



CITY OF HENDERSONVILLE CITY COUNCIL REGULAR MEETING

Operations Center - Assembly Room | 305 Williams St. | Hendersonville NC 28792
Wednesday, April 12, 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*
March 2, 2023 Regular Meeting
March 9-10, 2023 Staff Retreat
March 22, 2023 Second Monthly Meeting
 - B. Resolution to Accept Funding for the Water Treatment Facility AIA Master Plan – *Adam Steurer, Utilities Engineer*
 - C. Henderson County Tax Adjustments -*Amanda Lofton, Deputy Tax Collector*
 - D. Justification for the Sole Source Purchase of Large Water Meter Chamber Registers- *Adam Steurer, Utilities Engineer*
 - E. Amending and combining the Service Recognition Guidelines and Active Employee Service Awards – *Jennifer Harrell, HR Director*
 - F. Engineering Services for the WTF 15-MGD Filter Expansion Project– *Adam Steurer, Utilities Engineer*
 - G. 7th Avenue Pup Crawl Special Event Application - *Jamie Carpenter, Downtown Manager*
 - H. Walk to End Alzheimers Special Event Application - *Jamie Carpenter, Downtown Manager*
 - I. Resolution Approving Design, Bidding, and Construction Engineering and Inspection for the Repairs to the Exterior of City Hall – *Tom Wooten, Director of Public Works*
 - J. Memorandum of Understanding (MOU) with Henderson County for Construction Related Activities Along Edwards Park and the VFW Site– *Angela S. Beeker, City Attorney*

- K. 2045 Comprehensive Plan Consultant Contract – *Lew Holloway, Community Development Director*
- L. Resolution to Remove On-Street Parking Restrictions on North Oak Street between 9th Avenue West and 7th Avenue West - *Tom Wooten, Director of Public Works*
- M. Approval of Fiscal Year 2023 Annual Audit Contract – *John Buchanan, Finance Director*
- N. Approval of Capitalization Threshold for Leases and Subscription-based Information Technology Agreements - *John Buchanan, Finance Director*
- O. April 2023 Capital/Grant Project Ordinances and Reimbursement Resolutions – *Jennifer Floyd, Budget and Management Analyst*
- P. April 2023 Budget Amendments – *Adam Murr, Budget Manager*
- Q. NCDOT EB-5860 (Blythe St Multi-Use Path) Design Agreement Approval, City Project #21042 – *Brent Detwiler, City Engineer*
- R. NCDOT EB-5963 (S Grove St Sidewalk) Design Agreement Approval, City Project #21043 - *Brent Detwiler, City Engineer*
- S. Resolution Approving Parks Master Plan and Greenway Master Plan Consultant – *Tom Wooten, Director of Public Works*
- T. Downtown Office Lease Agreement - *Jamie Carpenter, Downtown Manager*

6. PRESENTATIONS

- A. Proclamation-Abuse Prevention Month & Week of the Young Child
- B. Earth Day Proclamation – *Barbara Volk, Mayor*
- C. Recognition of the North Carolina Apple Festival Board as Hendersonville’s North Carolina Main Street Champions - *Jamie Carpenter, Downtown Manager*
- D. ESB Sustainability Hero Award – *Environmental Sustainability Board*
- E. ISO Presentation – *Brian Pahle, Assistant City Manager*
- F. City Academy Graduates
- G. North Carolina International Public Management Association- HR Award – *Jennifer Harrell, HR Director*
- H. Employee Recognition – *John Buchanan, Finance Director*
- I. Employee Recognition – *John Buchanan, Finance Director*
- J. Presentation on Mud Creek Stormwater Grants – *Mike Huffman, Stormwater Administration*

7. PUBLIC HEARINGS

- [A.](#) Rezoning: Standard Rezoning – Upward Crossing Rezoning (P23-07-RZO) –*Matthew Manley, AICP / Planning Manager*
- [B.](#) Rezoning: Standard Rezoning –Hillview Blvd Rezoning (P23-18-RZO) –*Matthew Manley, AICP / Planning Manager*
- [C.](#) Street Closure: Order to Close- Portion of N. Wall Street (C23-16-SCL) – *Tyler Morrow, Planner II*
- [D.](#) Annexation: Public Hearing-7 Bridgette Loop Road (Lynnwood Cabins LLC) (C23-19-ANX) – *Tyler Morrow, Planner II*
- [E.](#) Street Closure: Order to Close- Portion of Laws Avenue (C23-01-SCL) – *Tyler Morrow, Planner II*
- [F.](#) 2023 Installment Financing Contract (IFC) - *Adam Murr, Budget Manager*

8. UNFINISHED BUSINESS

9. NEW BUSINESS

- [A.](#) Tree Ordinance Study Committee – *John Connet, City Manager*
- [B.](#) Resolution to adopt a ten-foot Right of Way for Wall Street
- [C.](#) City Hall/Ops Renovations Bid Approval – *Brian Pahle, Assistant City Manager*
- [D.](#) 2023 Water and Sewer Revenue Bond – *Adam Murr, Budget Manager*

10. CITY COUNCIL COMMENTS

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

- [A.](#) Cash and Investment Report – *John Buchanan, Finance Director*

12. CLOSED SESSION

- [A.](#) Closed Session – *John Connet, City Manager*

13. ADJOURN

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



MINUTES

March 2, 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, 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 Becker, Communications Manager Allison Justus, Budget Manager Adam Murr, and others.

1. **CALL TO ORDER**

Mayor Volk called the meeting to order at 5:45 p.m. and welcomed those in attendance. A quorum was established with all members in attendance.

2. **INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG**

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

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

Melinda Lowrance addressed City Council regarding parking issues on Oak Street and asked if City Council would consider changing the No Parking signs to No Parking or Dropping Off during the hours of 7a.m. to 9a.m. and 2p.m. to 4p.m. at the corner of 9th Avenue and Oak Street, Oak and Conner Avenue up to Oak and 7th Avenue West so that residents on Oak Street will not be subject to hardship. The Mayor said they would refer it to staff to look into.

Clifford Meek addressed City Council for support of the railroad depot and perhaps having a rail service come through Hendersonville for the 4th of July. He gave his proposal to Council members.

Crystal Cauley of 702 Carolina Avenue, founder of the Black History Collective of Hendersonville County, North Carolina, spoke via Zoom electronic software and thanked the City and Allison Justus for the Black History landmark post on the City's Facebook page during the month of February, 2023. She thanked them for preserving history and for recognizing the achievements and contributions that black citizens of Hendersonville have made and hope it continues each year.

4. **CONSIDERATION OF AGENDA**

City Manager John Connet asked that item 5G Memorandum of Understanding with Henderson County for Construction Related Activities Along Edwards Park and VFW Site under the Consent Agenda, as well as, item 6A Proclamation-March for Meals under Presentations, be removed from the agenda.

Council Member Lyndsey Simpson moved that City Council approve the agenda as amended. A unanimous vote of the Council followed. Motion carried.

5. **CONSENT AGENDA**

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

B. Amendments to City Code to Conform with SB300 – Daniel Heyman, Staff Attorney

Ordinance #23-13

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND CERTAIN PROVISIONS OF THE CODE OF ORDINANCES RELATED TO CRIMINAL ENFORCEMENT

WHEREAS, Session Law 2021-138, otherwise known as Senate Bill 300, broadly decriminalized municipal ordinances, requiring municipalities to specifically state which ordinances may be enforced with criminal penalties; and

WHEREAS, while the City of Hendersonville typically pursues civil remedies such as civil penalties or injunctions in order to achieve compliance with City ordinances, there are circumstances in which the City must resort to criminal enforcement options, such as violations that pose an immediate danger to the community, or otherwise require prompt action; and

WHEREAS, until the passage of Session Law 2021-138, almost all violations of City ordinances were able to be enforced with criminal penalties as written; and

WHEREAS, amendments to the Code are required in order to continue enforcing certain violations of the Code criminally; and

WHEREAS, the amendments to the Code providing criminal penalties in specific circumstances will alert violators to the importance of compliance with the Code.

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

SECTION 1. This Ordinance shall be known as “An Ordinance Addressing Criminal Enforcement of City Ordinances to Comply with Senate Bill 300.”

SECTION 2. Chapter 1 – General Provisions of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 1-6. General penalty for violation of Code; continuing violations, criminal and injunctive relief; civil penalties.

- (a) Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense or whenever in such Code or ordinance the doing of any act is required or the failure to do such act is declared to be unlawful, unless this code provides otherwise, the violation of any such provision shall subject the offender to a civil penalty in the amount of \$50.00 per violation to be recovered by the city in a civil action in the nature of debt if the offender does not pay the penalty within 45 days after the citation for violation of the ordinance or this Code.
- (b) Whenever in this Code or in any ordinance of the City any act is declared to be a misdemeanor, or the doing of any act is required and the failure to do such act is declared to be a misdemeanor, unless this Code provides otherwise, the violation of any such provision shall be punishable by a fine not exceeding \$500.00 or by imprisonment for a term not exceeding 30 days, or both.
- (c) Whenever in this Code or in any ordinance of the City any act is declared to be an infraction, or the doing of any act is required and the failure to do such act is declared to be an infraction, unless this Code provides otherwise, the violation of any such provision shall be punishable by a fine not exceeding \$100.00.
- (d) Each day that any violation of this Code or of any ordinance shall continue shall constitute a separate offense.
- (e) The ordinances contained in this Code and other ordinances of the city may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.
- (f) A violation of this Code of any ordinance may be enforced through a combination of one or more of the enforcement methods provided in this section 1-6.

SECTION 3. Chapter 6 – Alcoholic Beverages of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 6-1. State statutes applicable.

