provided, however, that the following conditions shall apply:

- a. The contract and any amendment(s) entered now or in the future shall only obligate the City to budgeted and available funds as of the date of the contract or any such amendment; and
 - b. The total of funds authorized under this Resolution shall be less than \$500,000.
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, said contract to be consistent with the terms of this Resolution;

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of September, 2022.

Attest:


Angela L. Reece, City Clerk


Barbara G. Volk, Mayor, City of Hendersonville

Approved as to form:


Angela S. Beeker, City Attorney



THE CITY OF HENDERSONVILLE
160 6TH Avenue East
Hendersonville, NC 28792
(828) 697-3000

CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES

FIRM:	WK Dickson, Inc.	PROJECT:	Comprehensive Master Plan
	5 Legacy Park Road, Suite A	PROJECT	Professional engineering services
	Greenville, South Carolina 29607	DESCRIPTION:	to support the development of a
		PROJECT	comprehensive stormwater master plan
		NUMBER:	22016

This Contract for Professional Services, and all exhibits, (collectively this "Contract") is entered into this 2 day of November, 2022 by and between, the City of Hendersonville, a municipal corporation of the _____ State of North Carolina, (the "City") and, WK Dickson, Inc., a North Carolina professional corporation, having an address of 1213 W. Morehead Street, Suite 300, Charlotte, North Carolina 28208 (the "Firm")

WITNESSETH

That for and in consideration of the mutual promises set forth in this Contract below, the sufficiency of which is acknowledged by the parties hereto, the parties do mutually agree as follows:

1. Scope of Services. The Firm agrees to perform for the City the following services according to the following requirements:

The Firm agrees to provide professional engineering services needed to complete the Project. Such professional engineering services shall constitute the "Work." The Scope of Services and Firm's Fee Schedule are attached as Exhibits B and C, which are incorporated herein by reference. Additional (extra) services are defined as any work not included in the Scope of Services in Exhibit B that are requested by the City or any review agencies ("Additional Services"). Additional Services will be billed at the Firm's billing rates as shown on the attached Exhibit D, which is incorporated herein by reference. The Firm represents to the City that the hourly billing rates are the Firm's standard billing rates. The Firm may adjust the hourly rates shown on the attached Exhibit D not more often than once per year, to reflect an inflationary increase equal to the Consumer Price Index for all urban consumers, but only if and to the extent that the Firm's standard billing rates are adjusted. The Firm shall provide thirty (30) days advanced notice to the City in writing of any increases to the Firm's standard billing rates. Upon receipt of such notice, the City shall have the option of terminating this Agreement within the thirty (30) day notice period given by the Firm. Any meetings not included in the Scope of Services in Exhibit B will be considered Additional Services. Additional Services will be identified either in writing or by verbal communication but must be approved in writing by City before proceeding to perform such Additional Services. The total project will consist of multiple phases, with the first two phases being as attached in Exhibit B. Pricing and scoping for the future phases will be determined by agreement of the parties, but the not to exceed amount for all phases under this contract is \$500,000.00.

The Firm will be responsible for providing properly licensed engineers to complete the work in accordance with the standard of care ordinarily used by members of the Firm's engineering profession practicing under similar circumstances and at the same time in Henderson County. In addition to the indemnification obligations contained in the STANDARD TERMS AND CONDITIONS attached to this Contract, the Firm further agrees to indemnify and save harmless the City from claims and liabilities to the extent caused by the negligent errors or omissions of the Firm, including its engineers, technicians or subcontractors.

The Firm agrees to coordinate its Work with the work of any other separate professional services, contractors or with the work of the City's own forces to avoid delaying or interfering with their work.


The Firm must be properly registered with the North Carolina Board of Examiners for Engineers and Surveyors and must be properly authorized to conduct business in the state of North Carolina. The engineers performing the Work, and in responsible charge of the Work, must be a licensed Engineer in the State of North Carolina and must have a good ethical and professional standing.


The City reserves the right to terminate the professional service contract of the Firm based on the Firm's breach of this Contract (ex: schedule, responsiveness, quality of design, accuracy of documents etc.) or for convenience. The City reserves the right to modify the Scope of Work described in Exhibit B Scope of Services, and in such event the City and Firm shall negotiate in good faith to make corresponding modifications to the Fee Schedule in Exhibit C.


2. Required Insurance. Firm shall be required to purchase and maintain during its performance under this Contract insurance coverage as shown on the Insurance Requirements as stated in Exhibit A, which is incorporated herein by reference. With the exception of Worker's Compensation and Professional Liability policies, all insurance purchased shall have a specific endorsement, copy of which shall be provided to the City, naming the City as an additional insured and for all insurance purchased, an endorsement providing that such insurance will not be cancelled without providing thirty (30) days advance written notice to the City.
3. Standard Terms and Conditions. The attached Standard Terms and Conditions shall be a part of this Contract. Such Standard Terms and Conditions are hereby incorporated by reference, and all parties agree to be bound thereby.
4. Marketing Use. The use of this project for marketing and reference purposes is subject to the City's consent.
5. Time for Performance of the Work. The Work will begin within ten (10) days of receipt of the Notice to Proceed from the City and shall conclude with the conclusion of the project, unless extended or terminate by written amendment to this Contract.
6. Payment for Services. In consideration of the above services, the City will pay the Firm, in accordance with the submitted fee schedule in Exhibit C, attached hereto and incorporated by reference, plus reimbursable expenses at the Firm's actual cost up to, but not exceeding, the lump sum stated in the Fee Schedule in Exhibit C. Firm will submit monthly invoices for Work

performed based upon the Firm's estimate of the percentage of the total Work completed during the billing period which shall be paid thirty (30) days after receipt of undisputed invoices delivered. Additional Services will be billed as provided in Paragraph 1 above in accordance with the hourly fee schedule shown on Exhibit D, attached hereto and incorporated by reference. If any invoice is disputed by the City, in whole or in part, it shall provide a written explanation for such dispute to Firm within five days of receipt of the invoice and shall pay all undisputed amounts therein.

In witness thereof, the contracting parties, by their authorized agents, affix their signatures and seals at Hendersonville, North Carolina, this 2nd day of November, 2022.

BY:  (SEAL)
Signature
Bryan E. Thomas, PE, Vice President/Regional Manager
Printed Name and Title

THE CITY OF HENDERSONVILLE
BY:  (SEAL)
John Connet, City Manager
This instrument has been preaudited in that manner required by the North Carolina Local Government Budget and Fiscal Control Act. JB

John Buchanan, Finance Director, City of Hendersonville
The preaudit is limited to the not to exceed amount of the phases 1 and 2, \$129,000

John Buchanan, Finance Director
City of Hendersonville

STANDARD TERMS & CONDITIONS

1. **Acceptance.** Firm's acknowledgment of the terms of this Contract constitutes an agreement to (i) all terms and conditions set forth or referenced herein, (ii) Exhibits A, B, C & D hereto, and (iii) any other terms and conditions of a written agreement signed by Firm and the City that deals with the same subject matter as this Contract (collectively, the "Contract Documents"). The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Firm and the City with respect to the performance of the Work as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." Except as provided herein, no additional or supplemental provision or provisions in variance herewith that may appear in Firm's quotation, acknowledgment, invoice or in any other communication from Firm to the City shall be deemed accepted by or binding on the City. The City hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until the City's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by the City are subject to correction.
2. **Entire Agreement.** The Contract Documents constitute and represent the complete and entire agreement between the City and Firm and supersede all previous communications, either written or verbal with respect to the subject matter of this Contract.
3. **Changes, Additions, Deletions.** No changes, additions, deletions or substitutions of scope of work, specifications, terms and conditions, quantity, unit of issue, delivery date, delivery charges or price will be permitted without the prior written approval from the City. However, the Firm will not be liable for delays caused by circumstances beyond its control including without limitation, delays caused by acts of God, the City or its other consultants/contractors, federal, state, and local government authorities, strikes, riots, civil unrest, war, or unknown or concealed conditions, and if such delays occur, the Firm will be entitled to an equitable adjustment in the time for the performance of the Work and compensation.
4. **Relationship of the Parties.** The Firm is an independent Professional Engineering Company and not an affiliate of the City. The conduct and control of the work will lie solely with the Firm. The Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between the Firm and the City. Employees of the Firm shall remain subject to the exclusive control and supervision of the Firm, which is solely responsible for their compensation.
5. **Prices.** If the Firm's price or the regular market price of any of the Work covered hereunder is lower than the price stated in the Contract Documents on the date of performance of the Work, the Firm agrees to give the City the benefit of such lower price on such Work. In no event shall the Firm's price be higher than the price contained in the Firm's Fee Schedule attached as Exhibit C unless otherwise agreed in writing.
6. **Not Used.**
7. **Substitutions.** No substitutions or cancellations shall be permitted without prior written approval from the City.
8. **Indemnification.** To the greatest extent allowed by the law the Firm shall indemnify and hold harmless the City, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees ("Claims"), but only to the extent the fault of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim. In the event that any portion of the Work performed under the Contract shall be defective in any respect whatsoever, the Firm shall indemnify and save harmless the City, its officers, agents, employees and assigns from all loss or the payment of all sums of money, but only to the extent the fault of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim.

9. **Invoices and Payment Terms.** Invoice and Payment Terms are set forth in Section 5 in the Contract for Professional Engineering Services. All invoices and statements shall reference the Contract number and be submitted to: City of Hendersonville, Accounts Payable, 160 6th Avenue East, Hendersonville, North Carolina 28792, with copy to Mike Huffman.
10. **Anti-Discrimination.** During the performance of the Contract, the Firm shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.
11. **Insurance.** The Firm shall provide the insurance coverages shown on Exhibit A, attached hereto and incorporated herein by reference. The Firm shall provide the City with a North Carolina Certificate of Insurance and such endorsements as may be required by the Contract Documents PRIOR to the commencement of any work under the Contract and agrees to maintain such insurance until the completion of the Contract. Such certificates of insurance shall be considered part of the Contract.
12. **Ethics in Public Contracting.** By submitting their prices and acceptance of this Contract, the Firm certifies that their proposal was made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
13. **Applicable Laws and Courts.** This Contract shall be governed in all respects by the laws of the State of North Carolina. All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of the Contract, shall be governed in all respects by the laws of the State of North Carolina and exclusive venue shall be in a court of competent jurisdiction for Henderson County, North Carolina. The Firm represents and warrants that it shall comply with all applicable federal, state and local laws, regulations and orders.
14. **Strict Compliance.** The City may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
15. **Assignment.** The Firm shall not assign, subcontract or otherwise transfer any interest in the Contract without the prior written approval of the City.
16. **General Provisions.** The City's remedies as set forth herein are not exclusive. Any delay or omission by the City in exercising any right hereunder, or any waiver by the City of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default.
17. **Obligations of the Firm.** The Firm shall adhere to all applicable laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Henderson, and the City of Hendersonville in the performance of the Work outlined in this Contract and any design documents, drawings and specifications applicable to the Work. The Work shall also adhere to all applicable laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Henderson, and the City of Hendersonville.
18. **Quality and Workmanship.** The Firm shall perform all Work in accordance with this Contract and the standard of care ordinarily used by members of the engineering profession practicing under similar circumstances and at the same time in Henderson County.
19. **Default.** Either Party may terminate the Contract, in whole or in part, upon thirty (30) days written notice upon a material breach by the other Party unless the alleged default is cured within the thirty (30) day notice period. The nonbreaching party shall have all remedies available at law or in equity in addition to any remedies provided in this Contract for material breach. In the event of a material breach by the Firm the City may procure upon such terms as the City shall deem appropriate, professional engineering services substantially similar to those so terminated, in which case the Firm shall be liable to the City for any excess costs for such similar services and any expenses incurred in connection therewith.
20. **Termination for Convenience.** The City shall have the right, without assigning any reason therefore, to terminate any Work under the Contract, in whole or in part, at any time at its complete discretion by providing

ten (10) consecutive calendar days notice in writing from the City to the Firm. If the Contract is terminated by the City in accordance with this paragraph, the Firm will be paid for all Work performed and reimbursable expenses incurred up to the effective date of the termination. The City will not be liable to the Firm for any costs for materials acquired or contracted for, if such costs were incurred prior to the date of this Contract.

21. **Instruments of Service and Work for Hire.** All Work performed by the Firm, and all data compiled, shall be considered Instruments of Service and Work for Hire, and shall be the Property of the Owner. The Firm shall retain a license in the Work performed and data compiled to use for the Firm's own purposes, and not for the benefit of any third party without the City's consent. The terms of this Paragraph shall survive the termination of this Contract for any reason, including but limited to for a material breach of either Party, or for the convenience of the Owner. In the event this Contract is terminated for any reason, the City shall be entitled to keep and use all design work provided by the Engineer and all data compiled by the Engineer. All representations and obligations with respect to the Work by the Firm under this Contract shall survive termination of this Agreement unless this Contract is terminated by the Firm for the City's material breach, in which case use by the City of the Firm's design work and data compiled shall be at the City's own risk, and without any representation by the Engineer as to its accuracy or fitness for any purpose.
22. **Assignment.** Firm may not assign, pledge, or in any manner encumber the Firm's rights under this Contract, or delegate the performance of any of its obligations hereunder, without the City's prior, express written consent.
23. **No Third Party Beneficiaries.** There shall be no intended nor incidental third party beneficiaries of this Contract. The Firm shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third party beneficiaries.
24. **Valid Contract.** In order for this Contract for Professional Engineering Services to be valid, it must be executed by the City Manager or his or her authorized designee, and must be pre-audited in that manner required by the Local Government Budget and Fiscal Control Act, as the same may be amended.
25. **Verification of Work Authorization.** The Firm shall comply with, and require all contractors and subcontractors to comply with, the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, "Verification of Work Authorization," sometimes known as E-verify for all contractors and subcontractors.
26. **Iran Divestment List.** With the execution hereof, Firm, certifies that they are not on the Iran Final Divestment List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.58, and will not contract with anyone on such List in performance of the work hereunder.
27. **Severability.** If any provision of this Contract is found to be invalid or unlawful, then remainder of this Agreement shall not be affected thereby, and each remaining provision shall be valid and enforced to the fullest extent permitted by law.
28. **Companies that Boycott Israel List.** With the execution hereof, Firm, certifies that they are not on the Companies that Boycott Israel List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.80, and will not contract with anyone on such List in performance of the work hereunder.

EXHIBIT A

MINIMUM INSURANCE REQUIREMENTS

The Work under this Contract shall not commence until the Firm has obtained all required insurance and verifying certificates of insurance have been approved in writing by the City. The City shall be named as additional insured on all policies, except Worker’s Compensation and Professional Liability policies. These certificates shall document that coverages afforded under the policies will not be cancelled until at least thirty (30) days after mailing written notice, by certified mail, return receipt requested, to the insured and the City of such cancellation. If endorsements are needed to comply with the notification or other requirements of this article copies of the endorsements shall be submitted with the certificates.

a. **Worker’s Compensation and Employer's Liability**
The Firm shall provide and maintain, until final acceptance, workmen's compensation insurance, as required by law, as well as employer's liability coverage with minimum limits of \$100,000.

b. **Comprehensive General Liability Insurance**
The Firm shall provide and maintain, until final acceptance, comprehensive general liability insurance, including coverage for premises operations, independent contractors, completed operations, products and contractual exposures, as shall protect such contractors from claims arising out of any bodily injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operations be by the Firm or by any subcontractor, or by anyone directly or indirectly employed by either of them and the minimum limits of such insurance shall be as follows:

Bodily Injury:

\$1,000,000 per occurrence / \$2,000,000 aggregate

Property Damage:

\$100,000 per occurrence / \$300,000 aggregate

Or,

Bodily Injury and Property Damage, combined single limit (CSL): \$1,000,000 per occurrence / \$2,000,000 aggregate

Such coverage for completed operations must be maintained for at least two (2) years following final acceptance of the Work performed under the contract.

c. **Deductible**
Any deductible, if applicable to loss covered by insurance provided, is to be borne by the Firm.

d. **Other Insurance**
The Firm shall obtain such additional insurance as may be required by the City or by the General Statutes of North Carolina including motor vehicle insurance, in amounts not less than the statutory limits.

e. **Proof of Carriage**
The Firm shall furnish the City with satisfactory proof of carriage of the insurance required before written approval is granted by the City.

EXHIBIT B**FIRM'S SCOPE OF SERVICES****Project Understanding**

The City of Hendersonville City has invested heavily in stormwater management and protection of the City's natural resources. Extensive work that has been accomplished in Mud Creek through multiple stakeholders, through proactive planning efforts in the Wash Creek Master Plan (2018) and Britton Creek Master Plan (2011) and with significant inventory and condition assessment (CCTV). These efforts provide a great beginning data set for comprehensive master plan development.

A balanced approach in a citywide master plan will ensure the stewardship of the stormwater system accounts for flood resiliency and citizen safety, in addition to water quality and protection of the natural assets that make Hendersonville such a special place to live.

Project Management

FIRM will manage the project in a manner so as to be responsive to the needs and schedule of the City of Hendersonville (City) and to assure the quality of the product. The project management and administration efforts will include, but not be limited to, the following items:

- Oversee the FIRM Project Team relative to ensuring budget, schedule and conformance to the project scope on a timely basis.
- Provide a minimum of two project contacts for the City so that, at any time, someone familiar with the project can be available to the City if questions, comments, concerns, or other project needs arise.
- Ensure the quality control program throughout the life of the project as outlined in the Project Work Plan. The Project Work Plan will consolidate key project management documents in one location including the following: contract, project scope, FIRM Project Team, schedule, and quality control procedures.
- Perform project planning and formulation.
- Update the project schedule (formally) if during the life of the project a substantial deviation in the schedule occurs for any reason. All other minor schedule updates will occur in the monthly project reporting.
- Meet with the City's Project Manager as appropriate throughout the life of the project via scheduled conference calls and be available to answer project-related questions on a regular basis via phone calls and email.
- Prepare and submit via email a monthly progress report to update the project schedule, list milestones achieved, provide current status of each major task, support and document schedule changes, update product costs, and justify any proposed changes to the schedule or budgets. Monthly progress reports are due the 15th of each month, or the Friday before the 15th if the 15th falls on a weekend, for the previous month and shall approximately coincide with monthly project invoicing.
- Maintain a project cost accounting system throughout the life of the Project.
- Maintain a project filing system throughout the life of the Project to use for storage and retrieval of project documents.

All project final deliverables shall be certified (signed, sealed, and dated) by a professional engineer and/or surveyor registered in the state of North Carolina. FIRM shall participate in project closeout and ensure it is completed on a timely basis.

Project Management is anticipated to occur on an ongoing basis throughout the entire project schedule.

Phase 1: Strategic Asset Management Plan

The Strategic Asset Management Plan will serve as the foundational building block for the comprehensive master plan and subsequent work. It serves to define and memorialize the operational and capital program goals and objectives into a singular coordinated framework.

Task 1: Gap analysis of existing studies and data

A Gap Analysis will be used to determine the focus and priorities for the Strategic Asset Management Plan. FIRM will review the City's program through a number of program-related documents to include:

- Wash Creek Master Plan (2018)
- Britton Creek Master Plan (2011)
- Stormwater Utility Rate Study (2019)
- Asset Inventory Data (digital data sets)
- Condition Assessment Data (digital data sets) and summary reports
- Stormwater Management Plan (digital data sets)
- Stormwater Ordinance
- Stormwater policy documents related to level and extent of service
- Stormwater documents related to design standards
- Operations and Maintenance Plan to include workflow documentation & key performance indicators
- Current & historical maintenance work orders and/or work completed and planned by operations staff
- Summary information on recent & current CIP projects underway
- Organizational charts
- Other historical records and documents provided by the City in a timely fashion

The FIRM will assess gaps in data collection, workflows, asset records, and program approaches and summarize these gaps for review with the City's stormwater manager.

Task 2: Lessons Learned Workshop

Using the findings from the Gap Analysis, the FIRM will conduct a full day workshop with City staff to collect feedback on previous efforts and share results of the gap analysis. The purpose of the meeting will be to understand the successes that have been realized by the CITY in the stormwater program and determine areas for improvement in programmatic development. This will also inform the specific goals and protocols that will be developed to facilitate the master planning efforts. The workshop will be organized to gain critical insight into the goals for the Asset Management Program as well as understand current methodologies for managing the stormwater infrastructure.

Task 3: Define and Memorialize Program Goals

With the gap analysis results and lessons learned, it will be possible to define and memorialize goals for the stormwater master planning efforts and for the stormwater utility as a whole. The focus will be to define SMART strategic goals -Specific, Measurable, Achievable, Relevant, and Time bound - as the basis for the Strategic Asset Management Framework.

The Strategic Asset Management Plan will be memorialized or developed to document the following components of the Asset Management Program:

1. Level of Service Criteria Development
 - **Reliability** – The ability to provide continuous service to customers.
 - **Quality** – The commitment to deliver services that meet customer expectations.
 - **Customer** – Standards and targets for complaint handling, determination of service limits.
 - **Regulatory** – Reliability and quality targets mandated by regulatory authorities such as Illicit Discharge Detection and Elimination standards, water quality and floodplain requirements.
2. Operations and Maintenance Business Strategies
 - FIRM will define or memorialize data management, customer service and regulatory compliance. CITY's current workflows for gathering and dispersing information, capabilities of staff and resources as well as compatibility requirements to enable integration of management systems to include GIS, CMMS and financial accounting will be identified.
 - Standards and procedures for condition assessment activities will be memorialized or defined. This will include establishment of standards for rating asset condition, protocols for determining which assets to evaluate and the inspection interval.
3. Capital Planning Strategies
 - FIRM will define capital planning goals and establish parameters for development and maintenance of watershed plans.
 - Standards and procedures for planning activities will be memorialized or defined. This will include establishment of high-level standards for H&H modeling approach, data development and maintenance, project activities to be considers and interval for evaluation and updates to watershed plans and CIP plans.
4. Funding
 - FIRM will memorialize a standardized approach to operational and CIP budget development with consideration for short term and long-range funding requirements.
 - Recommendations for a strategic funding plan will be provided (to be implemented once the first priority watershed plan and associated improvement plan is developed).