It shall be unlawful for any person to offer for sale, disposal, display or otherwise use or offer for use or consumption, any beer, wine or other alcoholic beverage within the confines of the city except that such offer, use, sale, disposal, display or consumption shall be in conformance with the requirements of the General Statutes of North Carolina, applying.

As provided in N.C.G.S. Chapter 18B, violation of this section is a misdemeanor.

Sec. 6-3. Possession of alcoholic beverages in or near city recreational facilities.

It shall be unlawful for any person to carry upon or within 50 feet of the boundaries of, either by vehicle or as a pedestrian, any park, swimming pool, playing field, playground or other recreational facility of any kind whatsoever owned and operated by the city, any alcoholic beverage, as defined in G.S. 18B-101(4), in any bottle, jar, glass, cup, decanter or other container, whether such transportation be for purpose of consumption or any other use.

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

Sec. 6-4. Drinking in city recreational facilities.

It shall be unlawful for any person to consume or drink any alcoholic beverage, as defined in G.S. 18B-101(4), on the premises of any park, swimming pool, playing field, playground or other recreational facility of any kind whatsoever owned and operated by the city. Notwithstanding the foregoing, a person who is not an occupant of a motor vehicle and who is of the age permitted by North Carolina Statute may consume or possess malt beverages and/or unfortified wine in any city-owned or -operated park at a community event or festival, if the city council has adopted a resolution making provisions for the possession and consumption of malt beverages or unfortified wine or both at such festival, to the extent permitted by such resolution.

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

Sec. 6-5. Possession of open container in public places prohibited; exceptions.

(a) It shall be unlawful for any person to have in his possession in any public street, public alley, public parking lots, or any other property owned, occupied, or controlled by the city, who is not an occupant of a motor vehicle, any container of malt beverage or unfortified wine, as defined in G.S. 18B-101. For purposes of this section, an open container means a container whose seal has been broken or a container other than the manufacturer's unopened original container. =

(b) This section shall not apply to nor serve to prohibit the sale and dispensing of alcoholic beverages in any public retail outlet or restaurant lawfully licensed and empowered to make such sales and dispensation.

(c) The enforcement of this section is not applicable to passengers in a motor vehicle who are in possession of nonspirituous alcoholic beverages and/or malt beverages.

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

SECTION 4. Chapter 8 – Amusements and Entertainments, Article II – Pool Rooms of the Code of Ordinances for the City of Hendersonville is amended as follows:

Sec. 8-39. Gambling.

It shall be unlawful for any owner, manager or employee of any pool room, billiard hall, discotheque and/or dancehall or amusement center within the city to allow or permit any form of gambling to be carried on or engaged in within the premises thereof.

As provided in N.C.G.S. 14-292, violation of this section is a misdemeanor.

Sec. 8-40. Disorderly conduct.

It shall be unlawful for the owner, manager or employee of any pool room, billiard hall, discotheque and/or dancehall or amusement center within the city to allow or permit any form of disorderly conduct to be carried on or engaged in within the premises thereof.

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

Sec. 8-41. Display of amusement devices; gambling devices prohibited.

Any device shall at all times be kept and placed in plain view of any person who may frequent or be in any place of business where such devices are kept or used. Nothing in

this article shall be construed to authorize, permit or license any gambling device of any nature whatsoever.

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

SECTION 5. Chapter 14 – Businesses, Article IV – Massage Therapy of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 14-164. Massage of private parts for hire.

It shall be unlawful for any person to massage or to offer to massage the private parts of another for hire. In addition to any other remedy available, violation of this section is also a misdemeanor as provided in Section 1-6.

Sec. 14-165. Patronage of massage businesses by minor; employment of minors.

- (a) No massage therapist or massage therapy establishment shall massage or treat any person under the age of 18 years or permit or condone such treatment, except when the parent or legal guardian of the person under 18 accompanies the person under the age of 18 during the massage treatment or upon written order of a licensed physician, osteopath, chiropractor, podiatrist or registered physical therapist, such order being dated and in the possession of the person giving the massage or treatment.
- (b) No person licensed pursuant to this article shall employ any person under the age of 18 years in the operation of the massage business.
- (c) In addition to any other remedy available, violation of this section is also a misdemeanor as provided in Section 1-6.

SECTION 6. Chapter 14 - Businesses, Article V – Massage Therapy of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 14-226. Peddling hours restricted.

It shall be unlawful for any peddlers, hawkers, itinerant merchants or transient vendors of merchandise to go in or upon any property between the hours of 8:00 p.m. and 8:00 a.m., or, during such periods that daylight saving time is in effect between the hours of 9:00 p.m. and 8:00 a.m., in areas zoned for residential purposes within the corporate limits, not having been requested or invited so to do by the owner or occupant thereof, for the purpose of disposing of or peddling or hawking goods or services; provided, however, that nothing in this section shall apply to the sale of his own products by a farmer or the sale by an individual of the products of his own labor.

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

Sec. 14-227. Sale of merchandise on streets or sidewalks.

No person shall sell, barter, trade or auction merchandise of any description on any street or sidewalk except in accordance with division 3 of this article.

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

Sec. 14-251. Required.

It shall be unlawful for any person to engage in business as a peddler within the city without first having applied for and obtained a permit so to do from the city.

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

Sec. 14-258. Reserved.

Sec. 14-283. - Reserved.

Sec. 14-284. Required.

- (a) It shall be unlawful for any person to sell or to offer for sale, any food, beverage or merchandise on foot or from any vending stand on any right-of-way, street, sidewalk or public property within the city without first obtaining a permit pursuant to this article.
- (b) Any permit issued under this article shall be temporary in nature and applicable for one special event approved by the city pursuant to section 46-84. Such permit shall be effective only for the duration of the special event specified.
- (c) In addition to any other remedy available, violation of this section is also a misdemeanor as provided in Section 1-6.

Sec. 14-287. Prohibited conduct.

It shall be unlawful for a street vendor to:

- (1) Violate any federal, state, county or city law or regulation that pertains to food, beverages or the selling thereof or that pertains to the operation of the vendor's business in the downtown historic district.
- (2) Fail to permit any lawfully requested inspection by health officials or to comply with any lawful request of a police officer.
- (3) Fail to carry and display at all times of operation the permit issued under this division.
- (4) Have a vending stand that is not in compliance with the review regulations or any additional special restrictions or conditions stated in the permit.
- (5) Vend without insurance if such is a condition of the vendor's permit.
- (6) Sell food or beverages for immediate consumption, unless the vendor has available for public use a litter receptacle not more than ten feet distant from the vendor's stand.
- (7) Leave his designated location without first picking up, removing and disposing of all trash or refuse remaining from sales made by the vendor.
- (8) Allow any item relating to the operation of the vending business to be placed anywhere other than in, on or under the vending stand.
- (9) Offer to sell any goods other than those permitted by the permit.
- (10) Sound or permit the sounding of any device which produces a loud and raucous noise or engage in any hawking or harassment for the purpose of attracting the attention of the public to the vending stand.
- (11) Have any advertising, except the posting of prices, the name of the products, and the name of the vendor.
- (12) Solicit or conduct business with persons in motor vehicles.

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

SECTION 7. Chapter 18 – Cemeteries of the Code of Ordinances for the City of Hendersonville shall be amended as follows :

Sec. 18-3. Unlawful entry.

It shall be unlawful for any person, other than duly authorized officers, officials or employees of the city, to enter into or be upon the grounds of a public cemetery during the time after sunset and before sunrise of any day without first obtaining the permission of the public works director or his designee. It shall further be unlawful at all times for any person to enter or leave the grounds other than by the established and open entrances or gateways.

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

Sec. 18-4. Trespass and loitering; exceptions.

It shall be unlawful for any person to loiter or trespass upon lots and graves of the public cemeteries or for the parent or guardian of any child under the age of 16 to permit such child to be within a public cemetery grounds unless accompanied by an adult person; provided, however, that nothing in this section shall be construed to prohibit any person having lawful business in a public cemetery in connection with improvement thereof or in connection with the lawful interment or disinterment of human remains or cremains, or to prevent persons visiting the graves of relatives or friends from being in the cemetery in accordance with the rules and this chapter.

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

Sec. 18-5. Speed of vehicles.

It shall be unlawful for any person to drive any vehicle in a public cemetery faster than five miles per hour.

In addition to any other remedy available, violation of this section is also an infraction as provided in Section 1-6.

Sec. 18-6. Operation of vehicles and parking.

No person shall drive or move any vehicle within a public cemetery except over a roadway open for vehicular traffic, except as permitted by the rules. No person shall obstruct any path or driveway within a public cemetery open to vehicular traffic. No person shall use public cemetery grounds or any driveway therein as a public thoroughfare.

In addition to any other remedy available, violation of this section is also an infraction as provided in Section 1-6.

Sec. 18-8. Rubbish; debris.

It shall be unlawful for any person to dispose of any rubbish, trash, waste materials, litter or debris of any kind in public cemeteries or to place any permanent materials on a lot which would prevent the perpetual maintenance, including mowing, of a public cemetery.

In addition to any other remedy available, violation of this section is also an infraction as provided in Section 1-6.

Sec. 18-9. Property damage.

No person shall remove, molest, injure, mar, deface, throw down or destroy any headstone, monument, permanent marker, survey marker, temporary marker, corner marker, tomb, vault or mausoleum, or decoration on any lot, or open, disturb or molest any grave or place of burial within a public cemetery. This shall not prohibit acts by public cemetery officers and employees or public officials in carrying out their duties.

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

Sec. 18-10. Trees, shrubs and flowers.