5. Risk & Prioritization (Development of Asset Criticality & CIP Prioritization)
 - FIRM will establish parameters for evaluating risk at asset level and project level that will result in a tailored priority rating system that is objective, repeatable, and defensible.
 - The criticality approach will consider traditional data such as consequence and likelihood of infrastructure failure pipe condition, age, and pipe size.
 - Factors such as public health and safety, property ownership, permitting requirements, water quality benefits, structure risk, utility conflicts, and constructability will factor into the overall CIP prioritization ranking.
 - Additional local priorities will be incorporated into the rating system as appropriate.

Phase 1 Deliverable: Strategic Asset Management Plan

Phase 2: Master Plan Protocols

Task 1: Prioritize subbasins for plan development

Using the subbasin delineations previously developed by the OWNER, criticality factors that are aligned to the Strategic Asset Management Plan will be applied across the City to determine the order of planning for each subbasin.

Task 2: Establish modeling and assessment protocols

The FIRM will conduct an evaluation of modeling data sets such as the inventory, condition assessment, monitoring, and planning and zoning data. Following this review, the CONSULTANT will conduct a half day workshop to lead the CITY through evaluation and selection of modeling software, hydrologic modeling approach, level of detail in hydraulic model, waters quality modeling approach, and process for incorporation of stream assessments and CCTV data.

Task 3: Establish project development parameters

The FIRM will conduct a half day workshop with OWNER to review project types for inclusion in the alternatives analysis along with any specific criteria for determining the level of appropriateness of a given project type.

Task 4: Develop Standard Operating Procedures for Master Planning

Following the workshop with CITY, the FIRM will develop standard operating procedures (SOPs) for master planning and modeling approach. These SOPs will serve as the foundation for analysis for subbasins throughout the City.

Phase 2 Deliverable: Master Plan Protocol document that memorializes the planning and modeling approach to be utilized for the Comprehensive Stormwater Master Plan.

EXHIBIT C

Fee Schedule

1. Basic Services. The total project will consist of multiple phases, with the first two phases being attached in Exhibit B. The CITY shall pay the FIRM for services set forth in Exhibit B, Scope of Services, a Lump Sum Fee for each task as noted below:

Schedule of Fees	Fee Type	Fee Amount
Phase 1 Strategic Asset Management Plan	NTE	\$95,000
Phase 2 Master Plan Protocols	NTE	\$34,000

**Pricing and scoping for the future phases will be determined by written agreement of the Parties but shall not exceed a total contract value of \$500,000.00.*

For Lump Sum services, a percentage of the Lump Sum Fee will be billed on the last day of each month. The percentage billed will be the percentage of Scope of Services work estimated to be completed as of the day of billing.

For Hourly / NTE services, the FIRM will bill the City on the last day of each month for the fees and expenses incurred during that month.

2. Additional Services. The CITY shall pay the FIRM for additional services, which are not specifically called for in Attachment A, Scope of Services, on an hourly plus expense basis in accordance with the Exhibit D or an approved lump sum basis (prior to completing the work).

EXHIBIT D

FIRM'S HOURLY RATES FOR ADDITIONAL SERVICES

Additional Services to be performed at the hourly rates provided in the Firm's fee table, plus allowable Expenses at the Firm's actual costs. Allowable reimbursable expenses associated with the provision of additional services will be determined by the Firm and the City at the time the additional services are requested by the City

<u>LABOR</u>	<u>RATE</u>
Principal	\$263.00 /hr.
Senior Consultant	\$242.00 /hr.
Senior Project Manager	\$231.00 /hr.
Senior Engineering Manager	\$231.00 /hr.
Project Manager	\$202.00 /hr.
Engineering Manager	\$202.00 /hr.
Senior Project Engineer	\$179.00 /hr.
Project Engineer	\$168.00 /hr.
Senior Scientist	\$150.00 /hr.
Scientist	\$144.00 /hr.
Senior Planner	\$191.00 /hr.
Planner	\$146.00 /hr.
Senior Engineering Designer	\$152.00 /hr.
Engineering Designer	\$139.00 /hr.
Senior GIS Analyst	\$163.00 /hr.
GIS Analyst	\$124.00 /hr.
GIS Technician	\$118.00 /hr.
Senior Construction Observer	\$140.00 /hr.
Construction Observer	\$118.00 /hr.
Project Administrator	\$86.00 /hr.

EXPENSES

Reproductions	Cost
Mileage	IRS Rate
Telephone, Postage	Cost
Travel (Meals/Lodging)	Cost
Subconsultants (limited to Additional Services only)	Cost + 10%

Note: The above rates are effective October 30, 2022. WK Dickson reserves the right to revise to reflect inflationary increases within the limits established in paragraph 2 of this Agreement.

CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS ADDENDUM

This CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS ADDENDUM (this "Addendum") is entered into by and between W.K. Dickson & Co, Inc, (identified as WK Dickson, Inc. on the Contract, (as defined in Section I hereof) a North Carolina corporation having an address of 1213 W. Morehead Street, Suite 300, Charlotte, NC 28208 ("Contractor"), and the City of Hendersonville, a North Carolina municipal corporation ("Unit"), and forms an integral part of the Contract (as defined in Section I hereof).

RECITALS

WHEREAS, Unit has received, either as a Recipient or Subrecipient (as each such term is defined in Section I hereof) a payment from the Coronavirus State Fiscal Recovery Fund ("State Fiscal Recovery Fund") or Coronavirus Local Fiscal Recovery Fund ("Local Fiscal Recovery Fund" and, together with the State Fiscal Recovery Fund, the "Fiscal Recovery Funds") established pursuant to Sections 602 and 603, respectively, of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 ("ARPA"); and

WHEREAS, Unit intends to pay, in part or in whole, for the cost of the Contract (as defined in Section I hereof) using monies received from the Fiscal Recovery Funds; and

WHEREAS, in using such funds, Unit must comply with the terms of ARPA, regulations issued by the U.S. Department of the Treasury ("Treasury") governing the expenditure of monies distributed from the Fiscal Recovery Funds (including, without limitation, the Interim Final Rule (86 Fed. Reg. 26,786 (May 17, 2021) and Final Rule (87 Fed. Reg. 4,338 (Jan. 27, 2022)), the Award Terms and Conditions applicable to the Fiscal Recovery Funds, and such other guidance as the Treasury has issued or may issue governing the expenditure of monies distributed from the Fiscal Recovery Funds (collectively, the "Regulatory Requirements"); and

WHEREAS, pursuant to the Regulatory Requirements, Unit must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury has determined or may determine are inapplicable to the Fiscal Recovery Funds; and

WHEREAS, pursuant to 2 C.F.R. § 200.327, Unit must include within the Contract applicable provisions described in Appendix II to 2 C.F.R. Part 200, each of which is contained in this Addendum; and

WHEREAS, Unit shall not enter into the Contract or make any distributions of funds to Contractor using monies from the Fiscal Recovery Funds absent Contractor's agreement and adherence to each term and condition contained herein; and

WHEREAS, Unit and Contractor have previously entered into the Contract (defined in Section I below), and wish to modify the Contract by adding the terms of this Addendum as an integral part thereof,

NOW THEREFORE, that for and in consideration of the mutual promises contained herein below, and the mutual promise to continue the Contract and not terminate it as allowed by its provisions, the sufficiency of the consideration to support this Addendum being acknowledge and agreed to by both parties hereto, Contractor and Unit do mutually agree as follows:

AGREEMENTS**I. Definitions**

A. Unless otherwise defined in this Addendum, capitalized terms used in this Addendum shall have the meanings ascribed thereto in this Section I.

1. "Federal Funding Act" shall mean the American Rescue Plan Act of 2021, Pub. L. No. 117-2, as amended.
2. "Administering Agency" or "Federal Administering Agency" or "Agency" shall mean the U.S Department of the Treasury ("Treasury").
3. "Applicant" shall have the meaning specified in 41 C.F.R. § 60-1.3, which is provided here for ease of reference: ("An applicant for Federal assistance involving a construction contract, or other participant in a program involving a construction contract as determined by regulation of an administering agency. The term also includes such persons after they become recipients of such Federal assistance.").
4. "Construction Work" shall have the meaning specified in 41 C.F.R. § 60-1.3, which is provided here for ease of reference: ("[T]he construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.").
5. "Contract" shall mean the legal instrument by which Unit, as a Recipient or Subrecipient, being that CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES, dated November 2, 2022, the terms of which are incorporated herein by reference, has purchased from Contractor property or services needed to carry out a project or program under a Federal award, and of which this Addendum shall constitute an integral part.
6. "Contractor" shall mean the entity named as "Contractor" in this Addendum that has received a Contract from Unit. As used herein "Contractor" includes consultants, and "subcontractor" includes "subconsultants." "Contractor" is referred to as the "Firm" in the Contract and both parties acknowledge and agree that the two terms are synonymous. Additionally, both parties acknowledge that the named party to the Contract, WK Dickson, Inc., has a full legal name as registered with the North Carolina Secretary of State as W.K. Dickson & Co., Inc., and with the execution hereon, W.K. Dickson & Co., Inc., agree that they are the party to the Contract and agree to be bound by its terms.
7. "Federally Assisted Construction Contract" shall have the meaning specified in 41 C.F.R. § 60-1.3, which is provided here for ease of reference: ("[A]ny agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the government of the United States of America for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.").
8. "Government" shall have the meaning specified in 41 C.F.R. § 60-1.3, which is provided here for ease of reference: ("[T]he government of the United States of America.").

9. "Laborer" or "Mechanic" shall have the meaning specified in 29 C.F.R. § 5.2(m), which is provided here for ease of reference: ("The term *laborer* or *mechanic* includes at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term *laborer* or *mechanic* includes apprentices, trainees, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen or guards. The term does not apply to workers whose duties are primarily administrative, executive, or clerical, rather than manual. Persons employed in a bona fide executive, administrative, or professional capacity as defined in part 541 of [Title 40 of the United States Code] are not deemed to be laborers or mechanics. Working foremen who devote more than 20 percent of their time during a workweek to mechanic or laborer duties, and who do not meet the criteria of [Title 40 of the United States Code], are laborers and mechanics for the time so spent.").

10. "Recipient" shall mean an entity that receives a federal award directly from a federal awarding agency. The term does not include subrecipients or individuals that are beneficiaries of an award.
11. "Subcontract" shall mean any agreement entered into by the Contractor, or by a Subcontractor, to furnish supplies or services for the performance of this Contract or a Subcontract. It includes, but is not limited to, purchase orders and changes and modifications to purchase orders.
12. "Subcontractor" shall mean an entity that receives a Subcontract.
13. "Subrecipient" shall mean an entity that receives a subaward from a pass-through entity to carry out part of a federal award; but it does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.
14. "Tier" shall have the meaning indicated in 2 C.F.R. Part 180 and illustrated in 2 C.F.R. Part 180, Appendix II.
15. "Unit" shall have the meaning indicated in the preamble to this Addendum. "Unit" is referred to as the "City" in the Contract and both parties acknowledge and agree that the two terms are synonymous.

II. Equal Employment Opportunity

- A. If this contract is a Federally Assisted Construction Contract exceeding \$10,000, during the performance of this Contract, Contractor agrees as follows:
 1. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 2. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 3. Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Contractor's legal duty to furnish information.
 4. Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of Contractor's commitments under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 5. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 6. Contractor will furnish to the Administering Agency and the Secretary of Labor all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Administering Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 7. In the event of Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended, in whole or in part, and Contractor may be declared ineligible for further Government contracts or Federally Assisted Construction Contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965. Such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 8. Contractor will include the portion of the sentence immediately preceding paragraph A.1. of this Section II and the provisions of paragraphs A.1. through A.7. in every Subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or vendor. Contractor will take such action with respect to any Subcontract or purchase order as the Administering Agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the Administering Agency, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Unit further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practice participates in federally assisted construction work. Provided, that if Unit so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the Contract.

9. Unit agrees that it will assist and cooperate actively with the Administering Agency and the Secretary of Labor in obtaining the compliance of Contractor and any Subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor; that it will furnish the Administering Agency and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it will otherwise assist the Administering Agency in the discharge of the agency's primary responsibility for securing compliance.
10. Unit further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally Assisted Construction Contracts pursuant to the Executive Order and that it will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractor and any Subcontractors by the Administering Agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, Unit agrees that if it fails or refuses to comply with these undertakings, the Administering Agency may take any or all of the following actions: Cancel, terminate, or suspend, in whole or in part, this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.
- B. If this Contract is not a Federally Assisted Construction Contract exceeding \$10,000, the provisions of Section II.A. of this Addendum shall not apply.

III. Davis-Bacon and Copeland "Anti-Kickback" Act

- A. For all prime construction, alteration or repair contracts in excess of \$2,000, the Contractor, and Contractor's subcontractors, shall comply with the Davis-Bacon Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week.
- B. Contractor and any Subcontractors performing work under the Contract shall comply with the "Copeland Anti-Kickback Act", 18 U.S.C. § 874. The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.
- C. Unit shall report all suspected or reported violations of the Davis-Bacon Act and the Copeland Anti-Kickback Act to the Federal Administering Agency or Agencies.
- D. Exception: This Article III Paragraph A shall not apply where the Federal Administering Agency or Agencies has indicated that Davis-Wage Act wage requirements are not applicable.

IV. Contract Work Hours and Safety Standards Act

- A. *Overtime Requirements.* No Contractor or Subcontractor contracting for any part of the Contract work which may require or involve the employment of Laborers or Mechanics shall require or permit any such Laborer or Mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such Laborer or Mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. *Violation; Liability for Unpaid Wages; Liquidated Damages.* In the event of any violation of the clause set forth in Section IV.A. (*Overtime Requirements*), above, Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual Laborer or Mechanic, including watchmen and guards, employed in violation of the clause set forth in Section IV.A. (*Overtime Requirements*), above, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in Section IV.A. (*Overtime Requirements*), above.
- C. *Withholding for Unpaid Wages and Liquidated Damages.* Unit shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold, or cause to be withheld, from any moneys payable on account of work performed by Contractor or Subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of Contractor or Subcontractor for unpaid wages and liquidated damages as provided in Section IV.B. (*Violation; Liability for Unpaid Wages; Liquidated Damages*) of this Section.
- D. *Subcontracts.* Contractor or Subcontractor shall insert in any Subcontract the clauses set forth in Sections IV.A. through IV.D. and also a clause requiring Subcontractors to include these clauses in any lower-Tier Subcontracts. Contractor shall be responsible for compliance by any first-Tier Subcontractor or lower-Tier Subcontractor with the clauses set forth in Sections IV.A. through IV.D.
- E. *Payroll and Records.* Contractor or Subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all Laborers and Mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, Social Security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Records to be maintained under this provision shall be made available by

Contractor or Subcontractor for inspection, copying, or transcription by authorized representatives of the Federal Administering Agency or Agencies and the Department of Labor, and Contractor or Subcontractor will permit such representatives to interview employees during working hours on the job.

- F. *Exceptions.* None of the requirements of Section IV of this Addendum shall apply if this Contract is a Contract (1) for transportation by land, air, or water; (2) for the transmission of intelligence; (3) for the purchase of supplies, materials, or articles ordinarily available in the open market; or (4) in an amount that is equal to or less than \$100,000.

V. Rights to Inventions Made Under a Contract or Agreement

- A. The Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Government purposes," any subject data or copyright described below. "Government purposes" means use only for the direct purposes of the Government. Without the copyright owner's consent, the Government may not extend its federal license to any other party.
1. Any subject data developed under the Contract, whether or not a copyright has been obtained, and
 2. Any rights of copyright purchased by Contractor using federal assistance funded in whole or in part by the Federal Administering Agency or Agencies.
- B. Unless Federal Administering Agency or Agencies determines otherwise, a Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit the Federal Administering Agency or Agencies to make available to the public either (1) Federal Administering Agency's or Agencies' license in the copyright to any subject data developed in the course of the Contract or (2) a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work which is the subject of this Contract is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Government may direct.
- C. Unless prohibited by North Carolina law, upon request by the Government, Contractor agrees to indemnify, save, and hold harmless the Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Contractor of proprietary rights, copyrights, or right of privacy arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Contract. Contractor shall be required to indemnify the Government for any such liability arising out of the wrongful act of any employee, official, or agent of the Contractor.
- D. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.
- E. Data developed by Contractor and financed entirely without using federal assistance provided by the Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that Contractor identifies those data in writing at the time of delivery of the Contract work. Contractor agrees to include these requirements in each Subcontract for experimental, developmental, or research work financed in whole or in part with federal assistance.
- F. For the purposes of this Section V, "subject data" means "recorded information, whether or not copyrighted, . . . that is delivered or specified to be delivered as required by the Contract." Examples of "subject data" include, but are not limited to, "computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses or other similar information used for performance or administration of the Contract."

VI. Clean Air Act and Federal Water Pollution Control Act

- A. *Clean Air Act.* Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* Contractor agrees to report each violation to Unit and understands and agrees that Unit will, in turn, report each violation as required to Federal Administering Agency or Agencies and the appropriate Environmental Protection Agency Regional Office. Contractor agrees to include these requirements in each Subcontract exceeding \$150,000 financed, in whole or in part, with federal assistance provided by Federal Administering Agency or Agencies.
- B. *Federal Water Pollution Control Act.* Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 *et seq.* Contractor agrees to report each violation to Unit and understands and agrees that Unit will, in turn, report each violation as required to assure notification to Federal Administering Agency or Agencies and the appropriate Environmental Protection Agency Regional Office. Contractor agrees to include these requirements in each Subcontract exceeding \$150,000 financed, in whole or in part, with federal assistance provided by Federal Administering Agency or Agencies.

VII. Debarment and Suspension

- A. Due to its receipt of Federal Funds, Unit is a participant in a nonprocurement transaction (defined at 2 C.F.R. § 180.970) that is a covered transaction pursuant to 2 C.F.R. § 180.210 and 31 C.F.R. § 19.210. Therefore, this Contract is a lower-Tier covered transaction for purposes of 2 C.F.R. Part 180 and 31 C.F.R. Part 19 if (1) the amount of this Contract is greater than or equal to \$25,000 (2 C.F.R. § 180.220(b)(1); 31 C.F.R. § 19.220(b)(1)); (2) the Contract requires the consent of an official of the Department of the Treasury (31 C.F.R. § 19.220(b)(2)) or the Federal Administering Agency or Agencies ((2 C.F.R. § 180.220(b)(2); or (3) this Contract is for federally required audit services (2 C.F.R. § 180.220(b)(3); 31 C.F.R. § 19.220(b)(3)).
- B. If this Contract is a covered transaction as set forth in Section VII.A., above, Contractor hereby certifies as of the date hereof that Contractor, Contractor's principals (defined at 2 C.F.R. § 180.995), and the affiliates (defined at 2 C.F.R. § 180.905) of both Contractor and Contractor's principals are not excluded (defined at 2 C.F.R. § 180.935) and are not disqualified (defined at 2 C.F.R. § 180.935). If any of the foregoing persons are excluded or disqualified and the

Secretary of the Treasury has not granted an exception pursuant to 31 C.F.R. § 19.120(a), (1) this Contract shall be void, (2) Unit shall not make payments of federal financial assistance to Contractor, and (3) Unit shall have no obligations to Contractor under this Contract.

- C. Contractor must comply with 2 C.F.R. Part 180, Subpart C and 31 C.F.R. Part 19 and must include a requirement to comply with these regulations in any lower-Tier covered transaction into which it enters. This certification is a material representation of fact relied upon by Unit, and all liability arising from an erroneous representation shall be borne solely by Contractor.
- D. If it is later determined that Contractor did not comply with 2 C.F.R. Part 180, Subpart C and 31 C.F.R. Part 19, in addition to remedies available to Unit, the Government may pursue available remedies, including but not limited to suspension and/or debarment.

VIII. Byrd Anti-Lobbying Amendment

- A. Contractor certifies to Unit, and Contractor shall cause each Tier below it to certify to the Tier directly above such Tier, that it has not used and will not use federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Contractor shall, and shall cause each Tier below it, to disclose any lobbying with non-federally appropriated funds that takes place in connection with obtaining any federal award. Such disclosures (to be set forth on Standard Form-LLL, contained in 31 C.F.R. Part 21, Appendix B) shall be forwarded from Tier to Tier up to the Unit, which will, in turn, forward the certification(s) to Treasury. Contractor shall cause the language of this Section VIII.A. to be included in all Subcontracts. This certification is a material representation of fact upon which Unit has relied when entering into this Contract, and all liability arising from an erroneous representation shall be borne solely by Contractor.
- B. Contractors that bid or apply for a contract exceeding \$100,000 (including this Contract, if applicable) also must file with Unit the certification in Attachment 1 to this Addendum, which is attached hereto and incorporated herein.
- C. Contractor also shall cause any Subcontractor with a Subcontract (at any Tier) exceeding \$100,000 to file with the Tier above it the certification in Attachment 1 to this Addendum, which is attached hereto and incorporated herein.

IX. Procurement of Recovered Materials

- A. Section IX.B. shall apply if (1) this Contract involves the purchase of an item designated by the Environmental Protection Agency ("EPA") in 40 C.F.R. Part 247 that exceeds \$10,000 or (2) the total value of such designated items acquired during Unit's preceding fiscal year exceeded \$10,000.
- B. In the performance of the Contract, Contractor shall make maximum use of products containing recovered materials that are EPA-designated items, unless the product cannot (1) be acquired competitively within a timeframe providing for compliance with the Contract performance schedule, (2) meet Contract performance requirements, or (3) be acquired at a reasonable price. Information about this requirement, along with the list of EPA-designated items, is available on EPA's website. Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

X. Prohibition on Contracting for Covered Telecommunications Equipment or Services

- A. *Definitions.* Unless otherwise defined in this Contract, capitalized terms used in this Section X shall have the meanings ascribed thereto in this Section X.A.
 1. "Backhaul" means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).
 2. "Covered Foreign Country" means the People's Republic of China.
 3. "Covered Telecommunications Equipment or Services" means (a) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (b) for the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); (c) telecommunications or video surveillance services provided by such entities or using such equipment; or (d) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a Covered Foreign Country.
 4. "Critical Technology" means (1) defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations; (2) items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations and controlled (a) pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology, or (b) for reasons relating to regional stability or surreptitious listening; (3) specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities); (4) nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material); (5) select agents and toxins covered by part 331 of title 7, Code of Federal Regulations; part 121 of title 9 of such Code; or part 73 of title 42 of such Code; or (6) emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. § 4817).
 5. "Interconnection Arrangements" means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.
 6. "Roaming" means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.
 7. "Substantial or Essential Component" means any component necessary for the proper function or performance of a piece of equipment, system, or service.

8. "Telecommunications Equipment or Services" means telecommunications or video surveillance equipment or services, such as, but not limited to, mobile phones, land lines, internet, video surveillance, and cloud services.

B. Prohibitions.

1. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after August 13, 2020, from obtaining or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
2. Unless an exception in Section X.C. applies, Contractor and any Subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds (including, without limitation, Federal Funds) received from a federal government to:
 - a. Procure or obtain any equipment, system, or service that uses Covered Telecommunications Equipment or Services as a Substantial or Essential Component of any system or as Critical Technology of any system;
 - b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses Covered Telecommunications Equipment or Services as a Substantial or Essential Component of any system or as Critical Technology of any system;
 - c. Enter into, extend, or renew contracts with entities that use Covered Telecommunications Equipment or Services as a Substantial or Essential Component of any system or as Critical Technology as part of any system; or
 - d. Provide, as part of its performance of this Contract, any Subcontract; any other contractual instrument; or any equipment, system, or service that uses Covered Telecommunications Equipment or Services as a Substantial or Essential Component of any system or as Critical Technology as part of any system.

C. Exceptions.

1. This clause does not prohibit Contractor or Subcontractors from providing:
 - a. A service that connects to the facilities of a third party, such as Backhaul, Roaming, or Interconnection Agreements, or
 - b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
2. By necessary implication and regulation, the prohibitions also do not apply to:
 - a. Covered telecommunications equipment that:
 - i. Is not used as a Substantial or Essential Component of any system and
 - ii. Is not used as Critical Technology of any system.
 - b. Other telecommunications equipment or services that are not considered Covered Telecommunications Equipment or Services.

D. Reporting Requirement

1. In the event Contractor identifies, during contract performance, covered Telecommunications Equipment or Services used as a Substantial or Essential Component of any system or as Critical Technology as part of any system, or if Contractor is notified of such by a Subcontractor at any Tier or by any other source, Contractor shall report the information in paragraph D.2(d)(2) of this Section X to Unit, unless procedures for reporting the information are established elsewhere in this Contract.
2. Contractor shall report the following information to Unit pursuant to paragraph D.1 of this Section X:
 - a. Within one business day from the date of such identification or notification: contract number; order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - b. Within ten business days of submitting the information in paragraph D.2.a. of this Section: any further available information about mitigation actions undertaken or recommended. In addition, Contractor shall describe (i) the efforts it undertook to prevent use or submission of Covered Telecommunications Equipment or Services and (ii) any additional efforts that will be incorporated to prevent future use or submission of Covered Telecommunications Equipment or Services.

- E. Subcontractor. Contractor shall cause to be inserted into all Subcontracts and other contractual instruments relating to the performance of this Contract the substance of this Section X, including this paragraph E.

XI. Domestic Preferences for Procurements

A. For purposes of this Section XI, the terms below are defined as follows:

1. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coating, occurred in the United States.
2. "Manufactured Products" means items and construction materials composed, in whole or in part, of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

- B. As applicable, and to the extent consistent with law, Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products or materials Produced in the United States. This includes, but is not limited to, iron, aluminum, steel, cement, and other Manufactured Products. Contractor shall cause any Subcontractors to include the requirements of this Section XI in any Subcontracts.

XII. Solicitation of Minority and Women-Owned Business Enterprises

- A. If Contractor intends to let any Subcontracts, Contractor shall (1) place qualified small and minority businesses and women's business enterprises on its solicitation lists; (2) assure that small and minority businesses and women's business enterprises are solicited whenever they are potential sources; (3) divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses

and women's business enterprises; (4) establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises; (5) use the services and assistance, as appropriate, of the Small Business Administration, the Minority Business Development Agency of the Department of Commerce, and the North Carolina Office for Historically Underutilized Businesses.

- B. For the purposes of Section XII.A, an entity shall qualify (1) as a "minority business" or "women's business enterprise" if it is currently certified as a North Carolina "historically underutilized business" under Chapter 143, Section 128.4(a) of the N.C. General Statutes (hereinafter G.S.), and (2) as a "small business" if it is independently owned and operated and is qualified under the Small Business Administration criteria and size standards at 13 C.F.R. Part 21.

XIII. Prompt Pay Requirements

- A. Contractor must pay all subcontractors for satisfactory performance within 30 days from receipt of payment from the Unit. Any withheld retainage from a subcontractor must be paid to the subcontractor within 30 days from satisfactory final completion of the subcontract work. For the purposes of this Section XIII, a subcontractor's work is satisfactorily finally completed when all of the tasks outlined in the subcontract has been accomplished and documented. Any of the subcontractor's work partially accepted by the Contractor shall be deemed to be satisfactorily completed for purposes of triggering the prompt payment requirements of this Section.
- B. At any time during the performance of the Work that Contractor does not adhere to the prompt payment requirements of this Section XIII, the Unit may withhold payment owed the Contractor, including any retainage withheld by the Unit, until Contractor provides proof that subcontractor(s) have been paid current to that time.

XIV. Access to Records

- A. Contractor agrees to provide Unit, the Department of the Federal Administering Agency or Agencies, the Treasury Office of Inspector General, the Government Accountability Office, and the Comptroller General of the United States, or any authorized representatives of these entities, access to any records (electronic and otherwise) of Contractor which are directly pertinent to this Contract to conduct audits or any other investigations. Contractor agrees to permit any of the foregoing parties to reproduce such records by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- B. Contractor agrees to retain all records covered by this Section XIII through December 31, 2031, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit, or other inquiry involving the Contract.

XV. Conflicts of Interest; Gifts and Favors

- A. Contractor understands that (1) Unit will use Federal Funds to pay for the cost of this Contract and (2) the expenditure of Federal Funds is governed by the **CITY OF HENDERSONVILLE CONFLICT OF INTEREST POLICY APPLICABLE TO CONTRACTS AND SUBAWARDS OF THE CITY OF HENDERSONVILLE FUNDED IN WHOLE OR IN PART WITH FEDERAL FUNDS** of the Unit, the Regulatory Requirements (including, without limitation, 2 C.F.R. § 200.318(c)(1)), and North Carolina law (including, without limitation, G.S. 14-234(a)(1) and -234.3(a)).
- B. Contractor certifies to Unit that as of the date hereof, to the best of its knowledge after reasonable inquiry, no employee, officer, or agent of Unit involved in the selection, award, or administration of this Contract (each a "Covered Individual"); no member of a Covered Individual's immediate family; no partner of a Covered Individual; and no organization (including Contractor) which employs or is about to employ a Covered Individual has a financial or other interest in, or has received a tangible personal benefit from, Contractor. Should Contractor obtain knowledge of any such interest or any tangible personal benefit described in the preceding sentence after the date hereof, Contractor shall promptly disclose the same to Unit in writing.
- C. Contractor certifies to Unit that it has not provided, nor offered to provide, any gratuities, favors, or anything of value to an officer, employee, or agent of Unit. Should Contractor obtain knowledge of the provision, or offer of any provision, of any gratuity, favor, or anything of value to an officer, employee, or agent described in the preceding sentence after the date hereof, Contractor shall promptly disclose the same to Unit in writing.
- A. Assurances of Compliance with Title VI of the Civil Rights Act of 1964 Contractor and any Subcontractor, or the successor, transferee, or assignee of Contractor or any Subcontractor, shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. §§ 2000d *et seq.*), as implemented by the Federal Administering Agency or Agencies' Title VI regulations, 31 C.F.R. Part 22, which are herein incorporated by reference and made a part of this Contract. Title VI also provides protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. §§ 2000d *et seq.*, as implemented by Federal Administering Agency or Agencies' Title VI regulations, 31 C.F.R. Part 22, and herein incorporated by reference and made a part of this Contract.

XVI. Other Non-Discrimination Statutes

- A. Contractor acknowledges that Unit is bound by and agrees, to the extent applicable to Contractor, to abide by the provisions contained in the federal statutes enumerated below and any other federal statutes and regulations that may be applicable to the expenditure of Federal Funds:
1. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 *et seq.*), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 2. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 3. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 *et seq.*), and Federal Administering Agency or Agencies's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 4. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 *et seq.*), which prohibits discrimination on the basis of disability in programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

XVII. Miscellaneous

- A. *Increasing Seat Belt Use in the United States.* Pursuant to Executive Order 13043, 62 Fed. Reg. 19,216 (Apr. 18, 1997), Unit encourages Contractor to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented, or personally owned vehicles.
- B. *Reducing Text Messaging While Driving.* Pursuant to Executive Order 13513, 74 Fed. Reg. 51,225 (Oct. 6, 2009), Unit encourages Contractor to adopt and enforce policies that ban text messaging while driving.
- C. *Reporting.* The Contractor shall make such reports for the benefit of the Unit as are required by the Federal Administering Agency, and shall cause all subcontractors to make such required reports, including but not limited to all reports required by the Federal Funding Accountability and Transparency Act (FFATA).

XVIII. RESERVED.

XIX. Conflicts and Interpretation

- A. The parties ratify and affirm the Contract except that to the extent that any portion of this Addendum conflicts with any term or condition of the Contract expressed outside of this Addendum, the terms of this Addendum shall govern.

CONTRACTOR: W.K. DICKSON & CO, INC.



By:

Name: Bryan E. Thomas

Title: Vice President & Greenville Regional Manager

UNIT:



By:

Name: John F. Connet

Title: City Manager

ATTACHMENT 1
TO
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS ADDENDUM
31 C.F.R. PART 21 – CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of the undersigned’s knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, WK Dickson & Co., Inc., certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chapter 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.



Signature of Contractor’s Authorized Official

Bryan E. Thomas, Vice President & Greenville Regional Manager

Name and Title of Contractor’s Authorized Official

4/11/2023

Date



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Michael Huffman

MEETING DATE: 08/03/23

AGENDA SECTION: CONSENT

DEPARTMENT: Engineering -
Stormwater

TITLE OF ITEM: Lower Mud Creek Floodplain Restoration Grant Administration and Project Management Assistance – *Michael Huffman, Stormwater Division Manager*

SUGGESTED MOTION(S):

I move the City Council adopt a Resolution directing the City Manager to negotiate a contract with Land of Sky Regional Council to provide grant administration and project management services for the Lower Mud Creek Floodplain Restoration project.

SUMMARY:

An agenda item directing the City Manager to negotiate a contract with Land of Sky Regional Council for grant administration services for the Lower Mud Creek Floodplain Restoration Project (#23006)

BUDGET IMPACT: \$35,000.00

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

If no, describe how it will be funded.

ATTACHMENTS:

1. Resolution directing the City Manager to negotiate a contract with Land of Sky Regional Council to provide grant administration and project management services for the Lower Mud Creek Floodplain Restoration project.
2. Agreement between Land of Sky Regional Council and City of Hendersonville for the provision of Technical Service Assistance



Contract No. _____

AGREEMENT BETWEEN
LAND OF SKY REGIONAL COUNCIL
and
CITY OF HENDERSONVILLE

for the provision of
Technical Service Assistance (Lower Mud Creek Project Management and Grant Admin)

August 1, 2023 through December 31, 2025

This **AGREEMENT**, entered into on the _____, by and between the Land of Sky Regional Council of Governments (hereinafter referred to as the "Council") and the City of Hendersonville, North Carolina (hereinafter referred to as the "Local Government"); **WITNESSETH THAT:**

WHEREAS, the Council is empowered to provide technical assistance by the North Carolina General Statutes and by resolution passed by the Council on April 17, 1972. Technical assistance shall consist of the provisions of services as described in Attachment A, which is herein made part of this Contract;

WHEREAS, the Local Government has requested the Council to provide such technical assistance to the Local Government and;

WHEREAS, the Council desires to cooperate with the Local Government in every way possible to the end that the proposed activities are carried out in an efficient and professional manner;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. **Personnel**

That during the period of this Contract, the Council will furnish the necessary trained personnel to the Local Government to perform the tasks outlined in Attachment A Work Program.

2. **Compensation**

That for the purpose of providing funds for carrying out this Contract, the Local Government will pay the Council a fee of \$35,000.00 (Thirty five thousand dollars and 0 cents).

3. **Termination/Modifications**

The Local Government or Council may terminate the contract by giving a thirty-day written notice to the other entity. Furthermore, if there is a need to amend the proposal outlined in Attachment A, either party may do so with the written consent of the other.

4. **Time of Performance**

The Council shall ensure that all services required herein shall be completed and all required reports, maps, and documents submitted during the period beginning August 1, 2023 and ending December 31, 2025.

5. **Changes**

The Local Government may from time to time request changes in the scope of work or services to be performed by the Council hereunder. Such changes, including any increases or decreases in the Council's compensation, which are mutually agreed upon by and between the Local Government and Council, shall be incorporated as written amendments to the Contract.

6. **Interest of Members, Officers, or Employees of the Council, Members of the Local Government, or Other Public Officials**

No member, officer, or employee of the Council or its agents; no member of the governing body of the locality in which the program is situated; and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his or her tenure or for one year thereafter, shall have any financial interests, either direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interests in the program. The Council shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.

7. **Nondiscrimination Clause**

No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination with any program or activity funded in whole or in part with funds available under the Housing and Development Act of 1974, Section 109.

8. **Age Discrimination Act of 1975, as amended**

No qualified person shall on the basis age be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives benefits from federal financial assistance.

9. **Section 504, Rehabilitation Act of 1973, as amended**

No qualified handicapped person shall, on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.

10. **E-Verify Provision**

Pursuant to G.S. 143-48.5 and G.S. 147-33.95(g), the undersigned hereby certifies that the Contractor named below, and the Contractor's subcontractors, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system. E-Verify System Link: www.uscis.gov

City of Hendersonville

Land of Sky Regional Council

By: _____

By: _____

Title: City Manager

Title: Executive Director

Date: _____

Date: _____

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

_____, Finance Officer Date _____

ATTACHMENT A

CITY OF HENDERSONVILLE
TECHNICAL ASSISTANCE
Lower Mud Creek Project Management and Grant Admin

August 1, 2023 - December 31, 2025

WORK PROGRAM / BUDGET

The following work program and budget are presented as descriptive of the work and dollar amounts called for in the agreement concerning planning activities by the Land of Sky Regional Council for the City of Hendersonville (CoH). The product(s) of the activities shall be:

WORK PROGRAM - \$35,000

1. Project Management - \$23,000

- Review grant contracts, schedules and scopes of work and create checklist of requirements, and schedule of activities and milestones.
- Track activities and progress towards milestones
- Coordinate between COH staff, consultants, and stakeholder agencies to meet project deliverables

2. Budgeting and reimbursement - \$2,000

- Track grant budgets, review invoices, support COH finance department in reimbursement requests.

3. Reporting/Monitoring - \$4,000

- Complete all required reporting to funding agencies (quarterly, annual, closeout)

4. Compliance - \$4,000

- Ensure property acquisition requirements for NCLWF are fulfilled
- Ensure necessary compliance forms for DEQ are completed and submitted

5. Public Meetings - \$2,000

- Coordinate public meeting dates, times, locations
- Create and distribute advertising materials
- Attend and support in-person

Resolution #__-____

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO DIRECT THE CITY MANAGER TO NEGOTIATE A CONTRACT WITH THE LAND OF SKY REGIONAL COUNCIL FOR TECHNIAL SERVICES ASSISTANCE FOR THE LOWER MUD CREEK FLOODPLAIN RESTORATION PROJECT (23006)

WHEREAS, the City of Hendersonville has received funding from NC Land and Water Fund and the NC Division of Water Infrastructure to complete the Lower Mud Creek Floodplain Restoration project and;

WHEREAS, Land of Sky Regional Council can provide Technical Service Assistance in the form of Grant Administration and Project Management; and

WHEREAS, a contract for service 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 and enter into contract for Technical Services Assistance for the Lower Mud Creek Floodplain Restoration project with the Land of Sky Regional Council on behalf of the City

Adopted by the City Council of the City of Hendersonville, North Carolina on this 3rd day of August 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

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

Resolution #__-____

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL APPROVING A GRANT AGREEMENT WITH THE NORTH CAROLINA LAND AND WATER FUND FOR THE LOWER MUD CREEK RESTORATION PROJECT

WHEREAS, the City of Hendersonville has been awarded a grant of \$1,120,929 by the North Carolina Land and Water Fund (the “Fund”), a division of the Department of Natural and Cultural Resources for the lower Mud Creek Restoration Project; and

WHEREAS, the City has received a draft grant agreement to govern the City’s use and the Funds disbursement of the grant; and

WHEREAS, staff has requested City Council to approve the grant agreement and authorize it’s finalization and execution by the City Manager;

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

1. The Grant Contract – Restoration of Degraded Streams or Other Waters (Flood Risk Reduction with Land Acquisition – Government) (the “Grant Agreement”) is hereby approved.
2. The City Manager is authorized to negotiate, finalize and execute the Grant Agreement on behalf of the City in consultation with the City Attorney and stormwater management staff, including future amendments thereto, provided, however, that the following conditions shall apply: the Grant Agreement and any amendment(s) entered now or in the future shall only obligate the City to budgeted and available funds as of the date of the agreement or any such amendment.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 9th day of August, 2023.

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
NORTH CAROLINA LAND AND WATER FUND
GRANT CONTRACT – RESTORATION OF DEGRADED STREAMS OR OTHER WATERS
(FLOOD RISK REDUCTION WITH LAND ACQUISITION – GOVERNMENT)**

NCLWF PROJECT: 2022-FRR24 - Hendersonville - Mud Creek Flood Risk Reduction

GRANTOR: North Carolina Land and Water Fund (“NCLWF”), a division of the Department of Natural and Cultural Resources (“DNCR”), acting through its Board of Trustees solely in its official capacity pursuant to Part 41, Article 2, Chapter 143B of the North Carolina General Statutes (“N.C.G.S.”)

Grantor Contract Administrator: Steve Bevington
North Carolina Land and Water Fund
1651 Mail Service Center
Raleigh, NC 27699-1651
Phone: (919) 707-9478
Email: steve.bevington@ncdcr.gov

GRANT RECIPIENT: City of Hendersonville, a North Carolina Local Government Unit (“Grant Recipient”)

Grant Recipient Federal I.D. Number: 56-6001242

Grant Recipient Fiscal Year End Date: June 30

Grant Recipient Contract Administrator: Michael Huffman
City of Hendersonville
Phone: (828) 697-3013
Email: mhuffman@hvlnc.gov

GRANT AWARD DATE: February 28, 2023 (“Award Date”)

CONTRACT EFFECTIVE DATE: _____ (“Effective Date”)

CONSTRUCTION CONTRACT DATE: _____

CONTRACT EXPIRATION DATE: _____ (“Expiration Date”)

DEADLINE FOR RECEIPT BY NCLWF OF REIMBURSEMENT/PAYMENT REQUESTS: _____ (“Reimbursement Date”)

GRANT AMOUNT: up to \$1,120,929 (“Grant”)

COMPANY: 4602 **ACCOUNT:** 536403 **CENTER:** 2002

THIS GRANT CONTRACT (“Grant Contract”) is made and entered into as of the Effective Date by and between the NCLWF and the Grant Recipient. The NCLWF and the Grant Recipient may hereinafter be referred to individually as a “Party” or collectively as the “Parties.”

WITNESSETH:

WHEREAS, the NCLWF was established by N.C.G.S. Chapter 143B, Article 2, Part 41 as a special revenue fund to be administered by the North Carolina Department of Natural and Cultural Resources (“NCDNCR”). The NCLWF receives revenue from the following sources and may receive revenue from other sources: (1) annual appropriations, (2) special registration plates under G.S. 20-81.12, (3) other special registration plates under G.S. 20-79.7, and (4) hazard mitigation funds from the Federal Emergency Management Agency and other agencies; and

WHEREAS, the NCLWF is authorized by N.C.G.S. Chapter 143B, Article 2, Part 41 to use the revenue in the NCLWF for any of the following purposes: (1) to acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses; (2) to acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and drinking water supplies; (3) to coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality; (4) to restore previously degraded lands to reestablish their ability to protect water quality; (5) to facilitate planning that targets reductions in surface water pollution; (6) to finance innovative efforts, including pilot projects, to improve stormwater management, to reduce pollutants entering the State’s waterways, to improve water quality, and to research alternative solutions to the State’s water quality problems; (7) to prevent encroachment, provide buffers, and to preserve natural habitats around military installations or military training areas, or for State matching funds of Federal initiatives that provide funds to prevent encroachment, provide buffers, and preserve natural habitats around military installations or military training areas; (8) to acquire land that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic purposes; (9) to acquire land that contributes to the development of a balanced State program of historic properties; (12) and to restore floodplains and wetlands for the purpose of storing water, reducing flooding, improving water quality, providing wildlife and aquatic habitat, and providing recreational opportunities. (Note that numerals (10) and (11) have been omitted intentionally as they were repealed by statute. See N.C.G.S. §143B-135.234); and

WHEREAS, The North Carolina General Assembly appropriated \$15,000,000 to the NCLWF and directed the Division of Land and Water Stewardship to use the funds to provide grants to counties, municipalities, nonprofit corporations, and other State agencies for projects addressing the purposes specified in N.C.G.S. §143B-135.234(c)(12) (See 2021-180 N.C. Sess. Laws 30); and

WHEREAS, the NCLWF uses the revenue in the NCLWF to award grants to eligible grant recipients in order to fulfill its mission, goals and purpose; and

WHEREAS, the Grant Recipient is an eligible applicant as defined in N.C.G.S. §143B-135.238(a); and

WHEREAS, the Grant Recipient has submitted to the NCLWF an application requesting a grant of funds (the “Grant Application”) for an authorized NCLWF purpose; and

WHEREAS, the NCLWF approved the Grant Recipient's Grant Application on the Award Date and has agreed to make the Grant to the Grant Recipient pursuant to the terms and conditions set forth in this Grant Contract; and

WHEREAS, the Parties desire to enter into this Grant Contract and intend to be bound by its terms.