- (a) It shall be unlawful for any person to plant any tree, shrub or other plant in a public cemetery except those planted or caused to be planted by the public works director or his designee.
- (b) It shall be unlawful for any unauthorized person to cut down, injure, break or destroy any tree, shrub or other plant growing in a public cemetery or to pick, pluck or cut any flower or decorative plant, except as authorized by the rules. In addition to any other remedy available, violation of this section subsection (b) is also a misdemeanor as provided in Section 1-6.

Sec. 18-11. Interment of human remains.

- (a) No person shall inter a human corpse or the remains remaining from the cremation of a human corpse at any place or location within the city limits other than in a recognized and established cemetery or other area regularly dedicated for this purpose.
- (b) No person or entity shall inter, or cause to be interred, human remains or cremains within a public cemetery without having first secured an interment permit from the public works director or his designee, and having paid the permit fee associated with the issuance of such a permit. The issuance of an interment permit shall be in accordance with the rules governing public cemeteries in the City of Hendersonville. Such interment permit shall, at a minimum, contain the name, date of birth, date of death of the deceased, the date and time of the proposed interment, the grave address/designation in which the interment will occur, and the name and address of the persons in responsible charge if different from the applicant. It shall be unlawful to inter or to cause the interment of human remains or cremains other than the named deceased within the designated grave. The persons in responsible charge shall be jointly and severally liable and responsible for compliance with all terms of this ordinance and the rules governing public cemeteries in the City of Hendersonville related to the interment, the funeral, gravesite services, placement of the temporary marker, and all other ordinance provisions and rules related to any of the foregoing.
- (c) Interment permits must be secured at least 48 hours in advance, with the following exceptions:
 - (1) If the interment will occur on a Monday, the interment permit must be secured no later than 11:00 a.m. on the preceding city business day.
 - (2) If the interment will occur on a weekend, the interment permit must be secured no later than 11:00 am of the preceding Thursday.
 - (3) If the interment will occur on a city holiday, the interment permit must be secured not later than 11:00 a.m. of the preceding city business day that will provide at least 48 hours' notice to the city.
- (d) No person shall cause to be built, installed or created any aboveground curbing, borders or fencing around any lot or grave, or multiple grave sites.
- (e) Nothing may be placed in, on, or around a grave or lot other than flowers, monuments and markers that are specifically allowed by this chapter. By way of example, and not limitation, benches, flag poles, solar lights, and any other item not specifically allowed, are prohibited.
- (f) No headstones, level stones or any other type of grave marker shall be wider than the width of two adjacent grave sites, or spaces.
- (g) All interment shall be accomplished with the use of an approved container and, for human remains, an approved vault.
- (h) All licenses obtained after July 1, 2021, shall be limited to the interment of (1) one human remains and one human cremains, or (2) two human cremains per grave. Notwithstanding the foregoing, prior commitments documented in city records for limits that exceed those contained in this paragraph shall be honored.

- (i) The lids of all vaults used for interments shall have affixed thereto by means of permanent attachment a metal tag, composed of non-corrosive metal, bearing the name, birth date, and date of death of the deceased within the vault.
- (j) After interment is completed, the top of any concrete box or vault used in such interment shall not be less than 24 inches below the ground level, and the grave and concrete box or vault shall be completely filled and covered with 24 inches of compacted soil.
- (k) Prices, fees, charges and assessments for a license, interment permit, the opening and closing of graves, and any other services rendered by the city incidental to, or relative to, the use of a public cemetery shall be determined by resolution of the city council, and a fee schedule listing the amount and nature of such fees shall be filed in the office of the city clerk.
- (l) Within 24 hours after interment the person in responsible charge shall place, or cause to be placed, at an appropriate place on the interment site a temporary marker designating at least the identity of the person interred. The temporary marker must remain (and be replaced if removed) until the placement of a permanent marker or permanent monument. A permanent marker must be placed within six months of the date of interment, and no later.
- (m) Within 48 hours after the burial the person in responsible charge shall provide the city with a certification that interment was completed in the designated grave and the required temporary marker has been placed.
- (n) In addition to any other remedy available, violation of subsections (a), (b), (g), (h), and (i) above is also a misdemeanor as provided in Section 1-6.

Sec. 18-15. Procedures and fees for disinterment.

- (a) Except as may be otherwise authorized by city council, no human remains shall be disinterred from a public cemetery without the prior delivery to the city manager of a disinterment permit lawfully issued by the Henderson County Director of Public Health or by other lawful authority, or by a valid court order. Upon receipt, the city manager may conduct such investigation as deemed necessary to verify the disinterment permit or court order, and shall forward a copy to the public works director. The public works director or his designee shall update the public cemetery records to indicate the date of disinterment and the name, and new location of the burial of the deceased.
- (b) The disinterment permit holder shall coordinate the disinterment with the public works director or his designee.
- (c) An administrative fee set by the city council will be charged to review and coordinate each disinterment request received by the city, and payment is due at the time of request for disinterment.
- (d) In addition to any other remedy available, violation of this section is also a misdemeanor as provided in Section 1-6.

Sec. 18-16. Violations of this chapter.

- (a) The city may debar any funeral home from being eligible to apply for an interment permit, or to otherwise inter or cause the interment of human remains or human cremains within any public cemetery for repeated violations of this article.
- (b) In addition to section 18-16(a) above and any other remedy specifically provided, section 1-6 of the Code shall apply to violations of this chapter.

SECTION 8. Chapter 22 – Fire Prevention and Protection, Article I – In General of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 22-1. Interference at scene of fire.

No person shall stand or be in any street, alley or other place where a fire is in progress in such a way as to interfere with the duties of the fire department.

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

Sec. 22-2. Unauthorized persons using fire apparatus.

No person other than a bona fide member of the fire department shall mount any fire engine or other apparatus before it leaves the station or while on its way to or from a fire, or at any other time, unless by permission of the driver or officer in command of such fire engine or apparatus.

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

Sec. 22-3. False fire alarms.

No person shall give or cause to be given any false fire alarm.

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

Sec. 22-4. Prohibited acts.

The activities noted in this section are prohibited within the limits of the city's primary fire district, as established pursuant to G.S. 160A-435. The prohibited activities are as follows:

- (1) The storage of explosives and blasting agents;
- (2) The storage of flammable liquids in outside aboveground tanks;
- (3) New bulk plants for flammable or combustible liquids;
- (4) The bulk storage of liquefied petroleum gas; and
- (5) The storage of other hazardous materials as determined by the fire official.

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

SECTION 9. Chapter 24 - Floods, Article III – Stormwater Ordinance of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 24-160. General enforcement and violations.

- (a) *Authority to enforce.* The provisions of this article shall be enforced by the stormwater administrator, his or her designee, or any authorized agent of the city. Whenever this section refers to the stormwater administrator, it includes his or her designee as well as any authorized agent of the city.
- (b) *Violation unlawful.* Any failure to comply with applicable requirements, prohibitions, standards, or limitations imposed by this article, or the terms or conditions of any permit, maintenance agreement, or other development or redevelopment approval or authorization granted pursuant to this article, is unlawful and shall constitute a violation of this article. Violation of this article is subject to the same remedies as other City Code (see section 1-6 of this Code) violations, with each day that a violation continues constituting a separate offense. Each day that a violation continues shall constitute a separate and distinct violation or offense.
- (c) *Responsible persons/entities.* Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this article shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this article, or

fails to take appropriate action, so that a violation of this article results or persists; or an owner, owner of an interest, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs.

For the purposes of this article, responsible person(s) shall include but not be limited to:

- (1) *Person maintaining condition resulting in or constituting violation.* An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this article, or fails to take appropriate action, so that a violation of this article results or persists.
- (2) *Responsibility for land or use of land.* The owner of the land on which the violation occurs, any owner of an interest, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

Sec. 24-161. - Remedies and penalties.

The remedies and penalties provided for violations of this article shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

- (a) Remedies.
 - (1) Withholding of certificate of occupancy. The stormwater administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the owner, an owner of an interest, or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
 - (2) Disapproval of subsequent permits and development approvals. As long as a violation of this article continues and remains uncorrected, the stormwater administrator or other authorized agent may withhold, and the approving body may disapprove, any request for permit or development approval or authorization provided for by this article or the zoning, and/or subdivision regulations, as appropriate for the land on which the violation occurs.
 - (3) Injunction, abatements, etc. The stormwater administrator may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this article. Any person violating this article shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.
 - (4) Correction as public health nuisance, costs as lien, etc. If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by G.S. 160A-193, the stormwater administrator, may cause the violation to be corrected and the costs to be assessed as a lien against the property.
- (b) Civil penalties. Violation of this article may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the stormwater administrator. civil penalties may be assessed up to the full amount of penalty to which the city is subject for violations of its phase II stormwater permit, or if no phase II stormwater permit exists for the jurisdiction, civil penalties may be assessed up to the full amount allowed by law.

SECTION 10. Chapter 36 – Offenses and Miscellaneous Provisions, Article I – In General of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 36-1. Blocking or impeding street and sidewalk access.