NOW, THEREFORE, for and in consideration of the Grant, the mutual promises each to the other made, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties mutually agree as follows:

1. **Grant Contract Documents.** In the case of conflict, specific and special terms, conditions, and requirements shall control over general terms, conditions, and requirements. The Grant Contract is not a binding agreement on all Parties until (1) all Parties have executed this Grant Contract and all Exhibits that require execution, and (2) the funds for the Grant contemplated herein have been encumbered by the NCDNCR. This Grant Contract is subject to allocation and appropriation of funds to the NCDNCR for the purposes set forth in the contract.

The Grant Recipient agrees that it is subject to and will comply with the terms, promises, and any other requirements appearing either directly or by reference in the following documents, which are attached hereto and incorporated by reference into this Grant Contract:

- (a) Exhibit A – Project Description
- (b) Exhibit B – Project Budget
- (c) Exhibit C – Pre-Disbursement Checklist
- (d) Exhibit D – Does not apply (government)
- (e) Exhibit E – General Terms and Conditions
- (f) Exhibit F – Pre-Closing Checklist
- (g) Exhibit G – Post-Closing Checklist

This Grant Contract constitutes the entire contract between the Parties, superseding all prior oral and written statements or contracts.

2. **Grant Recipient's Duties.** The Grant Recipient agrees to conduct the project approved by the NCLWF for the purposes of and according to the Project Description in **Exhibit A** ("Project"), pursuant to the Budget set forth in the attached **Exhibit B**, in accordance with the terms of this Grant Contract, in accordance with any other applicable statute or rule, and in accordance with the requirements of the NCLWF.
3. **NCLWF's Duties.** Subject to the adherence to the requirements for disbursement, and subject to the appropriation, allocation, and availability to the NCLWF of Grant funds for the Project, the NCLWF hereby agrees to pay the Grant funds to the Grant Recipient in accordance with the Disbursement of Grant Fund Procedures set forth herein.
4. **Contract Period.** It is the responsibility of the Grant Recipient to ensure that the Project is completed by the Expiration Date and that all costs to be reimbursed have been submitted to the NCLWF by the Reimbursement Date. After the Expiration Date, any Grant funds remaining under this Grant Contract will no longer be available to the Grant Recipient except to pay proper invoices for budgeted costs incurred by the Expiration Date and that are submitted to the NCLWF no later than the Reimbursement Date. The NCLWF's commitment to disburse Grant funds under this Grant Contract shall cease on the Reimbursement Date.

The Grant Recipient is solely responsible for requesting an extension of the Grant Contract if the Grant Recipient anticipates that the Project will not be completed by the Expiration Date.

The request for an extension must give complete details of the reasons why an extension is needed, propose a new expiration date for the Grant Contract, and be submitted via the NCLWF's online grants management system. This request must be submitted to and received by the NCLWF at least sixty (60) days prior to the Expiration Date. Approval of any requested extension is at the sole discretion of the NCLWF. The approval or denial of the requested extension will be based upon Project performance, among other factors. The NCLWF is not obligated to send reminders or other notification of an approaching Expiration Date.

5. **Disbursement of Grant Fund Procedures.**

- a. Prior to the disbursement of any Grant funds under this Grant Contract, the Grant Recipient shall deliver to the NCLWF all of the documentation described in **Exhibits C and D**, as applicable.
- b. Grant funds will not be disbursed during the first week of January, the last three (3) weeks of June, the first week of July, or the last two (2) weeks of December. In addition, the State does not process payments on the last business day of any month.
- c. The NCLWF only agrees to pay or reimburse the Grant Recipient for reasonable costs actually incurred by the Grant Recipient that do not exceed the Grant funds budgeted for the Project as shown in **Exhibit B**.
- d. The Grant Recipient may seek reimbursement for allowable Project costs incurred after the Award Date notwithstanding the fact that those costs may have been incurred prior to the Effective Date. The Grant Recipient may not be reimbursed for Project costs incurred prior to the Award Date; however, the Grant Recipient may use such costs toward match requirement if the costs were approved by the NCLWF's Board of Trustees on the Award Date as shown on **Exhibit B**.
- e. Proportionate Spending of Matching Funds. The NCLWF encourages a commitment of matching funds to be contributed to the Project from non-NCLWF sources. Information on the commitment of matching contribution is part of the Grant Application submitted by Grant Recipient. Matching contribution value is then calculated as a percentage of the total project cost and is considered by the NCLWF as a match percentage when awarding Grants. Once an award is made, the matching percentage is incorporated into the Budget on **Exhibit B**. As funds are requested from the NCLWF, the Grant Recipient must provide documentation, sufficient to the NCLWF, showing how a proportionate expenditure of match will occur. The NCLWF will not make a disbursement of funds if the matching percentage falls below the original commitment of matching funds on **Exhibit B**.
- f. Requests for Payment. The NCLWF will not disburse Grant funds until receipt by the NCLWF's Contract Administrator of the Grant Recipient's requests for payment. Payment requests shall conform to the following:
 - i. For payment requests involving all or a portion of the Property / Conservation Agreement Acquisition Costs shown on Exhibit B, the Acquisition and the recording, at the applicable Register of Deeds, of the General Warranty Deed, Conservation Easement and/or Declaration of Covenants and Restrictions (collectively "Conservation Agreement"), and Assignment, as may be applicable, shall be referred to herein as the

“Closing.” Grant funds may be paid at the time of Closing if the Grant Recipient has complied with all Pre-Closing requirements as set forth in Exhibit F and the NCLWF has received and approved all necessary documentation for the payment.

- ii. Payment requests shall be accompanied by appropriate itemized documentation supporting all expenses claimed and clearly identifying each expenditure for which payment is requested. Supporting documentation must be organized in a manner that clearly relates expenditures in the supporting documentation to the line items on the payment request form. Any request for payment that does not clearly identify each expenditure or does not relate each expenditure to the line items on the payment request form will not be processed and will be returned to the Grant Recipient for correction and resubmittal.
 - iii. Payment requests shall identify any sales tax for which reimbursement has been or will be obtained from the North Carolina Department of Revenue (“NCDOR”). The NCLWF will not reimburse the Grant Recipient for such amounts.
 - iv. Each payment request shall include a completed claim form and progress report submitted using the online grants management system. The progress report shall describe work accomplished on the Project and progress toward completing the Project Scope of Work in **Exhibit A**.
- g. Alternate Disbursement of Grant Funds. The NCLWF may, upon request by the Grant Recipient, disburse Grant funds, other than those related to the Property / Conservation Agreement Acquisition Costs on Exhibit B, prior to the Grant Recipient’s actual payment to its vendors if such expenditures are documented by vendors’ third-party invoices. In order for the NCLWF to disburse Grant funds to the Grant Recipient based on unpaid third-party invoices, the Grant Recipient must submit the following documentation:
- i. The Grant Recipient shall acknowledge on the claim form that the claim contains unpaid expenses to third-party vendors. The Grant Recipient shall also acknowledge that it shall comply with all terms of this Grant Contract in incurring the expense, has reviewed and approved the unpaid third-party invoice, and shall certify to the NCLWF that the unpaid third-party invoice will be paid within three (3) working days of receipt of the disbursed Grant funds.
 - ii. Payment requests shall be accompanied by appropriate itemized documentation supporting all expenses claimed and clearly identifying each expenditure for which payment is requested. Supporting documentation must be organized in a manner that clearly relates expenditures in the supporting documentation to the line items on the payment request form. Any request for payment that does not clearly identify each expenditure or does not relate each expenditure to the line items on the payment request form will not be processed and will be returned to the Grant Recipient for correction and resubmittal.

- iii. Payment requests shall identify all amounts of sales tax for which the Grant Recipient and/or its vendors have or will obtain payment from the NCDOR. The NCLWF will not reimburse the Grant Recipient for such amounts.
 - iv. Each payment request shall include a completed claim form and progress report submitted using the online grants management system. The progress report shall describe work accomplished as well as progress toward completing the Project Scope of Work in **Exhibit A**.
 - v. The Grant Recipient shall confirm in writing to the NCLWF within thirty (30) days of the disbursement of Grant funds, via the appropriate form provided on the NCLWF's online grants management system, that the required payment has been made to the third party.
- h. Certification by Licensed Professional. At the option of the NCLWF, payments may be made only on the certificate and seal of an appropriately qualified licensed professional (e.g., licensed Professional Engineer) that the work for which the payment is requested has been completed in accordance with approved plans and specifications. An estimate by the construction contractor setting forth items to be paid out of the proceeds of each such payment shall be attached to the certificate. The NCLWF, at its option, may further require a certificate from such appropriately qualified licensed professional that the portion of the Project completed as of the date of the request for payment has been completed according to schedule and otherwise as approved by the NCLWF and according to applicable standards and requirements. However, the NCLWF may, at its discretion, make payments without requiring such certificates or construction contractor's estimate, in which event the Grant Recipient shall furnish the NCLWF a list of and the amounts of items to be paid out of the payment, or such other evidence as the NCLWF may require.
- i. Payment Based on Progress. The Grant Recipient agrees to proceed with diligence to complete the Project according to the schedule set out in **Exhibit A** and shall show appropriate progress prior to each payment by submitting a written report on the NCLWF's online grants management system. Payment may be withheld or delayed if the Grant Recipient fails to make progress on the Project satisfactory to the NCLWF. Amounts withheld shall be reimbursed with subsequent payments in the event that the Grant Recipient is able to demonstrate an ability to resume satisfactory progress toward completion of the Project.
- j. Proof of Payment. The Grant Recipient agrees to pay, as the work progresses, all bills for expenses incurred on the Project and agrees to submit to the NCLWF all such receipts, affidavits, canceled checks, or other evidence of payment as may be requested from time to time and, when and if requested by the NCLWF, to furnish adequate proof of payment of all debts incurred on the Project.
- k. NCLWF Retaining Portion of Funds until Project Completion. The NCLWF may withhold payment from the Grant Recipient in the amount of \$100,000 of the Grant until the Grant Recipient has satisfactorily submitted its grant contract final report.
- l. Costs of Project Administration. The NCLWF agrees to reimburse the Grant Recipient for administrative costs consisting only of costs of labor for

administrative work conducted exclusively on this Project. The Grant Recipient's requests for such payment shall be made under the Project Administration line item of **Exhibit B** and shall conform to the following:

- i. Costs allowable under the Project Administration line item shall be only reasonable costs of labor needed to comply with the general conditions of the Grant Contract (e.g., progress reports, payment requests, preparing the grant contract final report, revisions to the Grant Contract). Allowable Project Administration labor costs may include any of the following:
 - a. compensation to the Grant Recipient's employees, plus the Grant Recipient's cost of paying benefits on such compensation (i.e., employees' pay multiplied by an audited or auditable benefits multiplier);
 - b. compensation to the Grant Recipient's independent contractors (e.g., temporary office support), payable at the Grant Recipient's actual cost, without application of a benefits multiplier; and/or
 - c. cost of professional services contracted by the Grant Recipient (e.g., engineering firm or consultant), payable at the Grant Recipient's actual cost.
 - ii. Costs of any other work described in the Project Scope of Work in **Exhibit A** are not allowable under the Project Administration line item.
6. **Grant Withdrawal for Failure to Enter into a Construction Contract.** Pursuant to N.C.G.S. §143B-135.238(e), as amended by Session Law 2023-70, if the Project includes a construction component to be completed by a third party, this Grant award shall be withdrawn if the Grant Recipient fails to enter into a construction contract for the Project within one (1) year after the execution of this Grant Contract, unless the NCLWF's Board of Trustees finds that the Grant Recipient has good cause for the failure. If the Trustees find good cause for the Grant Recipient's failure, the Trustees shall set a new date by which the Grant Recipient must take action, or the Grant Recipient shall be deemed to have forfeited the Grant and the NCLWF shall be deemed to have no further obligations with regards to the Project.
 7. **Reversion of Unexpended Grant Funds.** Any unexpended Grant funds shall revert to the NCLWF on the Reimbursement Date or upon termination of this Grant Contract, whichever occurs first.
 8. **Reporting Requirements; Audit; Record Retention.** The Grant Recipient must comply with all reporting requirements of N.C.G.S. §143C-6-21 through 143C-6-23, and Title 09, Subchapter 3M of the North Carolina Administrative Code ("N.C.A.C."), and any revisions thereof. The Grant Recipient must also provide the required documentation as set forth in **Exhibits C and D**, if applicable. All such required reports shall be filed in accordance with the applicable statutes and rules on the forms required by the Office of State Budget and Management ("OSBM") and the Office of the State Auditor ("OSA") and submitted to the NCLWF.

The State Auditor and the NCDNCR Internal Auditors shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in

accordance with N.C.G.S. §. 147-64.7. Additionally, as the State funding authority, the NCDNCR shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions. This access includes but is not limited to: ready access to persons and the ability to examine and copy all books, records, reports, vouchers, correspondence, files, personnel files, investments, and any other documentation of the Grant Recipient. The Grant Recipient shall retain complete accounting records, including original invoices, payrolls, Grant Contracts, working papers, or other documents clearly showing the nature of all costs incurred and expenditures made under this Grant Contract. The Grant Recipient agrees that the NCLWF, NCDNCR and OSA have the right to audit the books and records of the Grant Recipient pertaining to this Grant Contract both prior to Closing and for five (5) years after the completion or termination of this Grant Contract, or until all audit exceptions, if any, have been resolved, or for such a period of time allowed by N.C.G.S. §147-64.7, whichever is longer.

If the Grant Recipient is a State agency, all records shall be retained in accordance with the records retention and disposition schedules issued by the Division of Archives and Records of NCDNCR. The records retention and disposition schedule applicable to the Grant Contract at the time of Effective Date requires that records be retained until five (5) years after submission of the final report or until such time as no audit or litigation is pending or reasonably anticipated, whichever is longer. All such records shall be made accessible to the NCLWF, NCDNCR, OSBM, and OSA upon request.

The definitions set forth in N.C.G.S. Chapter 143C shall apply to this Grant Contract except as otherwise provided herein below. The definitions provided by 09 N.C.A.C. 03M shall apply to this Grant Contract to the extent they are not in conflict with N.C.G.S. Chapter 143C or this Grant Contract. In the event of conflict between or among definitions, N.C.G.S. Chapter 143C shall control over 09 N.C.A.C. 03M, and this Grant Contract shall control over N.C.G.S. Chapter 143C.

- a. For purposes of this Grant Contract, a “Grantee,” as defined in N.C.G.S. §143C-6-23, and “Recipient,” as defined in 09 N.C.A.C. 03M .0102 and applicable to 09 N.C.A.C. 03M, shall also include the “Grant Recipient,” and the term “Grantee” shall mean and refer to an entity that is the recipient of an interest in real property.
- b. For purposes of this Grant Contract, a “Subgrantee,” as defined in N.C.G.S. §143C-6-23, and “Subrecipient,” as defined in 09 N.C.A.C. 03M .0102 and applicable to 09 N.C.A.C. 03M, shall be referred to as a “Sub-grant Recipient.”
- c. “State agency” shall mean a unit of the executive, legislative, or judicial branch of State government, such as a department, institution, division, commission, board, council, or school within The University of North Carolina System. The term does not include a unit of local government or a public authority. For purposes of this Grant Contract, both the North Carolina Department of Natural and Cultural Resources and the North Carolina Land and Water Fund are State agencies.
- d. “Grant” and “grant funds” as defined in N.C.G.S. §143C-6-23 means State funds disbursed as a grant by a State agency; however, the terms do not include any payment made by the Medicaid program, the State Health Plan for Teachers’ and State Employees, or other similar medical programs. For purposes of this Grant Contract, both “grant” and “grant funds” shall be referred to as the Grant that is provided to the Grant Recipient to carry out the objectives of the Grant Contract.

- e. “Grantor” means an entity that provides resources, generally financial, to another entity in order to achieve a specified goal or objective. For purposes of this Grant Contract, the Grantor is the North Carolina Land and Water Fund.
9. **Notice; Contract Administrators.** All notices, requests, or other communications permitted or required to be made under this Grant Contract shall be directed to the respective Contract Administrator. Notices shall be in writing, signed by the Party giving such notice. Notices shall be deemed received three (3) business days following the date when deposited in the mail, postage prepaid, registered, or certified mail, return receipt requested, unless another form is otherwise noted herein.
10. **Signature Warranty.** Each individual signing below warrants that he or she is duly authorized to sign this Grant Contract for the respective Party and to bind said Party to the terms and conditions of this Grant Contract.

(The remainder of this page is intentionally left blank)

IN WITNESS WHEREOF, the Grant Recipient and the NCLWF have agreed to conduct the execution of this Grant Contract by electronic means. A final, signed version of the document shall be kept on file by the NCLWF. If there is any controversy as to the terms of the final document, the final signed version of the document kept on file by the NCLWF shall control.

GRANT RECIPIENT:

CITY OF HENDERSONVILLE, a North Carolina Local Government Unit

By: _____

Name: John F. Connet

Title: City Manager

Date: _____

GRANTOR:

NORTH CAROLINA LAND AND WATER FUND

By: _____

Name: John B. Wilson, Jr.

Title: Chairman, Board of Trustees

Date: _____

By: _____

Name: William B. Summer

Title: Executive Director

Date: _____

EXHIBIT A **PROJECT DESCRIPTION**

Stream of the Project Site: Mud Creek

Watershed and River Basin: French Broad

County: Henderson

Amount Requested from NCLWF: \$1,120,929

NCLWF approved grant amount up to: \$1,120,929

Total Matching Contributions: \$2,006,524

Total Project Budget: \$3,127,453

Percent Match: 64%

Related NCLWF-funded Projects:

Grant Award Date: February 28, 2023

Project Location: The project addresses flooding in the Upper Mud Creek sub-watershed (060101050301) along Mud Creek, which flows north around downtown Hendersonville on its way to the French Broad River. There are 75 commercial properties and 18 residential properties with medium to high combined vulnerability and risk for flooding in the project's immediate area of influence.

Causes of Impairment: Between 2009-2020, 12 out of 27 flood crests have caused minor to moderate flooding in the project area (see attached Mud Creek Flood Risk Summary for supporting tables and maps). With moderate flooding, Mud Creek is overtopping bridge decks and railroad tracks, inundating S. Grove St., and threatening businesses along several major commercial corridors (S. King, S. Main/Greenville Hwy, and Spartanburg Hwy). With minor flooding, Mud Creek reaches the bottom of multiple bridge decks, and causes backwater effects along Wash Creek inundating an access road. Flooding at the intersection of Spartanburg Highway and Greenville Highway as well as along S. Grove St. and upstream on Erkwood Rd. can also isolate residents on the southside of Hendersonville. Flooding of this area can prevent residents from accessing their homes and also increases travel time from the southside of the city to critical facilities such as Pardee Hospital. Flooding of these streets increases response times for emergency services as well.

Project Summary: The City of Hendersonville proposes to acquire three riparian parcels along Mud Creek and to restore floodplain functions on those and other riparian city properties. A total of 63 floodplain and wetland acres would be restored. Artificial berms would be removed to allow flood waters to access floodplains resulting in the storage of 145 acre-ft of stormwater upstream of residential areas.

Conservation Agreements Required: In May 2002, the City of Hendersonville and WRP entered into a Memorandum of Understanding to purchase and restore 26 acres of degraded wetlands adjacent to Mud Creek in Hendersonville’s Southside (Brevard Church and Wilson sites). The Brevard Church site is protected by a permanent conservation easement that is held by the City of Hendersonville . The Wilson site and additional parcels that have been identified for acquisition will be protected utilizing deed restrictions. These restrictions would be enforced by the City of Hendersonville as the property owner.

Legal Description of Property:

Formats for completing the Property Description on this Exhibit A. **Use the one that best fits the Property (or modify further):**

That parcel of land situated _____ of _____ Road (State Road _____) and _____ of _____ Creek in _____ Township, _____ County, North Carolina, containing _____ acres, more or less, owned now or formerly by _____, being that parcel of land identified in the _____ County tax records by the parcel identification number _____.

Being approximately _____ acres of a tract or parcel of land consisting of _____ acres described in a deed from _____ to _____ dated _____ and recorded in Deed Book _____, Page _____ of the _____ County Registry.

Being all of Tracts A, B, and C totaling _____ acres, more or less, a shown on that map of record entitled “_____” dated _____, and recorded in Plat Book _____ at Page _____ in the _____ County Register of Deeds.

Scope of Work:

The Grant Recipient shall conduct and complete the activities listed below:

1. Assess potential project sites for feasibility and prioritization of restoration work using hydrological studies.
2. Develop engineering plans and specifications to complete the project, including 30%, 60%, 90%, and final plans for the Wilson and Brevard Church sites.
3. Engage construction firm(s) to complete the project work.
4. Obtain applicable Federal and State permits for the construction of the engineering design.
5. Construct the streambank restoration work per engineering designs and plans, including removal of the levy on Mud Creek within the project area.

6. Obtain and record permanent conservation easements on the project properties.
7. Manage the project in total and report to the NCLWF.