- (a) *Purpose and intent.* The city has the general authority and control over all public streets, sidewalks, and other ways of public passage within its corporate limits, except those ways of public passage that are owned or maintained by the State of North Carolina. The city has the duty to keep such streets, sidewalks, and other ways of public passage open for travel and free from unnecessary obstructions. G.S. 160A-296. This ordinance prohibits actions that block or impede the safe passage of pedestrians and vehicles on public sidewalks and streets.
- (b) *Definitions.* The following words, terms, and phrases when used in this section shall have the meanings set forth in this subsection, unless the context of their usage clearly indicates another meaning:
- (1) *Block* means to unreasonably obstruct passage on a sidewalk or entrance or exit to a building.
 - (2) *Impede* means to render the use of a street unreasonably difficult or dangerous, including the following actions:
 - i. Weaving or darting through, around, and in between multiple occupied vehicles, whether the vehicle is stopped or in travel, for a purpose other than passage to a sidewalk. This subsection (i) is meant to prohibit walking through a street parallel to the sidewalk but not meant to prohibit crossing lanes of a street to reach occupied vehicles when a stop light is red.
 - ii. Placing or throwing a tangible thing on or inside an occupied vehicle that is on the street, except if an occupant requests that the acting individual deliver the tangible thing to an occupant or consents to such exchange.
 - iii. Standing, sitting, or lying down on the portion of a traffic island that is less than six feet wide, except where using the traffic island to cross the street or during an emergency.
 - (3) *Sidewalk* means the part of a street improved for pedestrian traffic.
 - (4) *Street* means the entire width between property lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purpose of vehicular traffic. For purposes of this section the terms street and highway are synonymous.
 - (5) *Traffic island* means a raised portion of the street in between lanes of traffic intended to separate lines of traffic or guide traffic, not to hold people or provide pedestrian refuge. A traffic island may be commonly called a median. For the purpose of this section, a traffic island is any raised part of the street meant to separate lanes of traffic that is less than six feet in width. Width is measured as the length of the traffic in the direction of pedestrian travel if the pedestrian is traveling perpendicular to the street.
 - (6) *Vehicle* means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes, of this chapter bicycles shall be deemed vehicles.
- (c) It shall be unlawful for an individual to impede the use of a street or highway.
- (d) It shall be unlawful for an individual to block a sidewalk.
- (e) It shall be unlawful for an individual to block the entrance or exit to a building served by a sidewalk or street unless otherwise granted permission by the owner or tenant. Permission granted by the owner may be evidenced by oral or written confirmation of permission from the owner or tenant.
- (f) Nothing in this subsection shall be interpreted to prohibit the exchanging of objects into and out of vehicles where the vehicle is stopped or parked according to traffic laws and no blocking or impeding of a street or sidewalk occurs. Where an individual is engaged in lawful activity on the sidewalk and such activity

evokes a response by a third party that is in violation of this section or any other ordinance or state law, the individual engaged in lawful activity shall not be in violation of this section.

- (g) This section shall not apply to actions taken by first responders; or to actions taken in response to an emergency or to prevent an accident.
- (h) This section shall not apply to persons or entities granted a permit by the city for purposes, including, but not limited to, under section 46-85 and following of this Code.
- (i) No action punishable under G.S. 20-174.1 shall be punishable under this section. This section shall only apply to public streets, sidewalks, and other ways of public passage within the city's corporate limits for which authority and control is not vested in the North Carolina Board of Transportation.
- (j) In addition to any other remedy available, violation of this section is also a misdemeanor as provided in Section 1-6.

Sec. 36-4. Harassment in public spaces prohibited.

- (a) Purpose and intent.
 - (1) The city is empowered, pursuant to G.S. 160A-174, to protect the health, safety and welfare of its citizens and to ensure the peace and dignity of the city. It is the intent of council in enacting this ordinance to recognize the rights of all citizens while at the same time protecting the coexistent rights for all citizens to enjoy safe and convenient travel in public spaces free from harassment. In the course of public hearings and debates regarding solicitation and safety in public spaces in Hendersonville, the city recognizes that the dangerous effects of harassment may occur in the commission of or completely separate from an act of solicitation, where such conduct occurs in public spaces and includes following a person or cornering a person for the purpose of intimidating that person.
 - (2) The current state laws on stalking and harassment do not protect individuals who are harassed in public spaces where such harassment is confined to a single occasion but is also dangerous or intimidating. Such harassment causes intimidation and fear and may result in an interaction with dangerous or violent consequences. Free and safe passage on city sidewalks and streets is necessary. Therefore, the following ordinance intends to address harassment on sidewalks and streets by penalizing the following conduct.
- (b) Definitions. The following definitions apply in this section:
 - (1) Public space means streets, sidewalks, alleys, and other public property, as well as city-owned and city-controlled property.
 - (2) Reasonable person means a reasonable person in the same or similar circumstances.
- (c) Offense. A person is guilty of harassment in a public space if the person:
 - (1) Knowingly and intentionally performs either of the following with no legitimate purpose:
 - i. Following an individual in or about a public space with the intent of threatening, intimidating, or causing fear for personal safety; or
 - ii. Surrounding an individual or intentionally and physically directing the individual's movement through or in a public space with the intent of threatening, intimidating, or causing fear for personal safety. This subsection includes crowding or cornering an individual with the intent of threatening, intimidating, or causing fear for personal safety and without that individual's consent as the

individual is actively engaging or attempting to use an automated teller machine or parking meter and the individual must stand within the public space to access the automated teller machine or parking meter;

- (2) The conduct described in subsection (c)(1)(i) or (ii) is directed at an individual in the individual's presence; and
- (3) The person continues the conduct described in subsection (c)(1)(i) or (ii) after the individual to whom the conduct is directed has made a negative oral response or taken action that a reasonable person would understand as a negative response.
- (d) In addition to any other remedy available, violation of this section is also a misdemeanor as provided in Section 1-6.

SECTION 11. Chapter 36 – Offenses and Miscellaneous Provisions, Article II – Offenses Against Public Peace of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 36-41. Trespass.

- (a) *Prohibited generally.* It shall be unlawful for any person to commit a trespass within this municipality upon either public or private property.
- (b) *Specifically enumerated trespasses.* Without constituting any limitation upon the provisions of subsection (a) of this section, any of the following acts by any person shall be deemed included among those that constitute trespasses in violation of the provisions of subsection (a) of this section, and appropriate action may be taken under this section at any time, or from time to time, to prevent or punish any violations of this section. The enumerated acts shall include:
 - (1) An entry upon the premises, or any part thereof, of another, including any public property or property of the city, in violation of a notice posted or exhibited at the main entrance to such premises, or at any point of approach or entry, or in violation of any notice, warning or protest, given orally or in writing, by any owner or occupant thereof, or, in the case of municipal property, by any employee or agent of the city in charge of the premises or any lawfully constituted officer of the law.
 - (2) The pursuit of a course of conduct or action incidental to the making of an entry upon the land or property of another, including public property or the property of the city, in violation of a notice posted or exhibited at the main entrance to such premises, or at any point of approach or entry, or in violation of any notice, warning or protest, given orally or in writing, by any owner or occupant thereof, or, in the case of municipal property, by any employee or agent of the city in charge of the premises or any lawfully constituted officer of the law.
 - (3) A failure or refusal to depart from the premises of another, or from public property, or the property of the city, in case of being requested, either orally or in writing, by any owner or occupant thereof, or, in the case of municipal property, by any employee or agent of the city in charge of the premises or any lawfully constituted officer of the law.
- (c) *Penalty for violation of section.* In addition to any other remedy available, violation of this section is also a misdemeanor as provided in Section 1-6.

Sec. 36-43. Disturbing public meetings.

It shall be unlawful for any person, not authorized by law, rule, regulation or order to do so, to disrupt wilfully by shouts, calls, noisemaking or other disturbance any meeting of any public body, whether elected or appointed, to the extent that the body is unable because of such disruption to continue its meeting in due order, or to willfully obstruct the means of entrance to and exit from such meetings.

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

Sec. 36-44. Unlawful assembly.

It shall be unlawful for any two or more persons within the city, to assemble together for any unlawful purpose; or being assembled, to act in concert to do any unlawful act with force and violence against the property of the city, or to the person or property of another, or against the peace or to the terror of citizens or other persons or who shall make any movement or preparation therefor. No person shall knowingly suffer or permit any assemblage for the purpose of committing any unlawful act or breach of the peace or any riotous, offensive or disorderly conduct in or upon the premises owned by him or under his control within the city.

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

[Footnote: State law reference – Riot, G.S. 14-288.2]

Sec. 36-45. Fighting.

It shall be unlawful for any person to knowingly start a fight, or to fight, or to commit any assault or battery in any public place or in any public building in the city.

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

Sec. 36-46. Disturbing lawful assemblages.

It shall be unlawful for any person, not authorized by law, rule, regulation or order to do so, to disrupt willfully by shouts, calls, noise making or other disturbance any lawfully conducted school class, act of commerce, assemblage or parade, to the extent that the class, commerce, public assemblage or parade is unable because of such disruption to continue in due order, or to willfully obstruct the means of entrance thereto and exit therefrom.

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

SECTION 12. Chapter 36 – Offenses and Miscellaneous Provisions, Article III – Offenses Against Public Safety of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 36-81. Projectiles.

- (a) No person shall shoot or project any stone, rock, shot or other hard substance within the city by means of a slingshot, bean shooter, shot shooter, air rifle, pop gun, bow or other similar contrivance; provided, however, that archery shooting may be engaged in on such grounds as may be set aside and approved therefor by the city council.
- (b) It shall be unlawful to cast, throw or propel any missile on any public street, alley or any public building in the city.
- (c) In addition to any other remedy available, violation of this section is also a misdemeanor as provided in Section 1-6.

Sec. 36-82. Discharge of firearms.

It shall be unlawful for any person to fire a gun, rifle, pistol or other firearm within the city except in case of necessary defense of person or property; provided, however, that this section shall not apply to an officer lawfully discharging his duty; provided further, that nothing in this section shall be construed to prohibit licensed shooting galleries.

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

[Footnote: State Law Reference – Authority to regulate discharge of firearms, G.S. 160A-189]

Sec. 36-84. Unauthorized use of police whistles and fire signals.

No person without special authority from the police department or fire department shall carry or use any whistle, bell, horn or siren similar in appearance or sound to the whistles, horns or sirens used by the police department or fire department.

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

Sec. 36-85. Abandoned iceboxes; similar receptacles.

- (a) Prohibited acts. It shall be unlawful for any person to discard, abandon, leave or allow to remain in any place, any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than 1½ cubic feet of clear space which is airtight, without first removing the doors or hinges from such icebox, refrigerator, container or equipment.
- (b) Applicability. This section shall not apply to any icebox, refrigerator, container, device or equipment which is being used for the purpose for which it was originally designed, or is being used for display purposes by any retail or wholesale merchant, or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof.
- (c) As provided in N.C.G.C. 14-318.1, violation of this section is a misdemeanor.

Sec. 36-86. - Possession of firearms by convicted felons.

[Deleted. Preempted by North Carolina law.]

Sec. 36-87. Weapons on city-owned or city-maintained property.

- (a) Carry of certain weapons prohibited.
 - (1) Prohibited acts. Except as provided in subsection (b) of this section, all persons are prohibited from possessing firearms as defined in G.S. 14-415.10 in city government buildings and their appurtenant premises.
 - (2) Where posted, the carrying of a concealed handgun on city government recreational facilities identified specifically as follows is hereby prohibited:
 - a. Patton Park Athletic Fields including any appurtenant facilities such as restrooms, during an organized athletic event, if the fields have been scheduled for use with the Hendersonville Department of Public Works;
 - b. Patton Park Swimming pool, including any appurtenant facilities used for dressing, storage of personal items, or other uses relating to the swimming pool;
 - c. Boyd Park and Patton Park Tennis Courts during organized athletic events, if the courts have been scheduled for use with the Hendersonville Department of Public Works;
 - d. William H. King Park Baseball Field including any appurtenant facilities such as restrooms, during an organized athletic event, if the field has been scheduled for use with the Hendersonville Department of Public Works;
 - e. Sullivan Park Basketball Facility including appurtenant facilities such as restrooms, during an organized athletic event, if the facility has been scheduled for use with the Hendersonville Department of Public Works;
 - f. Whitmire Activity Center Shuffleboard Courts including appurtenant facilities such as restrooms, during an organized athletic event, if the courts have been scheduled for use with the Hendersonville Department of Public Works.

- (b) Exceptions. This prohibition of subsection (a) of this section shall not apply to the following persons:
- (1) Officers and enlisted personnel of the armed forces of the United States when discharging their official duties as such and acting under orders requiring them to carry arms and weapons;
 - (2) Civil officers of the United States while in the discharge of their official duties;
 - (3) Officers and soldiers of the national guard when called into actual service;
 - (4) Sworn law enforcement officers;
 - (5) County animal control officers while in the discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;
 - (6) Employees of the city, a utility company, or a contractor to the city, may possess tools approved by their employer so long as such tools are not used as a weapon; and
 - (7) Persons possessing a written permit from the chief of police to possess weapons for ceremonial purposes or funerals.
 - (8) City employees with a valid North Carolina Concealed Carry Permit and prior approval which may be granted by the city manager in consultation with the chief of police in such places and under such circumstances as the city manager may from time to time designate. The city manager is hereby authorized and directed to draw up and keep current from time to time such policies for the carrying of concealed weapons as the city manager, in consultation with the chief of police, may determine is in the interest of the health, safety and welfare of the city.
- (c) In addition to any other remedy available, violation of this section is also a misdemeanor as provided in Section 1-6.

SECTION 13. Chapter 36 – Offenses and Miscellaneous Provisions, Article IV – Offenses Against Public Morals of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 36-121. Indecent exposure or behavior.

[Deleted. Preempted by North Carolina law.]

Sec. 36-122. Displaying obscene pictures.

[Deleted. Preempted by North Carolina law.]

Sec. 36-124. Prostitution—Solicitation.

[Deleted. Preempted by North Carolina law.]

Sec. 36-125. Same—Selling or renting houses for use as house of prostitution.

No person shall knowingly sell or rent any house within the city to be used as a house of prostitution or ill fame.

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

Sec. 36-126. Bawdy houses.

No person shall keep any house within the city where men are received for the purpose of engaging in illicit sexual intercourse.

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

Sec. 36-127. Assignment houses.

No person shall keep any assignment house or knowingly receive into any house within the city or allow to stay therein any man or woman for the purpose of engaging in illicit sexual intercourse.

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

Sec. 36-128. Staying in bawdy house.

No person shall stay or reside in any bawdy house within the city.

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

Sec. 36-129. Disorderly houses.

[Deleted. Preempted by North Carolina law.]

SECTION 14. Chapter 36 – Offenses and Miscellaneous Provisions, Article V - Curfew of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 36-213. Reserved.

Sec. 36-214. Establishment of curfew; enforcement.

A curfew applicable to minors is established and shall be enforced as follows:

- (1) *Time limits.* It is unlawful for any minor to be or remain upon any public place as defined in this section in the city between midnight Friday and 5:00 a.m. on Saturday, or between midnight Saturday and 5:00 a.m. on Sunday, or between the hours of 11:00 p.m. and 5:00 a.m. of the following morning on Sunday, Monday, Tuesday, Wednesday or Thursday.
- (2) *Exceptions.* The restrictions provided by subsection (1) of this section shall not apply to any minor who is accompanied by a guardian, parent or other person charged with the care and custody of such minor, or other responsible person over 18 years of age, nor shall the restriction apply to any minor who is traveling between any two of the following: his home, place of employment, place of worship, any government building or any school-sanctioned function, if the minor is attending or has attended such function.
- (3) *Responsibility of minor.* It is unlawful for any minor to be in or upon, or remain in or upon a public place within the city within the curfew hours set by subsection (1) of this section, except as otherwise provided in subsection (2) of this section.
- (4) *Responsibility of adults.* It is unlawful for any parent, guardian or other person charged with the care and custody of any minor to allow or permit such minor to be in or upon, or remain in or upon, a public place within the city within the curfew hours set by subsection (1) of this section, except as otherwise provided in subsection (2) of this section.
- (5) *Responsibility of business establishments.* It is unlawful for any person operating a place of business or amusement to allow or permit any minor to be in or upon, or to remain in or upon, any place of business or amusement operated by them within the curfew hours set by subsection (1) of this section, except as otherwise provided in subsection (2) of this section.
- (6) *Enforcement.* Enforcement of this division shall be according to the following procedures:
 - a. When a minor is found to be in violation of this division, the officer will, by telephone or radio, check with the communications center of the city police department to determine if the juvenile is a first offender. If the juvenile is a first offender, he will be issued a written warning and taken to the residence of his parent or guardian. In addition to this action, a written warning will be given to that adult and an incident report taken by the officer to include the name of the juvenile and adult, and the time, date and location of the offense. This shall apply in all cases where a written warning is issued. This report will be turned in to the clerk and entered

into the police department's computer system. A copy of the report will be maintained in the records division of the police department.

- b. If upon checking with the communications center the juvenile is found to be a repeat offender, he will be taken to the residence of his parent or guardian and will be subject to having a juvenile petition filed against him for the violation. In addition, the adult (parent or guardian) will be subject to a criminal citation, pursuant to subsection (8) of this section. A report will be turned in to the communications center and entered into the police department computer system. A copy of the report will be maintained in the records division of the police department.
 - c. If the juvenile is, in the opinion of the apprehending officer, an abused, neglected or dependent juvenile as those terms are defined in G.S. 7A-517 then the apprehending officer shall make an immediate report of the same to the county department of social services.
- (7) *Violation of curfew by minor.* It shall be a violation of this division for any minor to act in violation of subsection (1) of this section, except as otherwise provided in subsection (2) of this section.
 - (8) *Aiding and abetting by adult, guardian or parent.* It shall be a violation of this division for an adult, guardian or parent to allow, permit, encourage, aid or abet a minor in the violation of subsection (1) of this section, except as otherwise provided in subsection (2) of this section.
 - (9) *Refusal of guardian or parent to take custody of a minor.* If any guardian or parent refuses to take custody of his minor child found in violation of this division, the officers with custody of the minor shall contact the county department of social services and release the minor to that agency pending further investigation by the police department and the department of social services. The adult will be subject to a criminal citation, pursuant to subsection (8) of this section.
 - (10) *Emergency curfew.* Under the authority of G.S. 14-288-12, whenever the mayor of the city deems that an emergency exists, and there is a clear and present danger to the preservation of the public peace, health, life or safety, or to public or private property in the city necessitating expansion of the curfew provisions set forth in subsection (1) of this section, the mayor may effect such expansion, effective for the period of the emergency, by proclamation. The proclamation shall contain a statement of the reasons for such necessity and the period of the expanded curfew, and shall provide that no minor under the age of 16 shall be upon or about, or remain upon or about, public places in the city between the hours of 8:00 p.m. and 5:00 a.m. on the following morning, unless accompanied by his parent, guardian or responsible adult. Such proclamation may further provide that no parent or guardian of any minor under the age of 16 shall allow the child to be upon or about, or remain upon or about, any public place in the city between the hours of 8:00 p.m. and 5:00 a.m. of the following morning, unless the child is under direction or protection of some adult person with authority and consent of such parent or guardian for his being there. Such proclamation shall become effective 30 minutes after being publicly announced by the mayor for such period, or until rescinded by the mayor or repealed by the city council in the manner in which ordinances are repealed. As soon as is reasonably possible, the proclamation shall be published and reported in the local media and posted conspicuously about the city.
 - (11) In addition to any other remedy available, violation of this section is also a misdemeanor as provided in Section 1-6.