Special Grant Contract Conditions:

1. The Grant Recipient shall provide or otherwise ensure that the matching funds identified in **Exhibit B** are provided to the Project.
2. Grant funds may not be used for the purchase of any improvements, removal of debris on the Property, or any other purpose not set forth herein.
3. Outstanding mineral rights are not an acceptable exception to title.
4. There must be by the date of Closing, either (1) legal access to the Property from a public roadway, and access over, upon, and across the Property to and from the Conservation Agreement area or (2) if the Property is surrounded by water, there must be access to the Property from the waters of the State. Access must be deemed satisfactory by the NCLWF.
5. All Property must be restricted by one or more Conservation Agreement(s) that shall convey such rights and establish such restrictions on use and indemnifications deemed satisfactory to the NCLWF.
6. All conservation agreement documents must be approved by the NCLWF before recordation.
7. All Conservation Agreements shall provide third party right of enforcement to the State of North Carolina.
8. The Grant Recipient will monitor the Conservation Agreement area at least annually.
9. Projects must be recombined into one tax parcel prior to or at Closing unless doing so is impracticable.
10. Stream restoration, enhancement, stabilization, and nature-based flood detention designs and their implementation must provide for permanently vegetated riparian buffers and permanent legal protection of the riparian buffers in accordance with the following:
 - (a) Riparian buffer widths, areas, and vegetation. Except as otherwise provided in these Special Contract Conditions, riparian buffers must be vegetated with protected existing vegetation and/or new planted vegetation established to become permanent over the entire buffer area in accordance with the following:
 - i. Widths and areas of riparian buffers. The widths and areas of vegetated riparian buffers are given below in the Schedule of Properties for Legal Protection of Riparian Buffers.

Schedule of Properties for Legal Protection of Riparian Buffers								
Tract No.	Property Owner	Parcel Identification Number (PIN)	Stream Right			Stream Left		
			Stream Frontage (LF)	Protected Buffer Width (feet)	Protected Buffer Area (acres)	Stream Frontage (LF)	Protected Buffer Width (feet)	Protected Buffer Area (acres)
1								
2								
3								
4								
5								
6								
7								

8								
9								
Totals								
Average protected buffer widths								

- ii. Woody vegetation along stream banks. Along restored streambanks and protected existing streambanks, native woody vegetation must be protected or established at a density such that vegetation will reach a survival rate of at least 320 trees per acre. Native woody vegetation must be protected or established from the top of each protected or restored streambank outward to widths of at least fifty (50) feet perpendicular to the streambank.
 - (b) Permanent legal protection of riparian buffers. Property on which vegetated riparian buffers are to be established must be protected permanently by legal instruments conforming to N.C.G.S. Chapter 121, Article 4, and N.C.G.S. Chapter 143B, Article 2, Part 41 “Conservation Agreements.” Real properties of the Project Site and corresponding land areas to be permanently protected are given in the Schedule of Properties for Legal Protection of Riparian Buffers.
 - (c) “Stream enhancement” means the process of implementing certain stream rehabilitation practices in order to improve water quality and/or ecological function. These practices typically are conducted on the streambank or in the flood prone area. An enhancement procedure may include fencing cattle out of a stream and reestablishing vegetation in order to provide streambank stability. These types of practices should be conducted only on a stream reach that is not experiencing severe aggradation or erosion. Enhancement also may include placing in-stream habitat structures, provided that the in-stream structures do not affect the overall dimension, pattern, or profile of a stream that is in dynamic equilibrium.
 - (d) “Stream restoration” means the process of converting an unstable, altered, or degraded stream corridor including adjacent riparian zone and flood prone areas, to its natural or referenced, stable conditions considering recent and future watershed conditions. This process also includes restoring the geomorphic dimension, pattern, and profile and biological and chemical integrity, including transport of water and sediment produced by the stream’s watershed in order to achieve dynamic equilibrium.
 - (e) “Stream stabilization” means the in-place stabilization of a severely eroding streambank. Stabilization techniques that include “soft” methods or natural materials (such as root wads, rock vanes, and vegetated crib walls) may be considered as part of a restoration design. However, stream stabilization techniques that rely heavily on “hard” engineering, such as concrete-lined channels, rip rap, or gabions, to stabilize streambanks will not be considered to be stream restoration or stream enhancement.
 - (f) “Nature-based flood detention” means the practice of using natural materials and/or engineered solutions to mimic natural processes or environments to temporarily store flood waters in order to reduce peak flood discharge volume and maximum flood elevations downstream.
11. The Grant Recipient shall engage the **[CONSERVATION AGREEMENT HOLDER NAME]** (“Conservation Agreement Holder”) to permanently restrict uses on each Property identified in the Schedule of Properties for Legal Protection of Riparian Buffers, as follows.
- (a) Properties owned by the Conservation Agreement Holder. Permanent property restrictions needed to implement the Project shall be in the form of recorded Declarations of Covenants of land-use restrictions that provide for the State of North Carolina to have rights of

enforcement of the Declarations of Covenants. Declarations of Covenants shall be substantially in a form of the document approved and signed as-to-form by the NCLWF. The Grant Recipient is responsible for accomplishing and completing the following for these properties:

- i. submit to the NCLWF a Letter of Intent from the Conservation Agreement Holder indicating its intent to enter into permanent land-use restrictions on Conservation Agreement Holder-owned properties identified in the Schedule of Properties for Legal Protection of Riparian Buffers to protect portions of properties needed to implement this Project. This letter shall describe the properties and the portions of the properties to be protected, shall state that the Conservation Agreement Holder intends to enter into permanent land-use restriction to protect land that is part of the Project Site, and shall be signed by the Conservation Agreement Holder. The NCLWF will approve the Grant Recipient's requests for payment of any costs only after receiving such a letter;
- ii. prepare and execute a Declaration of Covenants of land-use restrictions for each property and record each executed Declaration with the Register of Deeds in the County in which the Property is located; and
- iii. provide a copy of each recorded Declaration to the NCLWF. The NCLWF will approve the Grant Recipient's requests for payment of any costs for construction only after receiving all recorded Declarations.

(b) Properties not owned by the Conservation Agreement Holder. Permanent property restrictions needed to implement the Project shall be in the form of recorded permanent Conservation Easements that provide for the State of North Carolina to have third-party rights of enforcement of the permanent Conservation Easements. The Grant Recipient will accomplish and complete the following for these properties:

- i. engage the Conservation Agreement Holder to be the holder of Conservation Easements acquired for the Project and ensure that the Conservation Agreement Holder is prepared to monitor conditions on the land addressed in the Conservation Agreements at least annually, in perpetuity. The Grant Recipient shall provide to the NCLWF a letter from the Conservation Agreement Holder stating that it accepts this role and associated responsibilities. The NCLWF will approve the Grant Recipient's requests for payment of any costs only after receiving such a letter.

or, alternatively.....

- i. the Grant Recipient shall be the holder of Conservation Easements acquired for the Project and shall monitor conditions on the land addressed in the Conservation Easements at least annually, in perpetuity;
- ii. submit to the NCLWF a Letter of Intent from each property owner indicating each owner's intent to enter into a permanent Conservation Easement to protect portions of properties needed to implement this Project. Such letters shall describe the Property and the portions of the Property to be protected, shall state that the owner intends to enter into a permanent Conservation Easement to protect land that is part of the Project Site, and shall be signed by the property owner. The Grant Recipient shall submit the Letters of Intent to the NCLWF. The NCLWF will approve the Grant Recipient's requests for payment of any costs only after receiving such letters;

- iii. prepare and execute a deed of Conservation Easement for each Property and record each executed deed with the Register of Deeds in the County in which the Property is located; and
 - iv. provide a copy of each recorded deed of Conservation Easement to the NCLWF. The NCLWF will approve the Grant Recipient's requests for payment of any costs for construction only after receiving all recorded deeds of Conservation Easement.
- 12. The Grant Recipient shall secure applicable Federal and State permits before the start of construction and submit copies of the permits to the NCLWF. The Grant Recipient shall also be responsible for seeking Environmental Review from the North Carolina Historic Preservation Office Environmental Review Branch. The NCLWF shall approve requests for payment of the Grant Recipient's construction costs only after receiving copies of applicable Federal and State permits and review memos.
- 13. In accordance with Water Quality Certification No. 3885, before construction begins the Grant Recipient shall submit a Pre-Construction Notification (PCN) form and three (3) copies of the Project plans and specifications to the North Carolina Division of Water Resources (DWR) 401 Certification Program for review. The Grant Recipient shall name the NCLWF as the "agent" on the PCN form and shall send a copy of the PCN form to the NCLWF at the same time the form is sent to DWR.
- 14. In conducting this Project, the Grant Recipient shall employ principles for restoring streams that have been established by the DWR 401 Certification Program. The Grant Recipient shall work with staff of the DWR 401 Certification Program to provide a Project Design that, to the extent practicable, re-establishes the structure, function, and self-sustaining behavior of the Project reach of stream to those that existed before the stream reach was disturbed. The NCLWF will release funds for reimbursing the Grant Recipient for construction only after receiving a letter from the DWR 401 Certification Program stating that either: (a) the Project design is capable of restoring the stream reach, or (b) if, in the opinion of the DWR 401 Certification Program, restoration of the full stream reach is not practicable but the Project Design is capable of enhancing portions of the reach that cannot be restored. If DWR does not provide such a letter within thirty (30) days from receiving the PCN and Project Design (plans and specifications) from the Grant Recipient, the NCLWF will deem that the Design meets the requirements of the DWR 401 Water Quality Certification Program.
- 15. Other conditions special to this grant:

Project engineering designs and plans to be provided to the NCLWF at the conceptual design phase (30% to 60% complete).

(The remainder of this page is intentionally left blank)

EXHIBIT B
PROJECT BUDGET

Item	NCLWF Grant Funds ¹	Matching Funds ²	Total Item Budget
1. Design and Permitting	\$61,982	\$372,160	\$434,142
2. Property / Conservation Agreement Acquisition Costs	\$609,100	\$10,000	\$619,100
3. Construction (Including Observation and Contingency) ³	\$359,861	\$1,561,888	\$1,921,749
4. Monitoring, Data Collection, Data Evaluation, Analysis	\$15,000	\$0	\$15,000
5. Educational Materials / Signage	\$9,000	\$0	\$9,000
6. Stewardship and/or Maintenance	\$30,000	\$0	\$30,000
7. Project Administration	\$35,986	\$62,476	\$98,462
Total Project Budget	\$1,120,929	\$2,006,524	\$3,127,453
% of Total Project Budget	36%	64%	100%

Retainage: \$100,000

Retainage is the amount of grant funds the NCLWF will withhold from the Grant Recipient until the Grant Recipient has satisfactorily fulfilled the requirements for the final payment shown in the table in Exhibit C below, which typically includes a final report and a final field visit.

Notes:

¹To obtain payment, the Grant Recipient must submit itemized documentation substantiating direct costs incurred in implementing the Project.

²Matching funds are contributed by: NC DEQ (\$1,897,236), City of Hendersonville (\$109,288)

³Construction contingency funds allow the Project to cover unanticipated construction costs, often resulting from unexpected conditions encountered during construction. Construction contingency funds shall not be used for work that is not construction (e.g., design or construction administration) nor for construction that is not part of the Project scope of work (e.g., add-on work). Construction contingency funds may be disbursed only after the Grant Recipient has demonstrated to the NCLWF that it has expended 100 percent of funds in construction line items, 100 percent of local matching funds, and at least 90 percent of all other matching funds, including matching grant and/or loan funds.

⁴The value of a Conservation Easement (or other legal instrument acceptable to the NCLWF) must be determined with methods described in Exhibit F.

(The remainder of this page is intentionally left blank)

EXHIBIT C
PRE-DISBURSEMENT CHECKLIST

The following documents must be submitted to the NCLWF before any funds can be disbursed under this Grant Contract:

Requirement		Description/What to Submit
Submit before first request for payment		
1.	Matching funds ¹	Proof of availability of the matching funds which are included in the Project Budget. (*See note below.)
2.	Easements, Declarations of Covenants and/or landowner land use contracts	Letters of intent to sign a Conservation Agreement, or a copy of the recorded Conservation Agreement that has been accepted by the NCLWF from all property owners of parcels listed in Schedule of Properties for Legal Protection of Riparian Buffers in Exhibit A , and Letter from the holder of the Conservation Agreement, as identified in Exhibit A , stating that it accepts this role and its responsibilities.
3.	Documents in Exhibit A	Documents as identified in Exhibit A “Special Contract Conditions” (if any) as required prior to the release of Grant funds:
Submit before first request for construction payment		
4.	Easements, Declarations of Covenants and/or landowner land use contracts	Copies of recorded Conservation Agreement(s) for all properties in Schedule of Properties for Legal Protection of Riparian Buffers in Exhibit A . Each Easement and Declaration of Covenants is subject to review and acceptance by the Grant.
5.	Construction contract	A copy of the construction contract signed by the Grant Recipient and the construction company that will complete the Project work. Please note that there is a deadline to have a construction contract in place for this Project, listed on the first page of this document. If this deadline cannot be met, notice should be provided to the NCLWF as soon as possible so that an extension can be discussed.
6.	Construction permits	Provide a copy of each applicable Federal or State permit issued for construction, or written documentation from the appropriate State agency that construction of the Project does not require a Federal or State permit.
7.	Construction contract pricing information	Within thirty (30) days of executing a construction contract for the Project, submit construction contract pricing information consisting of at least a statement of the scope of the construction work, agreed-upon pricing for the construction work, and a total anticipated construction cost based on the pricing.
8.	Documents in Exhibit A	Documents as identified in Exhibit A “Special Contract Conditions” (if any) as required prior to the release of NCLWF funds: Project engineering designs and plans to be provided to the NCLWF at the conceptual design phase (30% to 60% complete).
Submit before or accompanying request for final payment		
9.	Grant contract final report	Project final report detailing Project deliverables and outputs, natural and/or cultural resource benefits achieved, and lessons learned during the Project.
10.	Final closeout site	Coordinate with the appropriate NCLWF Field Representative to perform a final

	visit	closeout site visit. A closeout visit will include walking the Project site and surveying any constructed work, plantings, and signage.
11.	Documents in Exhibit A	Documents as identified in Exhibit A “Special Contract Conditions” (if any) as required prior to the release of NCLWF funds:

¹Examples of proof of availability of matching funds include:

- (a) grants from other sources:
 - i. copy of grant agreement
 - ii. copy of grant award letter
- (b) local agency matching funds:
 - i. resolution of the governing board
 - ii. budget showing allocation of matching funds to the Project, accompanied by a certified copy of board meeting minutes approving the budget or by a certified copy of board meeting minutes authorizing use of local matching funds for the Project
 - iii. certified copy of board meeting minutes attesting to the use and amount of local funds for match
 - iv. letters from other sources of matching funds attesting to contribution of the funds
- (c) value of Conservation Easements to be donated:
 - i. current property’s or properties’ fair market tax valuations assessed by the County Tax Assessor’s Office, prorated to apply only to the areas of the permanent Conservation Easements to be recorded for this Project; or
 - ii. appraisals as described in Exhibit F.

(The remainder of this page is intentionally left blank)

EXHIBIT D
ASSURANCES FOR NON-FEDERALLY FUNDED CONTRACTS

Exhibit D only applies to nonprofits and does not apply to this Grant Contract.

EXHIBIT E

GENERAL TERMS AND CONDITIONS

(These General Terms and Conditions may be modified by Special Conditions in **Exhibit A**, which should be reviewed for possible modifications to these General Terms and Conditions.)

A. Affirmative Covenants

1. **Title.** If the property right to be acquired is fee simple absolute title, the Grant Recipient shall acquire good and marketable title free and clear of any liens, other charges, conditions or encumbrances that would materially affect the purposes of this Grant Contract.
2. **No Mitigation.** The Grant Recipient shall not use the Project or any portion thereof to satisfy compensatory mitigation requirements under 33 U.S.C. § 1344 or N.C.G.S. §143-214.11.
3. **No Open Space Requirements.** The Grant Recipient shall not use the Project or any portion thereof to satisfy open space or density requirements of any cluster or other development scheme or plan.
4. **Right of Entry and Inspections.** The NCLWF's representatives shall have the right to enter the Project area for inspection of the Project and to enter any other premises of the Grant Recipient associated with the activities of the Grant Recipient pursuant to the Grant, including to review books and records in any way related to the Grant or the Project.
5. **Use and Reliance on Documentation.** To the extent allowed by law, the Grant Recipient gives the NCLWF permission to use Grant documents and accompanying or related plans, specifications, estimates, procedures, maps and any other documents submitted to the NCLWF by the Grant Recipient after Award Date.
6. **Signage.** If the NCLWF's approval of this Project allows public access to and/or public education activities at the Project Site, the Grant Recipient shall post signs at the public areas such as, but not limited to, trailheads, parking areas, kiosks, and boat ramps. The signs shall be posted in number, location, and manner satisfactory to the NCLWF. Signs may be provided by the NCLWF or, if the Grant Recipient wishes to provide its own signs, the signs must acknowledge the NCLWF as a funding partner, conform to the NCLWF's sign guidance posted on its website, and be approved by the NCLWF.
7. **Publicity.** To the extent possible, the Grant Recipient will use its best efforts to appropriately publicize the Project's benefits to the general public, local government, and State representatives, including the role of the NCLWF in the funding and development of the Project.
8. **Conflicts of Interest.** In accordance with N.C.G.S §143C-6-23, every non-governmental Grant Recipient shall file with the NCLWF a copy of that Grant Recipient's policy addressing conflicts of interest that may arise involving the Grant Recipient's management employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the Grant Recipient's employees or members of its board or other governing body, from the Grant Recipient's disbursing of State funds, and shall include actions to be taken by the Grant Recipient or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. The policy shall be filed before the NCLWF may disburse the grant funds. The Grant Recipient shall at all times comply with the Grant Recipient's conflict of interest policy.

9. **Compliance with Laws and Legal Requirements.** The Grant Recipient agrees to perform and maintain the Project in compliance with all Federal, State, and local laws and regulations, including, without limitation, required permitting, environmental, zoning, historic preservation, and other land use laws, regulations, and requirements. The Grant Recipient agrees to take reasonable steps to advise Project participants that they shall comply in the same manner. The Grant Recipient shall comply with all legal requirements applicable to the use of the Grant funds. As of the Effective Date of this Grant Contract, the Project area, to the best of the Grant Recipient's knowledge:
- (a) contains no hazardous materials, substances, wastes or environmentally regulated substances (including, without limitation, any materials containing asbestos) located on, in, or under the Project area or used in connection therewith;
 - (b) contains no environmental condition that may prohibit or impede the purposes set forth in this Grant Contract; and
 - (c) will not contain such uses or conditions in the future.
10. **Insurance.** The Grant Recipient agrees to keep structures or improvements of any sort constituting the Project fully insured at all times during construction and to keep fully insured all building materials at any time located on the Project. The Grant Recipient will ensure that all contractors furnish adequate payment and performance bonds.
11. **No Pollution Credits.** If the Project enables the Grant Recipient to qualify for credits by reducing the discharge of phosphorus, nitrogen, or any other nutrient or pollutant below, or further below, applicable regulatory limits, or otherwise ("Pollution Credits"), the Grant Recipient shall not sell, trade, assign, transfer or give to another person or entity that percentage of any resulting Pollution Credits achieved by the Project corresponding to the percentage of the Project costs provided by the NCLWF.

B. Representations and Warranties

In order to induce the NCLWF to enter into this Grant Contract and to make the Grant as herein provided, the Grant Recipient, after reasonable inquiry, makes the following representations, warranties, and covenants, which shall remain in effect after the execution and delivery of this Grant Contract and the other Grant Documents, any inspection or examinations at any time made by or on behalf of the NCLWF, and the Acquisition by the Grant Recipient:

1. **No Actions.** There are no actions, suits, or proceedings pending, or, to the knowledge of the Grant Recipient, threatened against or affecting the Grant Recipient before any court, arbitrator, or governmental or administrative body or agency that might affect the Grant Recipient's ability to observe and perform its obligations under this Grant Contract.
2. **No Untrue Statements.** Neither this Grant Contract nor any information, certificate, statement, or other document furnished by the Grant Recipient in connection with the Grant contains any untrue statement of a material fact or omits disclosure of a material fact that affects the Project, any subsequent Conservation Agreement included in the Project, or the ability of the Grant Recipient to perform under this Grant Contract.
3. **Zoning.** The present and proposed use of the Project, including, without limitation, the purpose of the Conservation Agreement, is in compliance with all zoning ordinances, and all municipal and other governmental and regulatory approvals have been or will be obtained for the use and for operation of the Project according to this Grant Contract.

4. **Tax Exempt Status.** As applicable, the Grant Recipient shall maintain tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or any successor section), and the regulations promulgated thereunder and shall notify the NCLWF within thirty (30) days upon any change in its status under the Section 501(c)(3) of the Internal Revenue Code of 1986.

C. Termination; Events of Default

1. **Termination for Cause.** The happening of any of the following, if not cured within any applicable cure period, shall constitute an event of default (“Event(s) of Default”) by the Grant Recipient of its obligations to the NCLWF, and shall entitle the NCLWF to exercise all rights and remedies under this Grant Contract and as otherwise available at law or equity.
 - (a) **Project Area Unsuitable.** A determination by the NCLWF, prior to disbursement of funds, that the Project area is unsuitable for the purpose for which this Grant Contract is made.
 - (b) **Unsuitable Use.** The Project area is used in a manner materially inconsistent with the purposes of this Grant Contract or the Conservation Agreement contemplated herein.
 - (c) **Default in Performance.** Failure by the Grant Recipient in the observance or performance of any of the terms, conditions, covenants, or requirements of the Grant Contract, including, without limitation, a failure to satisfy any condition precedent to disbursement or reimbursement, provided, however, that the NCLWF shall provide written notice of the default to the Grant Recipient and allow a cure period of thirty (30) days after the date of receipt of written notice of default during which Grant Recipient shall be allowed to cure said default.
 - (d) **Misrepresentation.** If any representation or warranty made by the Grant Recipient in connection with the Grant or any information, certificate, statement, or report heretofore or hereafter made shall be untrue or misleading in any material respect at the time made.
 - (e) **Eligibility of the Grant Recipient.** If the Grant Recipient ceases to be eligible to receive Grant funds, is dissolved, or otherwise ceases to exist.
 - (f) **Failure to Monitor Conservation Easement.** If the Project includes the conveyance or assignment of a Conservation Easement to the State of North Carolina, and the Grant Recipient fails to notify the NCLWF of any potential violation of the Conservation Easement within a reasonable period of time so as to minimize, avert or cure any potential violation.
 - (g) **Abandonment of the Project.** If the Grant Recipient abandons or otherwise ceases to continue to make reasonable progress toward the completion of the Project.
 - (h) **Unacceptable Conflict of Interest Policy.** A determination by the NCLWF that the Grant Recipient’s Conflict of Interest policy insufficiently protects public monies.