SECTION 15. Chapter 36 – Offenses and Miscellaneous Provisions, Article VI – Abandoned, Nuisance, and Junked Motor Vehicles of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 36-261. Unlawful removal of impounded vehicle.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the city any vehicle which has been impounded pursuant to the

provisions of this article unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

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

SECTION 16. Chapter 38 – Parks and Recreation, Article I – In General of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 38-3. Prohibited conduct.

No person shall, while in any public park:

Drive any nongovernment vehicle on any area except the paved park roads or designated parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the city, except that bicycles shall be permitted on all trails unless specifically prohibited.

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

SECTION 17. Chapter 38 – Parks and Recreation, Article II – Public Skate Park Facilities of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 38-12. Public skate park designated; use regulations.

The city may designate, maintain and/or operate a skate park facility, which shall be open to the public for the purpose of riding skateboards, in-line skates, and/or roller skates. Any designated public skate park may or may not be supervised and shall be for use by persons using skateboards, in-line skates, and/or roller skates only. All other uses are prohibited.

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

Sec. 38-13. Required riding equipment in public skate parks.

It is unlawful for a person to ride or use a skateboard, in-line skates, or roller skates, in a designated public skate park facility unless a person is wearing a helmet, elbow pads and knee pads.

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

Sec. 38-15. Skate park sign posting.

The city public works department shall cause a sign or signs to be posted at designated public skate park facilities providing reasonable notice of the requirements of this article and stating that any person failing to comply may be charged with a misdemeanor. Such signs shall at least afford reasonable notice of the following:

- (1) Park hours of operation.
- (2) Skateboarding, roller-skating, and in-line skating are hazardous activities. Skate at your own risk.
- (3) Skateboards, roller-skates, and in-line skates only.
- (4) Failure to wear helmets, kneepads and elbow pads will subject persons to citation and/or ejection from the facility.

Sec. 38-17. Reserved.

Sec. 38-18. City skate park rules.

In addition to any other available remedy, violation of the rules in this Section 38-18 is also a misdemeanor as provided in Section 1-6.

Notice to all skaters.

This is an unsupervised skatepark. Skating is permitted during park hours from dawn to dusk. Any use of this facility is at your own risk. Use of this facility may result in serious injury.

IN THE CASE OF SERIOUS INJURY, DO NOT MOVE THE INJURED PERSON.
ALL SKATING SHALL CEASE IMMEDIATELY. DIAL 911 - YOU ARE IN
PATTON PARK AT 103 E. Clairmont Drive.

The following rules and regulations have been established for use of the skatepark to ensure participant safety. Please read and obey the following rules.

- (1) This is an unsupervised skate park and its use is free of charge. Avoid skating when the surface is wet from rain, etc.
- (2) Skating and skateboarding only are allowed in the skatepark.
- (3) Every person riding a skateboard at this facility, skateboard in the facility must wear a helmet, elbow pads, and kneepads.
- (4) Motorized vehicles are not allowed. Only skateboards, roller skates, in-line skates are allowed on ramps.
- (5) Call 911 for emergencies.
- (6) Drugs, alcohol, glass containers, tobacco products, profanity, fighting, horseplay, destroying or defacing public property are prohibited. Vandalism, including graffiti, stickers and tagging is illegal. If this occurs it may require the park to be closed temporarily. Violators will be prosecuted.
- (7) Food or beverages are not allowed on the skate area. Glass containers are prohibited in or near the skating surface.
- (8) No one under the age of eight is allowed without adult supervision.
- (9) No spectators are allowed on the skate area.
- (10) The city reserves the right to revoke the use of the skatepark to individuals who violate the rules and regulations of the skatepark.
- (11) Help keep the skatepark clean! Put trash in the receptacles, even if it is not yours!
- (12) Be courteous and respectful of others.
- (13) Events, lessons and other organized activities require written permission from the director of public works or his/her designee.
- (14) No other park items such as benches, tables, etc. may be used as ramps or jumps in the skatepark.
- (15) Firearms are prohibited in the skatepark.

Under North Carolina law, no governmental entity or public employee who has complied with G.S. 99E-23 shall be liable to any person who voluntarily participates in hazardous recreation activities for any damage or injury to property or persons that arises out of a person's participation in the activity and that takes place in an area designated for the activity.

For additional information, contact the City of Hendersonville at 828-697-3000.

SECTION 18. Chapter 42 – Secondhand Goods, Article I – In General of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 42-1. Purchases from minors.

[Deleted. Preempted by North Carolina law.]

SECTION 19. Chapter 42 – Secondhand Goods, Article II – Pawnbrokers of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

[Footnote: State Law reference— Pawnbrokers and Cash Converters Modernization Act, G.S.Ch. 66, Art. 45, Part 1.]

Sec. 42-36. Adoption of state provisions.

The city adopts the provisions of G.S. Ch. 66, Art. 45, Part 1, the Pawnbrokers and Cash Converters Modernization Act.

SECTION 20 Chapter 42 – Secondhand Goods, Article II – Electronic Record-Keeping and Transmittal Requirements for Certain Businesses of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 42-37. Definitions.

Cash converter shall have the same meaning as defined in Chapter 66 of the North Carolina General Statutes or any successor statute.

Pawnbroker shall have the same meaning as defined in Chapter 66 of the North Carolina General Statutes or any successor statute.

Pawnshop shall have the same meaning as defined in Chapter 66 of the North Carolina General Statutes or any successor statute.

Precious metals dealer shall have the same meaning as defined in Chapter 66 of the North Carolina General Statutes or any successor statute.

Secondary metals recycler shall have the same meaning as defined in Chapter 66 of the North Carolina General Statutes or any successor statute.

Sec. 42-38. Electronic record keeping.

Every owner or operator of a cash converter business, pawnbroker, pawnshop, precious metals dealer or secondary metals recycler subject to this article shall maintain an electronic inventory tracking system that is capable of delivery and transmission of all information required by G.S. 66-391 or 66-392 (in the case of cash converters, pawnbrokers and pawnshops) or G.S. 66-410 (in the case of precious metals dealers) or G.S. 66-421 (in the case of secondary metals dealers) by computer to the entity designated by the city police department.

Sec. 42-39. Electronic transmittal of required records.

Every owner or operator of a cash converter business, pawnbroker, pawnshop, precious metals dealer or secondary metals recycler subject to this article is required to upload the information required by G.S. 66-391 or 66-392 to the entity designated by the city police department within one business day of receipt of the goods purchased or pawned.

SECTION 21. Chapter 44 – Environmental Services, Article I – In General of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 44-3. Reserved.

Sec. 44-5. Littering prohibited—Generally.

It shall be unlawful for any person to throw, drop, cast or deposit upon any street, alley, sidewalk or any yard or premises, public or private, any filth of any kind, or cans, paper, trash, paper containers, rubbish, bottles, wood shavings, brush, tree trimmings, grass clippings, leaves, or any other form of litter or waste matter, except as described in this article.

In addition to any other available remedy, violation of this section shall be punished in accordance with N.C.G.S. 14-399.

SECTION 22. Chapter 44 – Environmental Services, Article II – Collection and Disposal of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 44-41. Container specifications and handling requirements.

- (a) Residential collection. All occupants of residences, whether single-family or multifamily, subdivision, planned unit developments, condominiums, apartment buildings, duplexes or any other arrangement of ownership, shall use city-provided mobile containers, which shall be placed adjacent to the street for collection. Rollout containers shall be emptied one time per week by the city sanitation department on days designated by the director of public works.
 - (1) Placement. Rollout containers shall be placed adjacent to the street for collection on days designated by the director of public works for pickup. The mobile containers shall be placed within five feet of the curb or street edge or in an accessible location approved by the director of public works, but shall not be placed in the street or on the sidewalk.
 - (2) Time requirements. The mobile containers shall be placed in the required location for collection no earlier than 7:00 p.m. on the day preceding a designated pickup day and shall be removed from the curbside location no later than 7:00 p.m. on the designated pickup day. Except during these hours, the containers shall be kept in a location no closer to the street than the front line of the residence. Containers must be curbside no later than 7:00 a.m. on collection day.
- (b) Multifamily dwelling collection. Multifamily dwellings with four or more units may utilize mobile carts or bulk containers on an individual resident or user basis; provided, however, that such multifamily dwellings must maintain and require the use of a central and common collection and pickup area, the location of which has been approved and accepted by the city director of public works.
- (c) Location of containers. Those provisions set forth in sections 44-2, 44-4, 44-6, 44-7 and subsection (a) of this section shall apply to occupants of multifamily dwellings utilizing mobile containers.
- (d) Commercial and industrial collection. Commercial and industrial collection shall be as follows:
 - (1) Provisions for containers. Each establishment disposing of the equivalent of less than four cubic yards weekly shall provide rollout containers leased from the city, to remain the property of the city, and sufficient in number to contain the volume of refuse based on a once-per-week pickup. Each establishment disposing of more than four cubic yards weekly shall provide bulk containers of adequate size necessary to contain the volume of refuse based on once-per-week pickup. Establishments disposing of more than 16 cubic yards weekly shall provide bulk containers of eight cubic yards minimum capacity. Where feasible, low volume disposers may choose to combine their refuse with adjoining business, provided written permission is obtained from the business owner. Other low volume disposers may choose alternative disposal methods as approved by the director of public works.
- (e) Location of containers. Containers must be located in a position approved by the director of public works, easily accessible by the sanitation collection equipment.
- (f) Ownership and responsibility. All containers furnished by the city, including mobile containers and rollout containers as referenced herein, shall remain the property of the city. Containers that are damaged, destroyed or stolen through abuse, neglect or improper use of occupant or user shall be replaced by the city at the expense of the occupant or user or resident owner. Containers that are damaged in the course of normal and reasonable usage or that are damaged through no neglect or improper use of the occupant or user shall be replaced by the city at no expense to the occupant or user or resident owner. The director of public works shall determine whether the container was damaged through abuse, neglect or improper use of occupant or user. Any determination made by the

director of public works pursuant to this section shall be appealable to the city council if written notice of appeal is given by the occupant or user or resident owner to the city council within ten days after the director's decision.

- (1) Containers shall not be intentionally damaged, destroyed or defaced by any person. Markings or identification devices on containers, except as placed or specifically permitted by the director of public works, are expressly prohibited and shall be regarded as damage to the containers. In addition to any other remedy available, violation of this subsection (f)(1) is also a misdemeanor as provided in Section 1-6.

Sec. 44-48. Hazardous wastes.

No person shall place or cause to be placed any hazardous wastes or any other dangerous materials of any kind with material to be collected by the city. The city will not be responsible for the collection or disposal of such materials. Procedures for transporting and disposing of such materials may be obtained through the department of sanitation and/or the county public health department.

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

SECTION 23. Chapter 46 – Streets, Sidewalks and Other Public Places, Article I – In General of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 46-2. Playing in streets.

No person shall play baseball, football or other games of similar nature on any public street in the city, except when such street has been declared a play street.

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

Sec. 46-3. Injury to paving under construction.

No person shall cut, break, tear down or remove the stakes or ropes which are placed in, on, along or across any street in the city which are placed for the purpose of preventing persons from walking, riding or driving on newly laid paving. It shall also be unlawful for any person to walk, ride or drive over such paving until the paving shall have been duly opened to the public; employees of the city in performance of their duties excepted.

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

SECTION 24. Chapter 46 – Streets, Sidewalks and Other Public Places, Article II - Excavations of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 46-41. Permit required.

No person or any agent, employee, servant, contractor or subcontractor of any person shall dig, cut into or through the streets, highways or alleyways within the city for the purpose of installing, repairing or making connection with water lines, sewer lines, gas lines, telephone lines, power lines or for any other purpose, without having first obtained written permission to do so from the department of public works of the city, and in conformance with the procedures and methods set forth or provided for in this article.

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

SECTION 25. Chapter 46 – Streets, Sidewalks and Other Public Places, Article III – Obstructions and Encroachments of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 46-81. Obstructions.

- (a) *Generally.* G.S. 160A-296 imposes upon cities the duty to keep public streets and sidewalks free from unnecessary obstructions. This section applies to all

obstructions of whatever nature, whether temporary or permanent. Section 46-82 applies only to encroachments, which are defined as structural improvements on city rights-of-way. Not all obstructions are encroachments, but all encroachments are obstructions and may be regulated under both sections.

- (b) *Obstructions and their removal.* Obstructions shall be removed as follows:
- (1) *Deemed nuisance; abatement; costs.* It shall be unlawful for any person to erect, locate or permit to remain in any street or sidewalk of the city any obstruction that will interfere with the use of the street or sidewalk by the public. Any obstruction which shall remain in any street or sidewalk after notice or demand for its removal by the city shall be deemed a public nuisance, and it shall be the duty of the director of public works or chief of police to abate such nuisance by the summary removal of the obstruction, and to charge the cost thereof to the person responsible for its existence.
 - (2) *Fine.* If any person, after having been notified by the city to remove any obstruction from any street or sidewalk shall refuse or fail to remove it, such person shall forfeit and pay to the city the sum of \$50.00 for each day the obstruction shall remain unremoved. For the purpose of this section, each day shall constitute a separate cause of action, and notice to any agent or servant of any person shall be deemed notice to the principal.
 - (3) *Exceptions to section provisions.* The provisions of this section shall not apply in the following circumstances:
 - a. Loading, unloading, moving or transporting materials;
 - b. Standard covered garbage cans, at the time and place designated by order of the director of public works;
 - c. In the case of a written permit for construction, maintenance, advertising, and such other purposes as are provided by ordinance; and
 - d. Signs, public benches and any other item placed by the city.
- (c) *Displaying goods or wares.* Except as otherwise provided in this section or in conjunction with special event permits, it shall be unlawful for any person to obstruct entirely or in part any right-of-way, street or sidewalk of the city, by displaying, offering for sale or selling, at auction or otherwise, any goods, wares or merchandise thereon.
- (d) *Permission for placing material in streets.* It shall be unlawful to place any brick, stone, lumber, sand or other building material upon any of the streets or sidewalks of the city without first having obtained from the city manager, or his designee, permission in writing therefor, and then only under such reasonable restrictions as may be prescribed by him for the public safety.
- (e) *Use of sidewalks by merchants.* Notwithstanding the provisions of subsection (c) of this section, in those circumstances where the building in which a business is located is contiguous with a public sidewalk, merchants doing business in such building may make limited use of the sidewalk in accordance with this subsection. In such circumstances, merchants may use the adjacent sidewalk for decoration, the display of wares, and/or a portable sign advertising the business so long as they leave at least a continuous five-foot width of unobstructed sidewalk. In any event, the width of the sidewalk used by a merchant under this subsection shall not exceed 36 inches except during the Apple Festival, merchants may use 48 inches of sidewalk for the display of merchandise. It is the intent of this subsection that such use shall be temporary in nature and items placed on sidewalks shall not be permitted to remain overnight.
- (f) In addition to any other remedy available, violation of this section is also a misdemeanor as provided in Section 1-6.

Sec. 46-83. Picketing.

- (a) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Picket or *picketing* means to make a public display or demonstration of sentiment for or against a person or cause, including protesting which may include the distribution of leaflets or handbills, the display of signs and any oral communication or speech, which may involve an effort to persuade or influence, including all expressive and symbolic conduct, whether active or passive.

Sidewalk means that portion of the street right-of-way which is designated for the use of pedestrians and may be paved or unpaved and shall include easements and rights-of-way.

Street means the entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right, for the purposes of vehicular traffic, including that portion that is known as the shoulder of the roadway and the curb. The terms "highway" and "street" and their cognates are synonymous as used herein.

- (b) *Notice of intent to picket.*

- (1) Notification required. The organizer of a picket that the organizer knows, or should reasonably know will be by a group of 50 or more individuals shall give notice of intent to picket to the chief of police or designee at least 48 hours before the beginning of the picket. The notice of intent to picket shall include the following information:
 - a. The name, address and contact telephone number for the organizer of the picket;
 - b. The name, address and contact telephone number of the person giving notice of intent to picket if different from the organizer;
 - c. The name of the organization or group sponsoring the picket;
 - d. The location where the picket is to take place;
 - e. The date and time the picket will begin and end; and
 - f. The anticipated number of participants, and the basis on which this estimate is made.
- (2) Receipt of notification. Upon notice of intent to picket given in accordance with subsection (1), the chief of police or designee shall immediately issue a receipt of notice. The receipt shall contain all information stated in the notice. The organizer of a picket shall be responsible for maintaining the receipt, and shall present it when so requested by a law enforcement officer or other city official.
- (3) It shall be unlawful for any person to violate any provision of this section.

- (c) *Picketing regulations.*

- (1) Picketing may be conducted on public sidewalks, at the city hall lawn and steps, any city-controlled park, or other city-owned areas normally used or reserved for pedestrian movement, including easements and rights-of-way. This list is not intended to be exclusive of other areas that may be deemed a public forum.
- (2) Notwithstanding subsection (a), picketing may not be conducted at a location directed, focused, or targeted at a particular private residence.
- (3) Picketing shall not disrupt, block, obstruct or interfere with pedestrian or vehicular traffic or the free passage of pedestrian or vehicular traffic into any driveway, pedestrian entrance, or other access to buildings, which abut the public sidewalks.

- (4) Written or printed placards or signs, flags, or banners carried by individuals engaged in picketing shall be of such a size and/or carried on the sidewalks or other city-owned areas, as to allow safe and unobstructed passage of pedestrian or vehicular traffic. The staff or pole on which a sign, flag, or banner may be carried shall be made of corrugated material, plastic, or wood, and shall not exceed 40 inches in length and shall not be made of metal or metal alloy. If made of wood, the staff or pole shall be no greater than three-fourths inch in diameter at any point. A staff or pole must be blunt at both ends.
- (5) If more than one group of picketers desire to picket at the same time at or near the same location, law enforcement officers may, without regard to the purpose or content of the message, assign each group a place to picket in order to preserve the public peace. Members of a group shall not enter an area assigned to another group. Priority of location shall be based upon which group of picketers arrived first, or in the case where at least one of the groups received a receipt of notification as provided herein, the group that first gave notice as provided herein.
- (6) Spectators of pickets shall not physically interfere with individuals engaged in picketing. Picketers and spectators of pickets shall not speak fighting words or threats that would tend cause physical injury or to provoke a reasonable person to a breach of the peace.
- (7) Picketers and picketing shall be subject to all applicable local, state and federal laws including, but not limited to:
 - a. The city's noise ordinance;
 - b. N.C.G.S. § 14-225.1 (obstructing justice);
 - c. N.C.G.S. § 14-277.2 (weapons);
 - d. N.C.G.S. § 14-277.4 (health care facilities); and
 - e. N.C.G.S. § 14-288.4 (disorderly conduct).
- (8) Nothing in this section prohibits a law enforcement officer from issuing a command to disperse in accordance with N.C.G.S. § 14-288.5 in the event of a riot or disorderly conduct by an assemblage of three or more persons.
- (9) It shall be unlawful for any person to violate any provision of this section. In addition to any other remedy available, violation of this section is also a misdemeanor as provided in Section 1-6.

Sec. 46-87. Street entertainers.