2. **Termination by Mutual Consent.** The Parties may terminate this Grant Contract 1) by mutual written consent, or 2) with sixty (60) days prior written notice by the Party wishing to terminate, or 3) by the NCLWF with written notice to Grant Recipient reporting that an Event of Default by the Grant Recipient has occurred, or 4) as otherwise provided by law.

D. The NCLWF's Rights and Remedies

If an Event of Default shall occur, the NCLWF shall have all available legal and equitable rights and remedies as well as the following rights and remedies, all of which are exercisable at the NCLWF's sole discretion, and are cumulative, concurrent, and independent rights.

1. **Nonwaiver.** No delay, forbearance, waiver, or omission of the NCLWF to exercise any right, power, or remedy accruing upon any Event of Default shall exhaust or impair any such right, power, or remedy or shall be construed to waive any such Event of Default or to constitute acquiescence therein. Every right, power, and remedy given to the NCLWF may be exercised at any time and as often as may be deemed expedient by the NCLWF.
2. **Default Prior to Closing.** If an Event of Default occurs prior to Closing, the NCLWF may, at its discretion, suspend and/or terminate all obligations of the NCLWF hereunder and the Grant Recipient shall immediately refund all money previously paid to the Grant Recipient under this Grant Contract. If, in the judgment of the NCLWF, such failure was due to no fault of the Grant Recipient, amounts required to resolve, at minimum costs, any irrevocable obligations properly incurred by the Grant Recipient shall, in the discretion of the NCLWF, be eligible for reimbursement under this Grant Contract.
3. **Default Subsequent to Closing.**
 - (a) If an Event of Default occurs subsequent to Closing on the fee purchase of the Property, the NCLWF shall be entitled to elect either (1) to maintain and enforce its rights under the Grant Contract, in which case the NCLWF shall have no right to receive any reimbursement, refund, or repayment of any money paid to the Grant Recipient under this Grant Contract except for the repayment of costs improperly or mistakenly paid to Grant Recipient, or (2) to require Grant Recipient to refund to the NCLWF the amounts that the NCLWF has paid the Grant Recipient pursuant to the Grant Contract in which case upon receipt by the NCLWF of the refund, the NCLWF shall have no further rights to enforce the post-closing obligations of Grant Recipient.
 - (b) If an Event of Default occurs subsequent to the Closing and the Grant Recipient has received title to the Property, then the Grant Recipient shall convey and transfer to the State or designee all its underlying fee simple title to the Property, by general warranty deed, free and clear of any liens, charges, or encumbrances that would materially affect the use of the Property as set forth in the Conservation Agreement, in which case the NCLWF shall have no right to receive any reimbursement, refund, or repayment of any money paid to the Grant Recipient under this Grant Contract.
 - (c) If an Event of Default occurs subsequent to the Closing and the Grant Recipient holds the Conservation Agreement, the NCLWF and State may seek to obtain title to the Conservation Agreement in order to preserve or protect its interest in the Property, or the NCLWF may suspend and/or terminate all obligations of the NCLWF hereunder, and the Grant Recipient shall immediately return to the NCLWF all money previously paid to the Grant Recipient under this Grant Contract.

- (d) If an Event of Default occurs subsequent to Closing and a third party has received the Conservation Agreement, the NCLWF and the State may seek to obtain title to the Conservation Agreement in order to preserve or protect its interest in the Property, or the NCLWF may suspend and/or terminate all obligations of NCLWF hereunder, and the Grant Recipient shall immediately return to the NCLWF all money previously paid to the Grant Recipient under this Grant Contract.
2. **Project Termination.** If an Event of Default occurs, the NCLWF may, at its discretion, suspend and/or terminate all obligations of the NCLWF hereunder. If, in the judgment of the NCLWF, such failure was due to no fault of the Grant Recipient, amounts required to resolve, at minimum costs, any irrevocable obligations properly incurred by the Grant Recipient shall, in the discretion of the NCLWF, be eligible for assistance under this Grant Contract.
 3. **Additional Remedies.** If an Event of Default occurs, the NCLWF may take any action consistent with its statutory authority including: (a) prevent any impairment of the Project by any acts that may be unlawful or in violation of this Grant Contract or any other item or document required hereunder, (b) obtain title to or otherwise preserve or protect its interest in the Project and any property acquired with Grant funds, (c) compel specific performance of any of the Grant Recipient's obligations under this Grant Contract, (d) obtain return of all Grant Funds, including equipment if applicable and (e) seek damages from any appropriate person or entity. The NCLWF, or its designee, may also, at the NCLWF's sole discretion, continue to complete the Project, or any portion thereof deemed appropriate by the NCLWF, and the Grant Recipient shall cooperate in the completion of the Project. The NCLWF shall be under no obligation to complete the Project.

E. Miscellaneous

1. **Modification.** This Grant Contract may be rescinded, modified, or amended only by written agreement executed by all Parties. Any proposed modification of the Project shall be subject to approval by the NCLWF and, if applicable, the North Carolina Council of State. Only changes deemed non-material in type by the NCLWF's Executive Director may be made to the Grant Contract without the consent of the NCLWF's Board of Trustees.
2. **Benefit.** This Grant Contract is made and entered into for the sole protection and benefit of the NCLWF, the State, and the Grant Recipient, and their respective successors and assigns. Except for the State, there shall be no third-party beneficiaries to this Grant Contract.
3. **Further Assurance.** In connection with and after the payment of Grant funds under this Grant Contract, upon the reasonable request of the NCLWF, the Grant Recipient shall execute, acknowledge, and deliver or cause to be delivered all such further documents and assurances, and comply with any other requests as may be reasonably required by the NCLWF or otherwise appropriate to carry out and effectuate the Grant as contemplated by this Grant Contract and the purposes of the Conservation Agreement.
4. **Compliance by Others.** The Grant Recipient shall be responsible for compliance with the terms of this Grant Contract by any Sub-grant Recipient, including, but not limited to, a political subdivision, public agency, or eligible nonprofit corporation to which funds or obligations are transferred, delegated, or assigned pursuant to this Grant Contract. Delegation by the Grant Recipient to a Sub-grant Recipient of any duty or obligation hereunder does not relieve the Grant Recipient of any duty or obligation created hereunder. Failure by such Sub-grant Recipient to comply with the terms of this Grant Contract shall be deemed failure by the Grant Recipient to comply with the terms of this Grant Contract. Any such delegation of duties or obligations shall be in writing, signed by the Grant Recipient and the Sub-grant Recipient, shall

be in accordance with Paragraph 7 of this Exhibit E, and shall contain an affirmative covenant by the Sub-grant Recipient that it shall abide by the rules set forth in Title 09, Subchapter 03M of the N.C.A.C.

5. **Independent Status of the Parties.** The Parties are independent entities, and this Grant Contract shall not create a partnership or joint venture between the Parties. Further, the Grant Contract shall not in any way be interpreted or construed as making the Grant Recipient, its agents, or employees, to be agents or representatives of the NCLWF. The Grant Recipient is and shall remain an independent contractor in the performance of this Grant Contract and as such shall be wholly responsible for the work to be performed and for the supervision of its agents and employees. In no event shall the NCLWF be liable for debts or claims accruing or arising against the Grant Recipient. The Grant Recipient represents that it has secured, or shall secure at its own expense, all personnel required in the performance of this Grant Contract. Such employees shall not be employees of, nor have any individual contractual relationship with, the NCLWF.
6. **Clean Water Management Trust Fund.** Pursuant to N.C.G.S. §143B-135.234(a), the NCLWF is also known as the Clean Water Management Trust Fund.
7. **Binding Effect, Contract Assignable.** The terms hereof shall be binding upon and inure to the benefit of the successors, assigns, and personal representatives of the Parties, provided, however, that the Grant Recipient may not assign this Grant Contract or any of its rights, interests, duties, or obligations hereunder or any Grant proceeds or other moneys to be advanced hereunder in whole or in part without the prior written consent of the NCLWF, which may be withheld for any reason and any such assignment (whether voluntary or by operation of law) without said consent shall be void. In the event assignment is allowed, neither the Grant Recipient nor the Sub-grant Recipient shall be relieved of any of the duties and responsibilities of the Grant Contract. Further, the Sub-grant Recipient shall agree to abide by the all the requirements of this Grant Contract, and to provide all information needed in order for the Grant Recipient to comply with this Grant Contract.
8. **Indemnity.** The Grant Recipient agrees, to the fullest extent permitted by law, to release, protect, indemnify, and hold harmless the State, the NCLWF, its Trustees, employees, agents, and assigns against any and all claims, losses, liabilities, damages, and costs, including reasonable attorney fees, that result from or arise out of (a) damages or injuries to persons or property caused by the negligent acts or omissions of the Grant Recipient, its employees, or agents in use or management of the Property; (b) use or presence of any hazardous substance, waste, or other regulated material in, under, or on the Property; or (c) the performance of the Grant Recipient's duties under this Grant Contract. The obligations under this Section are independent of all other rights or obligations set forth herein. This indemnity shall survive the disbursement of the Grant funds, as well as any termination of this Grant Contract.
9. **Due Diligence, Reasonable Care, Other Obligations.** The Grant Recipient agrees (a) that it shall use due diligence and reasonable care, and shall require its employees, contactors, and agents to use due diligence and reasonable care, to avoid acts or omissions that cause damages or injuries to persons or property related to the use, operation, maintenance, or management of the Project area and (b) that it shall be responsible for the use or presence of any hazardous substance, waste, or other regulated material in, under, or on the Project area, and that the NCLWF has not undertaken any responsibility for these things. The obligations under this Section are independent of all other rights or obligations set forth herein and shall survive the disbursement of the Grant funds, as well as any termination of this Grant Contract.

10. **No Discrimination.** The Grant Recipient shall ensure that no person will be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity covered by this Grant Contract solely on the grounds of race, color, age, religion, sex, national origin, sexual orientation, gender identity, or disability.
11. **Governing Law, Construction and Jurisdiction.** This Grant Contract and all matters relating thereto shall be governed by and construed and interpreted in accordance with the laws of the State of North Carolina, notwithstanding the principles of conflicts of law. The headings and section numbers contained herein are for reference purposes only and shall not modify, define, limit, or expand the express provisions of this Grant Contract. The terms of this Grant Contract shall be construed according to their plain meaning, and not strictly construed for or against either Party hereto. The Grant Recipient hereby submits to the jurisdiction of the State and Federal courts located in North Carolina and agrees that the NCLWF may, at its option, enforce its rights under the Grant Contract in such courts.
12. **Savings Clause.** Invalidation of any one or more of the provisions of this Grant Contract, or portion thereof, shall in no way affect any of the other provisions hereof and portions thereof which shall remain in full force and effect.
13. **Additional Remedies.** Except as otherwise specifically set forth herein, the rights and remedies provided hereunder shall be in addition to, and not in lieu of, all other rights and remedies available in connection with this Grant Contract.
14. **Survival.** Where any representations, warranties, covenants, indemnities, or other provisions contained in this Grant Contract and/or any of the Grant Documents, by its context or otherwise, evidence the intent of the Parties that such provisions should survive the Closing, completion, expiration or termination of this Grant Contract, the provisions shall survive the Closing or any such termination. Without limiting the generality of the foregoing, the Parties specifically acknowledge and agree that the provisions of this **Exhibit E** and the conditions shown in **Exhibit A** shall survive any termination of this Grant Contract as well as any Closing.
15. **Time of the Essence.** Time is of the essence in the performance of this Grant Contract.

(The remainder of this page is intentionally left blank)

EXHIBIT F

PRE-CLOSING CHECKLIST

Funds for Acquisition of the Property or Conservation Agreement will not be released until Pre-Closing documents have been reviewed and the Grant Recipient has received a written authorization to Close from the NCLWF Restoration Program Manager. A final Closing date should not be set until the written authorization to Close has been sent to the Grant Recipient.

The documents described below must be submitted for approval and in compliance with Pre-Closing document guidelines available on the NCLWF website. The Grant Recipient takes responsibility for this compliance by reviewing all documents provided by vendors prior to submission to the NCLWF.

1. **Appraisal.** A minimum of one (1) appraisal is required to determine the fair market value of all real property interests being acquired. Two (2) appraisals are required when the value of a real property interest, irrespective of any bargain sale, exceeds or is expected to exceed \$500,000.

Appraisals must meet all of the following criteria:

- Appraisals must be performed by a North Carolina general certified appraiser;
- Appraisals must be summary appraisals in narrative form in accordance with Uniform Standards of Professional Appraisal Practice;
- Appraisals must include permission for use by the State of North Carolina for the NCLWF;
- Appraisals should reflect the market value of the Property or Conservation Agreement at the time of purchase by the Grant Recipient;
- Appraisals of a Conservation Agreement should reflect the “before and after” approach, indicating the value before and after the Conservation Agreement will be recorded on the Property; and
- Property valuations are determined by the State Property Office using submitted appraisals. Acquisition reimbursements are dependent on the receipt of the State Property Office appraisal review memo.

2. **Conservation Agreement(s).** All Conservation Agreement(s) set out in **Exhibit A** shall convey such rights and establish such restrictions on the use of the Property as may be deemed suitable by the NCLWF. Standard templates for Restoration Program Conservation Agreements are available on the NCLWF website. The Grant Recipient is responsible for downloading the template from the NCLWF website for each new draft of a State-held Conservation Agreement. Any changes to the standard template for the State-held Conservation Agreements must be submitted in Word format as redline edits.

3. **General Warranty Deed to Grant Recipient (Fee Simple Acquisitions).** The description of the General Warranty Deed to the Grant Recipient must be either metes and bounds or refer to a recorded plat. The General Warranty Deed must indicate that the Grant Recipient will own and possess fee simple title to the Property, free and clear of any liens, charges, or encumbrances that would materially affect the use of the Property as set forth in the Grant Contract. Special Warranty Deeds may be used to convey title to the Property at the discretion of the NCLWF.

4. **Title Insurance.**

(a) For Fee Simple Acquisitions: The Title Commitment and draft Title Policy must consist of a standard commitment on the form required by the American Land Title Association to issue a title insurance policy and show that title to the Property is vested in fee in the owner of the Property. All

instruments referred to in the Title Commitment must be submitted for the NCLWF review. Per the requirements set forth in the NCLWF Contract Administration Manual, available on the NCLWF website, the Title Commitment and draft Title Policy insuring the State's interest shall:

- list the insured as “The State of North Carolina”;
- afford coverage to the State for the portion of the Grant used to purchase the Property;
- provide affirmative coverage for access over, upon, and across the Property to and from the Conservation Agreement area, and from the Property to a publicly maintained road;
- include issuance of a Closing Protection Letter to the NCLWF pursuant to N.C.G.S. Chapter 58, Article 26 when State funds will be temporarily stored in the closing attorney's trust account;
- not contain exceptions as to matters of survey or for the Conservation Agreement that is being insured; and
- indicate whether the Property is subject to any liens or defects.

(b) For Conservation Agreement-Only Acquisitions: The Title Commitment and draft Title Policy must consist of a standard commitment on the form required by the American Land Title Association to issue a title insurance policy and show that title to the Property is vested in fee in the owner of the Property and insure the Conservation Agreement interest. Per the requirements set forth in the NCLWF Contract Administration Manual, available on the NCLWF website, the Title Commitment and draft Title Policy insuring the State's interest shall:

- list the insured as “The State of North Carolina”;
- afford coverage to the State for the portion of the Grant used to purchase the Conservation Agreement;
- provide affirmative coverage for access over, upon, and across the Property, to and from the Conservation Agreement area, and from the Property to a publicly maintained road;
- include issuance of a Closing Protection Letter to the NCLWF pursuant to N.C.G.S. Chapter 58, Article 26 when State funds will be temporarily stored in the closing attorney's trust account;
- must not contain exceptions as to matters of survey or for the Conservation Agreement that is being insured;
- and indicate whether the Conservation Agreement area is subject to any liens or defects.

5. **Survey Plat.** A recent survey of the Property and/or the Conservation Agreement is required, and the plat must meet the requirements set forth in the NCLWF Contract Administration Manual, available on the NCLWF website.

6. **Phase I Environmental Site Assessment (optional).** The Phase I Environmental Site Assessment (“ESA”) shall conform to the requirements of the latest version of American Society for Testing and Materials (“ASTM”) Standard E-1527. The NCLWF reserves the right to require the Grant Recipient to remedy any concerns prior to or subsequent to Closing. The NCLWF must be included as an authorized user of the ESA.

7. **Baseline Documentation Report (if necessary for future monitoring).** Whether a Baseline Documentation Report is required will be the sole decision of the NCLWF and based on an evaluation of the Project's management and monitoring requirements. The baseline documentation report should be in the format set forth in the NCLWF Contract Administration Manual, available on the NCLWF website.

8. **Settlement Statement.** The Acquisition purchase price must be equal to or less than the State Property Office appraised value(s). Settlement costs may be included on the Settlement Statement for reimbursement from the NCLWF.

9. **Agreements With Other Funders.** The Grant Recipient shall provide the NCLWF with a copy of all agreements with other funders providing assistance for the Project so that the NCLWF is able to ensure that the transaction complies with any requirements imposed by virtue of the other funder's involvement. The NCLWF may, at its sole discretion, require the Grant Recipient to provide the NCLWF with explicit authorization or consent to record any Conservation Agreement from any other funders.

(The remainder of this page is intentionally left blank)

EXHIBIT G
POST-CLOSING CHECKLIST

Within forty-five (45) business days of Closing, the following documents must be submitted to the NCLWF according to instructions provided on the NCLWF website. All documents should be submitted in digital form unless otherwise specifically directed below.

1. Title Policy. The original Title Policy must be furnished to the NCLWF along with the other post-closing documents in its original paper form as well as the digital format. The NCLWF Project number must be included on the cover page.
2. Boundaries of the NCLWF Conservation Agreement area(s) - ArcGIS shapefile and .dwg format.
3. All recorded documents, including but not limited to recorded Survey Plat, General Warranty Deed, Conservation Agreements, Assignments, and Notices. All Conservation Agreements conveyed or assigned to the State must be furnished in its original paper form as well as the digital format.
4. Fully executed Settlement Statement.
5. Final Project Report.



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

SUBMITTER:

Jennifer Harrell

MEETING DATE:

August 9,2023

AGENDA SECTION:

PRESENTATION

DEPARTMENT:

Human Resources

TITLE OF ITEM:

Recognition of Jessica Pomerleau, Recruitment & Retention Officer for obtaining the Society for Human Resources- CP Certification – *Jennifer Harrell, HR Director*

SUGGESTED MOTION(S):

None

SUMMARY:

Jessica Pomerleau recently passed the examination obtaining the Society for Human Resources - Certified Professional (SHRM-CP) Certification. The exam is very difficult, having a 65% pass rate.

The SHRM certification is one of the most highly recognized international Human Resources certifications that may be obtained and is recognized and valued in all industries. To become SHRM-certified, one must demonstrate not only an understanding of contemporary theoretical knowledge, but also the ability to translate this knowledge into proper action in the workplace.

Jessica has 10 years in the Human Resources field and is a great asset to the City.

BUDGET IMPACT: \$0.00

Is this expenditure approved in the current fiscal year budget?

If no, describe how it will be funded.

ATTACHMENTS:



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER:	Lu Ann Welter	MEETING DATE: August 9, 2023
AGENDA SECTION:	Presentation Only	DEPARTMENT: Human Resources
TITLE OF ITEM, Presenter Name, Title:	Quarterly MVP Recipients – <i>John Connet, City Manager</i>	
<u>SUGGESTED MOTION(S):</u>	None	

SUMMARY:

The Service Excellence Design Team voted these employees as the MVPs for the April through June quarter of 2023.

BUDGET IMPACT: \$

Is this expenditure approved in the current fiscal year budget? No

If no, describe how it will be funded.

PROJECT NUMBER: N/A

PETITION NUMBER: N/A

ADDITIONAL PETITION NUMBER: N/A

PETITIONER NAME: N/A

ATTACHMENTS:

PowerPoint Presentation



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Tyler Morrow **MEETING DATE:** August 9th 2023

AGENDA SECTION: Public Hearing **DEPARTMENT:** Community Development

TITLE OF ITEM: Street Closure: Order to Close- Unnamed 20' alley (between City Hall and N. Edwards Street) (C23-44-SCL)– *Tyler Morrow, Planner II*

SUGGESTED MOTION(S):

SUMMARY: The petition to close this unnamed 20' alley has been withdrawn. City Council will simply open and close the public hearing.

Ad Preview

Resolution #R-23-73
RESOLUTION OF INTENT
TO CLOSE AN UNNAMED
20' ALLEY (BETWEEN
CITY HALL AND N.
EDWARDS STREET)
WHEREAS, NC General
Statute (G.S.) 160A-299
authorizes the City Council to
close public streets and
alleys; and
WHEREAS, John Connet,
City Manager of the City of
Hendersonville has peti-
tioned the City of
Hendersonville City Council
to close an unnamed 20' alley
(between City Hall and N.
Edwards
Street), located between
PINs 9568-88-0780, 9568-88-
1652, 9568-88-0650 and 9568-88-
0670; and
WHEREAS, NC General
Statute 160A-299 requires
that City Council conduct a
public hearing for the
purpose of giving considera-
tion to the petition; and
WHEREAS, At the public
hearing, any person may be
heard on the question of
whether or not the closing
would be detrimental to the
public interest, or the prop-
erty rights of any individual;
and
Now THEREFORE, BE IT
RESOLVED by the City
Council of the City of
Hendersonville, North
Carolina that:
1. City Council herewith calls
a public hearing to be held at
5:45 p.m. (or as soon there-
after as it may be heard) on
the 9th day of August 2023, in
the Assembly Room of the
City Operations Center to
consider closing on unnamed
20' alley (between City Hall
and N. Edwards Street)
located between PINs 9568-
88-0780, 9568-88-1652, 9568-88-
0650 and 9568-88-0670.
Persons shall be allowed to
attend and comment in
person or via Zoom at the
following address:
<https://zoom.us/join>
Dial-In by phone: (646) 558-
8656
Meeting ID: 822 0104 2528
Passcode: 1847
Digital public hearing
comments may be submitted
prior to the public hearing on
the City's webpage of
[www.hendersonvillenc.gov/p-
ublic-comment](http://www.hendersonvillenc.gov/public-comment) or directly to
the City Clerk, Jill Murray,
jmurray@hvinc.gov, 160 6th
Avenue East, Henderson-
ville, NC 28792.
2. The legal description for
the unnamed 20' alley
proposed for closing is as
follows:
Lying and being in the City
of Hendersonville, Henderson
County, North Carolina, and
consisting of the following:
Being a portion of a 20' Alley
adjacent to the southernmost
line of that parcel identified
as Parcel B1 on that plat
recorded in Plat Book 2023 of
page 14832 of the Henderson
County registry;
And being that real property
having the following metes
and bounds description:
BEGINNING at a point
being the northwestern most
corner of that parcel shown
as Parcel C on that plat
recorded in Plat Book 2023 of
Page 14832 of the Henderson
County registry ("Parcel
C"), said beginning point
being located N 44 0 25' 31" *
E a grid distance of 894.30'
and N 08 0 37' 31" W 100.39'
and S 81 0 42' 21" * W 132.35'
from that NCGS monument
bearing the title "POST
OFFICE", having N.C. GRID
NAD83 (2011) coordinates of:
E: 967,676.31' (by static
GNSS observation), and
proceeding from said begin-
ning point the following
courses and distances: S 81 0
42' 22" W a distance of 50.45'
to a point, said point being in
the easternmost margin of
Edward Street and being
also the northwestern most
corner of the Michaelian
Home, Inc. property
described in Deed Book 1110
of page 193, Henderson
County registry, and thence
proceeding along with the
eastern margin of Edwards
Street N 08 0 18' 31" W a
distance of 20' to the south-
western most corner of that
parcel identified as Parcel B1
on that plat recorded in Plat
Book 2023 of page 14832 of
the Henderson County
registry ("Parcel B1"),
thence proceeding with the
southernmost boundary of
Parcel B1 N 81 0 42' 21" * E a
distance of 50.64' to the
southeasternmost corner of
Parcel B1, thence leaving
the boundary of Parcel B1
and proceeding S 07 0 45' 55"
E a distance of 20' to the
point and place of beginning.
3. The City Clerk is hereby
directed to publish this Reso-
lution of Intent once a week
for four successive weeks.
4. The City Clerk is further
directed to transmit by regis-
tered or certified mail to
each owner of property abut-
ting upon that portion of said
street a copy of the Resolu-
tion of Intent.
5. The City Clerk is further
directed to cause adequate
notices of the Resolution of
Intent and the scheduled
public hearing to be promi-
nently posted in at least two
along the unnamed 20' alley
proposed for closure as
required by G.S. 160A-299.
6. The City Council herewith
declares its intent to close
the street as described
above.
Adopted by the City Council
of the City of Hendersonville,
North Carolina on this 6th
day of July, 2023.
Attest:
Barbara G. Volk, Mayor,
City of Hendersonville
Jill Murray, City Clerk
Angela S. Beeker, City Attor-
ney
7/16 7/23 7/30 8/6 2023 9047281



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Brian Pahle, Assistant City Manager

MEETING DATE: August 9, 2023

AGENDA SECTION: New Business

DEPARTMENT: Administration

TITLE OF ITEM: Parking Changes – *Brian Pahle, Assistant City Manager*

SUGGESTED MOTION(S):

I move to adopt *An Ordinance of the City of Hendersonville City Council to Amend Section 8 of the Fiscal Year 2023-24 Budget Ordinance to Amend the Fee Schedule for Parking Services Fees and Rates* as presented.

SUMMARY:

An agenda item to adopt amendments to the City's fee schedule related to the new parking services system. A clarifying update for additional changes needed due to the parking ordinance revision.

BUDGET IMPACT: TBD

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

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

ATTACHMENTS:

Ordinance

Ordinance # ____ - ____

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND
SECTION 8 OF THE FISCAL YEAR 2023-24 BUDGET ORDINANCE TO AMEND THE FEE
SCHEDULE FOR PARKING SERVICES FEES AND RATES**

SECTION 8: That there is hereby adopted an official Fee Schedule listing specific fees, licenses, and utility rates charged by the City of Hendersonville for the use of City facilities and equipment for the purposes of making them available to public, utility rates the proceeds of which are for the maintenance and expansion utility systems, the reproduction of public records and other miscellaneous services to cover the actual cost of producing these documents and information under the provision of NCGS 132-6.2 and other various fees associated with enhanced direct services provided by the City. The Fee Schedule is incorporated herein by reference and shall be placed on in the office of the City Clerk.

WHEREAS, changes are recommended as a result of business and stakeholder input regarding the new parking system.

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

1. Section 8 of the Fiscal Year 2023-24 Budget Ordinance for the City of Hendersonville shall be amended, effective August 10th, 2023, to revise the Fee Schedule as follows:

Parking Fees, Fines & Penalties:		<u>Purposed</u>
All Other Parking Violations C.O. 50	\$50.00	<u>\$25.00</u>
Construction parking permit (per day)	\$15.00	
Crosswalk	\$50.00	<u>\$25.00</u>
Fire Lane	\$100.00	
Fire Hydrant	\$100.00	
Habitual Offender (3 Tickets or more in 30 days)	\$100.00	
Handicapped	\$250.00	
Loading Zone/15 minute parking	\$50.00	<u>\$25.00</u>
Lost Ticket Fee (Parking Deck)	\$20.00	
Lost/Replacement/2nd Parking Deck Puck	\$25.00	
Monthly Parking Space - Deck Permit	\$80.00	
Monthly Parking Space - Interior Lot Permit	\$60.00	
Monthly Parking Space - Exterior Lot Permit	\$25.00	
<u>Special Event Rate</u>	<u>\$10 per session</u>	
Overtime/Expired meter	\$50.00	<u>\$25.00</u>
Parking Meter (per 1/2 hour)	\$0.50	
Parking Meter - Surface Lots and Decks (per hour)	\$1.50 (\$10 max per parking session)	
<u>Parking Meter - Surface Lots and Decks</u>	<u>\$0.75 per 30-minutes (\$10 max per session)</u>	
Parking Meter - Main St. and Avenues (per hour)	\$2.00	
<u>Parking Meter - Main St. and Avenues</u>	<u>\$0.50 per 15-minutes (5-hour maximum)</u>	
Penalty after 15 days	-	
Penalty after 30 days additional	\$100.00	<u>\$50.00</u>
<u>Penalty after 60 days additional</u>	<u>\$100.00</u>	

Adopted by the City Council of the City of Hendersonville, North Carolina on this 9th day of August 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Angela Beeker, City Attorney **MEETING DATE:** August 9, 2023

AGENDA SECTION: New Business **DEPARTMENT:** Legal

TITLE OF ITEM: Parking Ordinance Amendments – *Angela Beeker, City Attorney*

SUGGESTED MOTION(S):

I move to adopt *An Ordinance to Amend Chapter 50, Traffic, Article V Stopping, Standing and Parking, of the City Of Hendersonville Code of Ordinances and to Amend the Official City Parking Map* as presented.

SUMMARY:

Attached for City Council’s consideration are proposed amendments to Chapter 50 of the Hendersonville Code of Ordinances, the Parking Ordinance provisions. These changes will do the following:

1. Clarify that up to three license plates may be assigned to a City monthly parking permit.
2. Clarify that of the three license plates assigned to a City monthly parking permit, only one vehicle may be parked in the permitted parking facilities at any given time.
3. Allowing the City Manager to invoke the flat rate parking fee contained within the City’s fee schedule for special events, holidays, or any other time where needed due to traffic, overcrowding or other public safety concerns.
4. Change the increments for billing for paid parking to 15 minute for on-street paid parking, and 30 minutes for surface lots and the parking deck.
5. Removing the 30-minute time limit for previously limited parking spaces on Main Street by approving the amended Official Parking Map, included in this agenda packet.
6. Making it a misdemeanor and adopting a \$500.00 civil penalty for persons climbing or sitting on the walls of the parking deck.

BUDGET IMPACT: TBD

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

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

ATTACHMENTS:

Ordinance

Amended Official Parking Map

Ordinance #O-23-_____

AN ORDINANCE TO AMEND CHAPTER 50, TRAFFIC, ARTICLE V STOPPING, STANDING AND PARKING, OF THE CITY OF HENDERSONVILLE CODE OF ORDINANCES AND TO AMEND THE OFFICIAL CITY PARKING MAP

WHEREAS, the City of Hendersonville is implementing new parking measures within the City; and

WHEREAS, the City Council finds that the public convenience and necessity mandates that these new parking measures be implemented; and

WHEREAS, on March 2, 2023, City Council adopted amendments to CHAPTER 50, TRAFFIC, ARTICLE IV TRAFFIC CONTROL DEVICES, AND ARTICLE V STOPPING, STANDING AND PARKING, OF THE CITY OF HENDERSONVILLE CODE OF ORDINANCES to implement the new parking measures; and

WHEREAS, City Council now desires to make some additional amendments Chapter 50, Article V and to the Official City Parking Map,

IT IS THEREFORE ORDAINED by the City Council for the City of Hendersonville, North Carolina, as follows:

1. CHAPTER 50, TRAFFIC, ARTICLE V STOPPING, STANDING AND PARKING, OF THE CITY OF HENDERSONVILLE CODE OF ORDINANCES is amended as follows:

Sec. 50-235. Prohibited in specified places.

No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device in any of the following prohibited places. In addition to issuing a parking citation to the violator, any person enforcing this Article shall be authorized to cause any vehicle parked in any of the following prohibited places to be towed:

- (1) On a sidewalk.
- (2) Within an intersection, or within 20 feet thereof.
- (3) On a crosswalk.
- (4) Within 30 feet of any flashing beacon, stop sign, or traffic control signal located at the side of a street or roadway.
- (5) No vehicle shall park on either side of any street approaching a railroad underpass or overhead bridge within 50 feet in any direction of the outer edge of such underpass or overhead bridge.
- (6) No vehicle shall park on either side of any street approaching a grade crossing within 50 feet of the closest rail; provided, however, that where existing permanent structures are located along the street and closer than 50 feet, parking may be permitted in front of such structures, unless otherwise prohibited, if the parking does not interfere with the view in either direction of an approaching locomotive or train.
- (7) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
- (8) Upon any bridge or other elevated structure or within any underpass structure.

- (9) Within 15 feet in either direction of the entrance to a hotel, theater, hospital, sanitarium or any other public building, where the street is so marked.
- (10) On the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street.
- (11) Within ten feet of any fire hydrant, or in a fire lane, including public vehicular areas as defined by .
- (12) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly signposted.
- (13) At any place where signs prohibit parking.
- (14) In any space designated as a passenger or freight loading zone except as allowed by sec. 50-259.
- (15) In front of, or in any manner, so as to block a driveway, in whole or in part.
- (16) Parking a vehicle of a different type than specified for a parking space, where a space is reserved for a certain type of vehicle. As an example, parking a non-electric vehicle in an electric-vehicles only space is prohibited. As another example, parking a non-law enforcement vehicle in a space reserved for law-enforcement is prohibited.
- (17) Parking a vehicle in a parking space, lot or zone reserved for vehicles having a particular permit with out having the required permit.
- (18) The simultaneous parking of 2 or more vehicles assigned to the same parking permit within the parking facilities authorized by the parking permit. As an example, if Car A and Car B are assigned to the same parking permit for the interior surface lot paid parking zone, either Car A or Car B may be parked in an interior surface lot at any given time, but not both at the same time.

(Code 1971, § 31-169)

* * *

DIVISION 2. PARKING METERS AND PAY-FOR-PARKING KIOSKS

Sec. 50-285. Use of meters, kiosks and spaces in paid and metered parking zones.

- (a) When a vehicle shall be parked in any space in a paid or metered parking zone during regulated parking hours, the operator of such vehicle shall immediately upon entering the parking space check in as required by sec. 50-317(g)(1). The operator shall also immediately deposit or cause to be deposited the appropriate designated coin or pay at a meter, kiosk or through the mobile parking app designated by the City for the acceptance of meter fees and payments to activate the meter or pay for the parking at the established rate if the vehicle will remain parked beyond the applicable grace period granted by sec. 50-317.
- (b) It shall be unlawful for any person to deposit or cause to be deposited additional coins or make additional payments for the purpose of extending the parking session for the same vehicle beyond the time limits established for the metered or paid parking zone if such time limits have been established pursuant to sec. 50-281.
- (c) It shall be lawful for city employees and officials, while in the immediate discharge of the responsibilities of their employment by the city, to park and place motor vehicles belonging to the city, appropriately marked or otherwise identified, in any space in a paid or metered parking zone, either in a facility of on-street or off-street parking, without complying with the requirements of this division, and no citation or summons shall be issued by any police officer for any such noncompliance.
- (d) It shall be lawful for the city manager, in his discretion, and from time to time, to hood, or otherwise obscure so as to render the same inoperative, meters or kiosks for the purpose of providing unlimited parking privileges to the general public during City sponsored events or on holidays during

which City offices are closed; provided, however, that such obscuring device shall be plainly marked in a manner sufficient to indicate its official origin and purpose.

(e) The City Manager shall have the authority to invoke, for any parking facility, the flat rate for parking contained with the City's adopted fee schedule for special events, holidays, or where in the Manager's discretion a flat rate is warranted in the management of one or more City parking facilities due to traffic, overcrowding, or other public safety concerns.

* * *

DIVISION 3. MUNICIPAL PARKING FACILITIES; PARKING ZONES

Sec. 50-317. Parking zones regulations.

All parking facilities within a parking zone will be open for parking either by permit holders or the general public, or both, 24 hours per day, 7 days per week, in accordance with this section 50-317, except during such times when a parking facility is closed or reserved pursuant to subsection 50-181(d).

- (a) On-street metered parking zones. The City may elect to have a pay-for-parking kiosk serve as the parking meter for on-street metered parking zones. In such event, all parking meter fees established shall be paid using the parking kiosk or parking app made available by the City.
 - (1) During regulated parking hours, all owners or operators parking a vehicle in a parking space for a parking session in an on-street metered parking zone that is more than 30 minutes will be required to pay the parking meter fee at the rate established by the Hendersonville City Council as part of its fee schedule for the entire parking session. As an example, if a parking session is 25 consecutive minutes in the on-street metered parking zone, no parking meter fee will be owed. If, however, a parking session is 45 minutes, a parking meter fee will be owed for the entire 45 minute parking session.
 - (2) During regulated parking hours, there shall be a limit of one free 30-minute parking session per vehicle per 5 hours in an on-street metered parking zone. As an example, if a car is parked in an on-street metered parking zone at 10:00 a.m. for 15 minutes, there will be no meter fee owed for that park. If however the same car is parked in the same on street metered parking zone at 1:00 pm for 20 minutes, a meter fee is owed for the 20 minute parking session because it is occurring within 5 hours of the first parking session in the same on-street metered parking zone.
 - (3) During regulated parking hours, each parking session in the on-street metered parking zone shall be limited to no more than 5 consecutive hours. Additionally, only one 5-hour parking session shall be allowed per vehicle per day during regulated parking hours. As an example, a vehicle could park in the on-street metered parking zone from 9am – 2pm (5 consecutive hours), and then park again from 3pm-5pm; however the same vehicle could not park again from 3pm-8pm because only one 5-hour parking session is permitted per vehicle per day during regulated hours.
 - (4) The meter fee for parking within the on-street metered parking zone shall be applied on a parking zone basis. This means that during regulated parking hours, movement of a vehicle from one space to another within a paid parking session in said metered parking zone shall not require a separate check in or separate payment. As an example, if an operator pays the meter fee for a 4-hour parking session in the on street metered parking zone, they may move their car from one space to another within the on street metered parking zone during the 4-hour paid parking session without further payment of meter fees and without having to check in again.
 - (5) Parking sessions in the on-street metered parking zone must be at least 30 minutes apart. As an example, if a parking session in the on-street metered parking zone is from 10:00 am – 12:00 pm, a new parking session would not be allowed until 12:30 p.m., 30 minutes later than the first parking session.
- (b) Interior or exterior surface lot paid parking zones.

- (1) Permits may be issued for interior or exterior surface lot paid parking zones. The cost for such permit shall be as provided in the City's duly adopted fee schedule. Persons having a valid interior or exterior surface lot permit shall be permitted to park a permitted vehicle in any lot in the same paid parking zone at any time with no time limit per park and no requirement for checking in at a parking kiosk.
 - (2) Permit only parking. City Council may establish permit-only lots in the interior or exterior lot paid parking zones.
 - i. Interior surface lot paid parking zone. If a permit only parking zone is established in an interior surface lot paid parking zone, parking shall be by the appropriate permit only, twenty-four (24) hours per day, seven (7) days per week. There shall be no time limit per park, and no requirement for checking in at a parking kiosk for vehicles with a valid parking permit.
 - ii. Exterior surface lot paid parking zone. If a permit only parking zone is established in an exterior surface lot paid parking zone, parking shall be by permit only from 12:00 am Monday through 11:59 pm Saturday. Any person may park in a permit-only lot in an interior or exterior paid parking zone on Sunday from 12:00 am through 11:59 pm without charge, without a time limit per park and without a requirement to check-in at a parking kiosk.
 - (3) Mixed lots. For lots in an interior or exterior surface paid parking zone which are not restricted to permit only parking, hereinafter "mixed lots," during regulated parking hours all owners or operators not having a valid permit parking a vehicles, who park in a mixed lot that is in an interior or exterior surface lot paid parking zone for a parking session that is more than 1 hour will be required to pay for parking for the entire parking session at the City-adopted rate for the paid parking zone. As an example, if a car is parked for 45 consecutive minutes in a parking space in a mixed lot, no payment will be owed. If, however, a car is parked for 75 consecutive minutes in a parking space in a mixed lot, payment will be owed for the entire 75 minutes.
 - (4) In a mixed lot, unpermitted parking must be paid for on a per parking lot basis. During regulated parking hours, a separate check-in and payment shall be required at each mixed lot within the interior or exterior surface lot paid parking zone. However, movement of the vehicle to another parking space with the same mixed lot during the parking session shall not require a separate check in or separate payment. As an example, if the operator of a pickup truck pays for a 4-hour parking session in a mixed lot but decides to move the truck to another mixed lot after only 2 hours, the operator will be required to check in and pay separately for a new parking session at the second mixed lot. If the operator of the pickup truck instead parked the truck in another space in the same mixed lot that the truck originally parked in after only 2 hours, no further payment or check in would be required for the remainder of the 4-hour parking session.
 - (5) During regulated parking hours, there shall be a limit of one free 1-hour parking session per vehicle per 5 hours per mixed lot. As an example, if a car is parked in a mixed lot at 10:00 a.m. for 45 minutes, there will be no fee owed for that park. If, however, the same car is parked in the same mixed lot at 1:00 pm for 30 minutes, the 30 minute parking session must be paid for because it is occurring within 5 hours of the first parking session in the same mixed lot.
- (c) Parking deck paid parking zone.
- (1) Permits may be issued for the parking deck paid parking zone. The cost for such permit shall be as provided in the City's duly adopted fee schedule. Persons having a valid parking deck permit shall be permitted to park a permitted vehicle in the parking deck paid parking zone at any time with no time limit per park.
 - (2) During regulated parking hours, all owners or operators not having a valid permit parking in the parking deck paid parking zone for more than one hour per park will be required to pay for the entire parking session at the City-adopted rate in the parking deck paid parking zone. As an example, if a car is parked for 45 consecutive minutes within the parking deck paid parking zone, no payment will be owed. If, however, a car is parked for 75 consecutive minutes within the parking deck paid parking zone, payment will be owed for the entire 75 minutes.

- (3) Unpermitted parking within the parking deck paid parking zone shall be applied on a parking zone basis. During regulated parking hours, upon entry into the parking deck paid parking zone, a vehicle may be moved from one space to another space within the parking deck prior to exiting the deck. Upon exiting the parking deck, payment will be required based on the total time the vehicle was parked in the parking deck without regards to whether or not the vehicle was moved to different spaces within the deck prior to exiting the deck.
- (4) The City Manager shall have the authority to designate parking spaces on the lowest level of the parking deck as reserved spaces, 24 hours per day, 7 days per week, in the parking deck paid parking zone. Parking in such spaces shall require a valid permit.
- (5) The following shall apply to any parking deck located within a parking deck paid parking zone:
- i. When the parking deck is open to the general public for parking, exclusive use shall be for those persons who park their vehicles there, along with passengers of such vehicles, and it shall be unlawful for any person to be present in a city parking garage unless the person is
 - a. In a vehicle which is in a parking space or on its way to or from a parking space;
 - b. Walking to or from a parked vehicle, having entered or returning to the garage as a driver or a passenger of the vehicle; or
 - c. An employee or agent of the city whose presence in the garage is required in connection with his duties.
 - ii. The City Manager, Chief of Police, or Public Works Director, or their designee may close the parking deck, or any floor, level or area of the parking deck, on a temporary basis. It shall be unlawful for any person or vehicle to be present in any such closed area, except authorized personnel of the city.
 - iii. The City Council may close or limit parking or entry in the parking deck (or any floor, level or area of the parking deck) as part of a special events permit or for special events sponsored by the City. In such case, use of, or presence in, the parking deck shall be limited in accordance with the special event permit, or the special event sponsored by the City, and any other use or presence during any such special event is hereby declared to be unlawful.
 - iv. City police officers are hereby empowered to order any person(s) whose use of or presence in the deck is made unlawful by this section 50-317(c)(5)(i)-(iii) to leave the deck. Unlawful use of or presence in a city parking deck and subsequent refusal to leave after being ordered to do so by a police officer shall constitute trespass.
- (d) Unmetered on-street limited time zones. Parking in a parking space within an unmetered on-street limited time zone shall be limited to the stated number of consecutive minutes or hours per park in a parking space. No meter fee shall be owed.
- (e) Unmetered on-street unlimited time zones. Parking within an unmetered on-street unlimited time zone shall be unlimited. No meter fee shall be owed. Continuous parking within a spot for more than 24 consecutive hours may result in a vehicle being determined to be abandoned and towed Chapter 36, Article VI Abandoned, Nuisance and Junked Motor Vehicles.
- (f) Generally applicable requirements.
- (1) Check-in required. It shall be unlawful to park in an on street metered parking zone or in a mixed or hourly parking lot located within an interior or exterior surface lot paid parking zone during regulated parking hours without checking in for a parking session using the parked vehicle's license plate number. Check in shall require the correct entry of the parked vehicle's license plate number at a meter or parking kiosk or using the mobile app provided by the City, and shall require the entry of the duration of the parking session. The City may elect to have a pay-for-parking kiosk serve as the parking meter for on-street metered parking zones. In such event, check-in for metered parking shall be at the parking kiosks or parking app provided by the City.

- (2) Parking permits. All parking permits issued pursuant to this sec 50-317 shall be issued in accordance with rules adopted by the Chief of Police in addition to the following:
- i. All permits will be issued on a first come, first serve basis up to the maximum number of permits per parking facility as determined by the City Manager.
 - ii. Each parking permit must be registered to a person, by name and address, who will be responsible for compliance with the terms of this Article as applied to use of permits and parking by permit, in addition to the owner or operator of the vehicles, if different from the permit holder. The permit holder shall be responsible for keeping all information relative to a permit current, including but not limited the person's address and the vehicles assigned to the permit. Failure to keep all information current shall be a violation of this Article by the permit holder.
 - iii. Parking permits are not transferable to another person, and may not be leased or hired out to another for a fee.
 - iv. Each permit may be assigned to no more than ~~2~~ 3 vehicles, and such assignment shall be by the vehicle's license plate numbers. It shall be unlawful to use a permit for any unassigned vehicle. Only one of the vehicles assigned to a permit may be parked in the permitted parking zone(s) at any given time (ref. sec. 50-235(18)).
 - v. The City Council shall adopt parking permit fees as part of the City's fee schedule. All fees for parking permits must be timely paid. Failure to timely pay parking permit fees may result in a parking permit being revoked by the Chief of Police.
 - vi. Violation of this Article by a permit holder, or by owners or operators of a vehicle assigned to a permit, shall be grounds for revocation of a permit by the Chief of Police.
 - vii. All unpaid parking permit fees may be collected by any remedy for collection of a debt allowed at law.
- (3) Pay -by- plate. All parking paid at a parking kiosk or by the mobile app provided by the city shall be paid by vehicle license plate number.
- (4) Electric vehicle parking spaces. All parking spaces containing a charging station for electric vehicles in a paid parking zone shall be reserved for electric vehicles only, shall be paid for at the applicable parking rate for the paid parking zone, and shall be limited to three consecutive hours of parking per park in such a parking space, regardless of the duration of the parking session paid for. Moving the vehicle to another unreserved parking space during the paid parking session in the same parking lot (for interior or exterior lot paid parking zones), within the same parking zone (for on-street metered parking zones) or within the parking deck (for the parking deck paid parking zone), shall be allowed.
- (5) Parking fees and meter fees. Parking fees and meter fees will be charged and must be paid in ~~one-hour~~ in the following increments for consecutive hours.
- i. On-street metered parking zones parking fees and meter fees will be charged in 15-minute increments.
 - ii. All surface lots and parking deck paid parking zones parking fees and meter fees will be charged in 30-minute increments.
- (6) No refunds. No refunds shall be paid by the City where an owner or operator moves a vehicle out of a paid or metered parking zone prior to the expiration of the parking time that would have been allowed based on the parking or meter fees paid.
- (7) Consecutive units of time. Unless specifically stated otherwise in this Article, where a time limit is imposed in a parking zone, the time limit shall be deemed to refer to consecutive units of time. As an example, if time is limited to five (5) hours, it shall be deemed to refer to five consecutive hours. A time limit of thirty minutes shall be deemed to refer to thirty (30) consecutive minutes.

- (8) It shall be unlawful for any person to park a vehicle not having a state license plate visible from outside the vehicle within a parking zone established by this Article; however, nothing herein shall preclude a bicycle from parking in a designated bicycle parking area within a parking zone.
- (9) Paid parking time or paid meter time shall be deemed actual parking time for purposes of this Article.
- (Code 1971, § 31-212)

* * *

DIVISION 4. CIVIL PENALTIES FOR PARKING VIOLATIONS

Sec. 50-341. Schedule of civil penalties for stopping, standing, parking and parking meter violations climbing.

(a) Civil penalties for violations of divisions 1, 2 and 3 of this article shall be as established from time to time by the city council in the city’s schedule of fees, or as stated in this Chapter 50.

(b) There shall be a civil penalty of \$500.00 for climbing or sitting on the walls of any parking deck owned or operated by the City. Climbing or sitting on the walls of any parking deck owned or operated by the City shall also constitute a misdemeanor (ref. sec. 1-6 of the City code).

~~(b)(c)~~ ~~This violation~~ Parking violations and any associated delinquent penalty are not subject to the penalty provisions of G.S. 14-4, but instead constitute civil penalties to be recovered by the city in a civil action in the nature of debt when the violator does not pay the penalty within the prescribed period of time set forth, pursuant to G.S. 160A-175(c).

(Code 1971, § 31-221; Ord. No. 04-0746, § 6, 7-8-04; Ord. No. 11-0101, § 1, 1-6-11; Ord. No. 15-0951, § 3, 9-3-15)

3. Amendments to the Official City Parking Map, removing the 30 minute time limitation from those parking spaces on Main Street, previously limited to 30 minutes, is adopted as presented.
4. This Ordinance shall be effective upon adoption.

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

Attest:
Hendersonville

Barbara G. Volk, Mayor, City of

Jill Murray, City Clerk

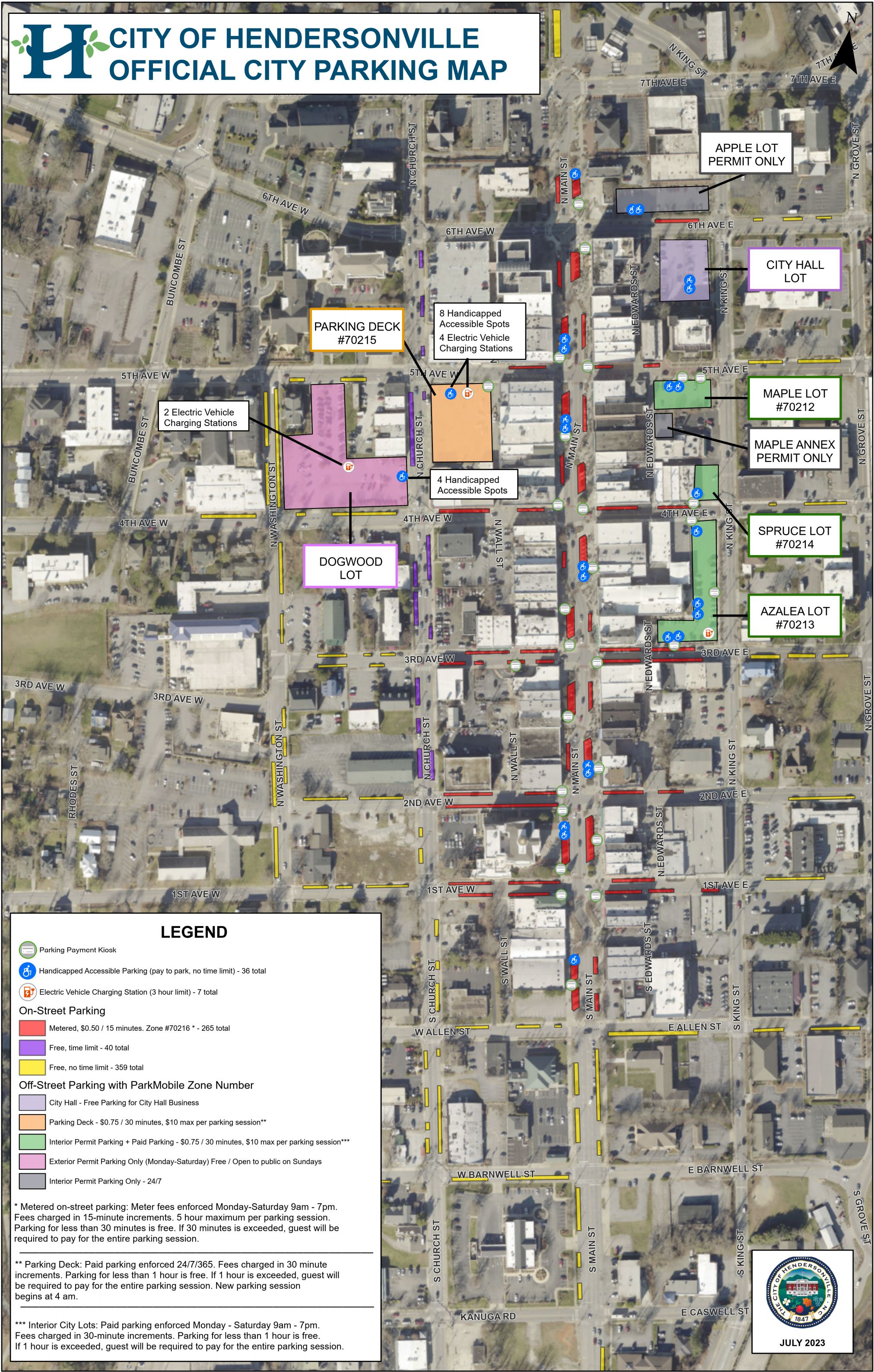
Approved as to form:

Angela S. Beeker, City Attorney



CITY OF HENDERSONVILLE

OFFICIAL CITY PARKING MAP





CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Jill Murray **MEETING DATE:** 8/9/2023

AGENDA SECTION: BOARD/COMMISSION/COMMITTEE DEPARTMENT: Administration
APPOINTMENTS

TITLE OF ITEM: Planning Board Appointment – *Jill Murray, City Clerk*

SUGGESTED MOTION(S):

I move that the City Council appoint Laura Flores to the Planning Board.

SUMMARY:

At their July 6th meeting, Council Member Jennifer Hensley appointed Laura Flores to the Planning Board. Since Ms. Flores is also on the Board of Adjustment, Council asked the City Clerk to get in touch with Ms. Flores to make sure that she is not on any other boards or committees, City or otherwise. The City Clerk spoke with Ms. Flores and she assured her that she is not on any other boards or committees.

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:

Application of Laura Flores

Entry #: 330 - Tue Apr 18 2023 00:00:00 GMT-0400 (Eastern Daylight Time)

Status: Submitted

Submitted: 4/18/2023 3:14 PM

****In order for City Council to consider vacancies at their June 2023 meeting, applications are due Friday, May 5, 2023 at 5:00 p.m.****

Date of Application

4/18/2023

Select Board/Commission/Committee

Planning Board

Schedule
is good

Name

Laura Flores

Do you reside within
Hendersonville's City
limits?

Yes

Street Address

832 4th Ave West, Hendersonville, North Carolina 28739

Mailing Address (If Different)

Phone

(828) 329-9397

Email

laura@nexthomewnc.com

Please list any other appointed board positions you presently hold in any capacity. This includes advisory boards, quasi-judicial boards, committees, non-proffits ect.

Currently on Board of Adjustment

Please list educational background, special qualifications, i.e., civic memberships, related work experience, etc.

BA Psychology, cum laude- University Southern California. 16 years experience as a Realtor, disposition & acquisition single family homes, condos, land & commercial properties in CA, NC & SC. Previously on the HPC as a commissioner. Experience restoring historic homes. Currently underway with the restoration of our home.
Note, had to resign previous appointment beginning of this year due to conflicting obligations that extended to May 2nd.

Based on your qualifications and experience, briefly describe why your services on these boards/commissions would be beneficial to the City of Hendersonville.

Passionate about the future of our area & preservation.

For reporting purposes, please select how you identify.

Female

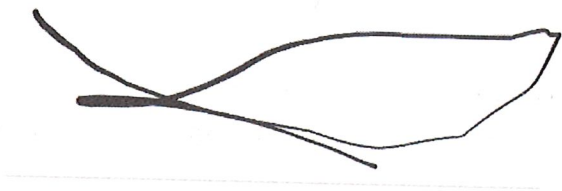
Race: For purposes of diversity and inclusion please identify your race.

White

The City Council adopted a Code of Ethics for Advisory Boards/Commissions/Committees as well a Handbook. All persons appointed to City advisory boards must sign acknowledgement of this document. [You may view the Handbook and Code of Ethics Resolution and other information here.](#)

[The training video is available here.](#)

Signature- I hereby affirm that, to the best of my knowledge, the information provided on this application is true and accurate. I also acknowledge upon appointment to an advisory board I will view the Advisory Board Training Video, Handbook & Code of Ethics on the City's website and agree to abide by its tenants.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned above a dashed line.

CITY COUNCIL:
BARBARA G. VOLK
Mayor
LYNDESE SIMPSON
Mayor Pro Tem
DR. JENNIFER HENSLEY
DEBBIE O'NEAL-ROUNDTREE
JERRY A. SMITH JR., J.D.



Section 10, Item A.

JOHN F. CONNET
City Manager
ANGELA S. BEEKER
City Attorney
JILL MURRAY
City Clerk

To: Honorable Mayor and Members of the City Council
From: Jill Murray, City Clerk
Subject: Board and Committee Vacancies for Consideration of Appointment on July 6, 2023
Date: June 30, 2023

Honorable Mayor and Members of City Council:

I wanted to give you an update on the Boards and Committees since your last meeting on June 1st.

The following Boards still have vacancies:

Board of Adjustment – 3 city vacancies – need to advertise
Business Advisory - 1 city vacancy – you will be appointing July 6
ESB – 1 city vacancy – need to advertise
Planning Board – 3 vacancies - you will be appointing on July 6

Under separate cover, I have attached information and applications regarding the vacancies for the **Planning Board** and the **Business Advisory Committee**. On June 1, 2023, City Council tabled the appointments of the Planning Board so that I could gather more information.

TERMS: The Planning Board shall consist of ten members, seven of whom shall be citizens and residents of the City of Hendersonville and be appointed by City Council. The other three shall be citizens and residents of the City's ETJ and shall be appointed by the Henderson County Board of Commissioners.

These members do not expire until **December**, however, we have three vacancies that need to be filled so after reviewing everything and recreating an up-to-date roster (which I have attached), below is the information you need to make your decision.

A. Planning Board

(We have 3 city resident vacancies ending in December. One in 2023, one in 2024 and one in 2025)

We received 5 applications as follows:

1. Tamara Peacock – Reapplying for a full term (not included in the three)
2. Margina Baxter - City
3. Beth Robertson - City
4. Donna Waters – City
5. Laura Flores – City (just got appointed to the BOA)

TERMS: The Business Advisory Committee shall consist of nine members appointed to staggered two-year terms. All members shall be individuals, principals or other significant representatives of businesses. Six (6) members shall be appointed by City Council; One (1) member shall be appointed by the Henderson County Board of Commissioners; One (1) member shall be appointed by the Henderson County Chamber of Commerce or its successor; One (1) member shall be appointed by the Henderson County Partnership for Economic Development.

B. Business Advisory Board

You recently reappointed Ken Gordon and Fair Waggoner and appointed Sarah Cosgrove to the Board. We still have one vacancy expiring June, 2023 that is filling the expired term of Judy Stroud.

We received 4 applications as follows:

1. Adam Justus – Owns Blue Ridge Beer Garden & HVL Pedal & Brews
2. Sara Whitley – Owns Complete Peace PLLC; Ikigio
3. Tom Makowski – Owns Eagle Var & Grill, Blue Ridge Rentals, The Main Event & Western Carolina Steakhouse
4. Richard Reagen - Appointed to the DEI Committee on June 1. Owned a logistics company for 35 years.



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

SUBMITTER:

Lew Holloway

MEETING DATE:

July 26, 2023

AGENDA SECTION:

Unfinished Business

DEPARTMENT:

Community Development

TITLE OF ITEM:

Formation of Community Advisory Committee (CAC) for Comprehensive Plan

SUGGESTED MOTION(S):

N/A

SUMMARY:

In an effort to provide community-driven feedback over the course of the Comprehensive Planning process, the City’s consultant team of Bolton & Menk have requested that the City establish a Community Advisory Committee (CAC). This committee will be made up of a wide range of citizens and leaders within various sectors. The attached list provides a framework for identifying potential committee members. The consultants recommend a range of 12-15 appointed members for this type of committee.

BUDGET IMPACT: N/A

ATTACHMENTS:

DRAFT List for CAC Composition

Composition of Community Advisory Committee		Potential Organizations	Prospective Member Name	Has Time?	Geographic Reach	Diversity	Community Influence	Expertise
Sectors	Government							
	City Leadership	City Council						
	County Leadership	County Commission						
	Other Boards / Commissions	Planning Board						
	School District	Henderson Co Schools						
	Others	BRCC						
	Business Leaders							
	Commercial Property Owners							
	Banks/Financial/Insurance							
	Economic Development/Industry Rep	The Partnership						
	Retail Rep (Downtown)	Downtown Merchants						
	Business Organization	Chamber of Commerce						
	Developers/ Real Estate							
	Health Care / Hospital	Pardee						
	Community							
	Religious Institutions							
	Neighborhood Leaders (including Historically Disadvantaged Communities, Hispanic Community, LGBTQ+)	Green Meadows/7th Ave						
	Neighborhood Leaders							
	Neighborhood Leaders							
	Housing Advocate	HAC						
	Civic Non-Profits	Hola Carolina, Hendersonville Connections, Thrive						
	Arts, Music, Culture	HC Arts Council, TDA						
	Environmental Stewardship	Mountain True						
	Bike/Ped Advocate	BR Bicycle Club, Friends of Ecusta/Oklawah						
	Youth Population (HS/MS Student)							
	Aging Population (Seniors)	HC Aging Coalition						



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Connet **MEETING DATE:** 8/9/2023

AGENDA SECTION: BOARD/COMMISSION/COMMITTEE DEPARTMENT: Administration
APPOINTMENTS

TITLE OF ITEM: Additional Tree Ordinance Committee Appointment Request – *John Connet, City Manager*

SUGGESTED MOTION(S):

I move that the City Council appoint _____ to the Tree Ordinance Committee.

SUMMARY:

The Partners for Economic Progress (PEP) have requested that City Council appoint Ken Gordon as an additional member to the Tree Ordinance Committee.

BUDGET IMPACT: \$

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

If no, describe how it will be funded. EnterTextHere

ATTACHMENTS:

Email from PEP

List of Current Members

From: [hcpep75](#)
To: [Connet, John](#)
Cc: [Hall Waddell](#); [Steve Dozier](#); kengordon@bellsouth.net
Subject: Tree Ordinance Committee
Date: Tuesday, July 25, 2023 11:33:35 AM

Be Advised: This email originated from outside of the Hendersonville network. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi John,

As we discussed earlier today, we would like to request that an additional representative from the business community be appointed to the Tree Ordinance Committee. We would like to request that Ken Gordon be appointed. I have spoken with Ken and he agrees to serve if appointed. Thank you in advance for your consideration of this matter.

Susan Frady, Executive Director
PEP

Sent from my Verizon, Samsung Galaxy smartphone

Current Tree Ordinance Committee Members

Debbie Roundtree, City Council
Lyndsey Simpson, City Council
Glen Lange, Tree Board
Mary Davis, Tree Board
Lew Holloway, Staff
Virginia Tegel, ESB
Susan Frady, PEP
Steve Dozier, BAC
Neil Brown, Planning Board
Tom Wooten, Staff
Daniel Heyman, Staff



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

SUBMITTER:

Jennifer Floyd

MEETING DATE:

08/09/2023

AGENDA SECTION:

City Manager Report

DEPARTMENT:

Administration

TITLE OF ITEM:

August 2023 Contingency Report – *John Connet, City Manager*

SUGGESTED MOTION(S):

N/A – Presentation Only.

SUMMARY:

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

The following contingency appropriations were made due to higher than anticipated Worker’s Comp Insurance costs:

1. Decrease Fund 010 contingencies by \$8,289 for Worker’s Comp. Insurance
- a. Increase 010-1002-502091 by \$8,289
2. Decrease Fund 060 contingencies by \$8,289 for Worker’s Comp. Insurance
- b. Increase 060-1002-502091 by \$8,289

BUDGET IMPACT: Detailed Above

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

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

ATTACHMENTS:

N/A

CITY OF HENDERSONVILLE
FIRST CITIZENS CUSTODIAN ACCOUNT

INVESTMENT REPORT

Jun 23

Investment Name		Rating	Cusip	Price	Coupon	YTM	Purchased Date	Issued Date	Maturity Date	Callable	Cost Basis
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		3137EAFA2	99.91	0.25%	0.25%	3/24/2021	12/4/2020	12/4/2023	No	999,100.00
TOTAL TREASURY AND FEDERAL AGENCIES											<u>1,498,225.00</u>
COMMERCIAL PAPER/CASH EQUIVALENT											
TOTAL COMMERCIAL PAPER/ CASH EQUIVALENT											<u>0.00</u>
OTHER INVESTMENTS (MUNI/BABS/)											
TOTAL OTHER INVESTMENTS (MUNI/BABS)											<u>0.00</u>
Total Securities											<u>1,498,225.00</u>
NC Capt Management	Cash										<u>9,348,263.83</u>
Total Security - Cost Basis											<u><u>10,846,488.83</u></u>

Portfolio Allocation - by Security Type				% of Total	
				Cash	
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	\$	-	0.00%	
US Treasury Note	USTN		-	0.00%	
US Treasury Note	USTN		-	0.00%	
US Treasury Bill	USTB		-	0.00%	
Total GOVERNMENT AGENCIES		\$	<u>1,498,225.00</u>		
Commercial Paper	Ing		-	0.00%	
MUNI/OTHER			-		
Cash			<u>9,348,263.83</u>		
		\$	<u><u>10,846,488.83</u></u>		

Portfolio Allocation - by Maturity Date:		
2023	\$	-
2024	\$	999,100.00
2025	\$	-
2026	\$	499,125.00
		<u><u>\$1,498,225.00</u></u>