- (a) "Street entertainers" or "Entertainers" as used herein shall mean persons and groups of persons providing entertainment intended for the benefit of pedestrians on sidewalks, which entertainers in the course of their entertainment remain substantially stationary in areas adjoining or within 25 feet of Main Street in downtown Hendersonville between Sixth Avenue and First Avenue. This ordinance shall apply equally to all persons regardless of whether such persons are requesting or accepting reward associated with the entertainment. The terms as used herein shall not apply to substantially mobile pedestrians regardless of whether such pedestrians are attempting to entertain or communicate with other pedestrians.
- (b) Street entertainers shall be subject to the following requirements while on sidewalks adjoining or within 25 feet of Main Street between Sixth Avenue and First Avenue.
 - (1) Entertainers while preparing for, engaging in, or disengaging from entertaining shall remain within areas designated by the city for entertainment purposes at the ends of most Main Street blocks.

- (2) Entertainers, whether one or more engaging in a particular entertainment, shall not occupy an entertainment area already occupied by another entertainer.
- (3) The sale or attempted sale of any goods by an entertainer shall be subject to applicable law, including ordinances regulating business licensing of such sales.
- (4) Entertainers shall not obstruct pedestrian or vehicular traffic and shall yield to disabled persons reasonably requiring temporary use of the entertaining area.
- (5) Entertainers shall not perform on sidewalks adjacent to or within 25 feet of Main Street during special events hours unless designated as part of the special event by the event's promoter or organizer.
- (6) Entertainers shall not be exempt in any respect from applicable law relating to the propagation of noise, or to criminal trespass on private property.
- (7) Entertainers shall not enter the streets while entertaining except for the purposes of loading or unloading objects from vehicles.

(c) In addition to any other remedy available, violation of this section is also a misdemeanor as provided in Section 1-6. **SECTION 26.** Chapter 50 - Traffic, Article I – In General of the Code of Ordinances for the City of Hendersonville is amended as follows:

Sec. 50-2. Reserved.

Sec. 50-3. Obedience to police.

[Deleted. Preempted by North Carolina law.]

Sec. 50-12. Entering or riding vehicles without permission.

No person shall enter, jump on or ride any automobile or other vehicle without the consent of the owner or driver.

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

Sec. 50-15. Placing glass, tacks, wire, bottles, nails or other such articles in streets.

It shall be unlawful for any person to place upon any part of a public street, highway, land, road, street or alley, any tacks, bottles, wire, glass, nails or any other articles which may damage or injure any person, vehicle or animal traveling along or upon such public street or way.

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

Sec. 50-16. Mufflers.

(a)

[Deleted. Preempted by North Carolina law.]

Sec. 50-17. Riding motorcycles generally.

[Deleted. Preempted by North Carolina law.]

Sec. 50-22. Solicitation in public rights-of-way prohibited.**(a) Definitions.**

- (1) The following words and phrases, whenever used in this section, shall be construed as defined in this subsection:

Business means any type of products, goods, service performance or activity which is provided or performed, or offered to be provided or performed, in exchange for money, labor, goods or any other form of consideration.

Employment means services, industry or labor performed by a person for wages or other compensation or under any contract of hire, written or oral, express or implied.

Public right-of-way means land which is dedicated to the public use for sidewalk, street and highway purposes, or other transportation purposes.

Solicit means making any oral or written request, offer or enticement, or taking any action which indicates the availability of a person for employment or availability to provide services for compensation or which seeks to purchase or secure services or goods; the purchase or sale of goods; or a request for money or other property; or a contribution of money or other property. A solicitation shall be deemed complete when made whether or not an actual employment relationship is created, a transaction is completed, or an exchange of money or other property takes place.

- (b) It is unlawful for any person, while standing in any portion of the public right-of-way, including but not limited to public streets, highways, median strips, sidewalks and driveways, to solicit, or attempt to solicit, employment, business, or contributions of money or other property from, or to distribute or attempt to distribute any material thing to, any person traveling in a motor vehicle along a public right-of-way, including, but not limited to public streets, highways or driveways. This provision does not apply to services rendered in connection with emergency repairs requested by the operator or passenger of a motor vehicle.
- (c) In addition to any other remedy available, violation of this section is also a misdemeanor as provided in Section 1-6.

SECTION 28. Chapter 50 – Traffic, Article II – Procedures Upon Arrest of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 50-59. Failure to obey citation.

[Deleted. Preempted by North Carolina law.]

Sec. 50-62. Issuance of warrant.

[Deleted. Preempted by North Carolina law.]

SECTION 27. Chapter 50 - Traffic, Article III – Operation of Vehicles of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 50-96. Duty to drive on right half of street—Generally.

[Deleted. Preempted by North Carolina law.]

Sec. 50-97. Same—Crossing intersection or railroad.

[Deleted. Preempted by North Carolina law.] **Sec. 50-98. Meeting of vehicles.**

[Deleted. Preempted by North Carolina law.]

Sec. 50-99. Driving on roadways laned for traffic.

[Deleted. Preempted by North Carolina law.]

Sec. 50-100. Passing vehicle proceeding in same direction—Generally.

[Deleted. Preempted by North Carolina law.] **Sec. 50-101. Same—When permitted on right.**

[Deleted. Preempted by North Carolina law.] **Sec. 50-102. Same—Duty of driver of overtaken vehicle.**

[Deleted. Preempted by North Carolina law.]

Sec. 50-103. Right-of-way generally.

[Deleted. Preempted by North Carolina law.]

Sec. 50-104. Exceptions to the right-of-way rule.

[Deleted. Preempted by North Carolina law.]

Sec. 50-105. Method of turning at intersections.

[Deleted. Preempted by North Carolina law.]

Sec. 50-106. Signals on starting, stopping or turning—Required.

[Deleted. Preempted by North Carolina law.]

Sec. 50-107. Same—Manner of giving.

[Deleted. Preempted by North Carolina law.]

Sec. 50-108. Duty of drivers of vehicles upon approach of authorized emergency vehicles.

[Deleted. Preempted by North Carolina law.]

Sec. 50-109. Following fire apparatus or driving near scene of fire.

[Deleted. Preempted by North Carolina law.]

Sec. 50-110. Driving over fire hose or blocking fire apparatus.

[Deleted. Preempted by North Carolina law.]

Sec. 50-111. Backing.

[Deleted. Preempted by North Carolina law.] **Sec. 50-112. Entering intersections and marked crosswalks.**

[Deleted. Preempted by North Carolina law.] **Sec. 50-113. Driving vehicles on sidewalks.**

[Deleted. Preempted by North Carolina law.]

Sec. 50-116. Following too closely.

[Deleted. Preempted by North Carolina law.] **Sec. 50-117. Driving overloaded or overcrowded vehicle.**

[Deleted. Preempted by North Carolina law.]

Sec. 50-141. Reasonable and prudent limitation.

[Deleted. Preempted by North Carolina law.]

Sec. 50-142. General district limitations.

Except as otherwise provided in this chapter, it shall be unlawful for any person to operate a vehicle in excess of the following speeds:

- (1) Twenty miles per hour in any business district;
- (2) Thirty-five miles per hour in any residential district;
- (3) Forty-five miles per hour in places other than those named in subsections (1) and (2) of this section for:
 - a. All vehicles other than passenger cars, regular passenger vehicles, pickup trucks of less than one-ton capacity, and school buses loaded with children; and
 - b. All vehicles, of whatever kind, which are engaged in towing, drawing or pushing another vehicle; provided, however, that this subsection (3)b shall not apply to vehicles engaged in towing, drawing or pushing trailers with a gross weight of not more than 3,000 pounds; and
- (4) Fifty-five miles per hour in places other than those named in subsections (1) and (2) of this section for passenger cars, regular passenger carrying vehicles and pickup trucks of less than one-ton capacity.

In addition to any other available remedy, violation of this section is also an infraction as provided in Section 1-6.

Sec. 50-143. Duty to decrease.

[Deleted. Preempted by North Carolina law.] **Sec. 50-144. Variation of maximum speed limits.**

The city council may alter the maximum speed limit as established in this division on any street or portion thereof which is not a part of the state highway system and which is not maintained by the state highway commission in accordance with the provisions of G.S. 20-141(f1). No such alteration of the speed limits shall become or remain effective unless signs have been conspicuously placed giving notice of such speed limit for such street.

- (a) The speed limit on Chadwick Avenue between Greenville Highway (NC 225) and Spartanburg Highway (US 176) shall be 25 miles per hour.

In addition to any other available remedy, violation of this section is also an infraction as provided in Section 1-6.

Sec. 50-145. School zones.

.

[Deleted. Preempted by North Carolina law.]

SECTION 28. Chapter 50 - Traffic, Article IV – Traffic Control Devices of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 50-182. Obedience to devices.

[Deleted. Preempted by North Carolina law.]

Sec. 50-184. Moving or damaging devices.

It shall be unlawful for any person to move, deface or otherwise damage any sign, signal or other traffic control device placed upon the streets of the city.

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

Sec. 50-188. Stop intersections.

[Deleted. Preempted by North Carolina law.]

Sec. 50-189. Yield intersections.

[Deleted. Preempted by North Carolina law.]

Sec. 50-190. Driving on one-way streets.

Upon those streets and parts of streets designated as one-way streets in accord with section 50-181, vehicular traffic shall move only in the indicated direction, when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

In addition to any other remedy available, violation of this section shall also be an infraction as provided in Section 1-6.

Sec. 50-191. - Limitations on turning around.

No driver shall turn any vehicle so as to proceed in the opposite direction in the business district, except at street intersections. No vehicle shall make such a turn, even at street intersections, in the streets, or portions of streets, designated and signposted pursuant to section 50-181.

In addition to any other remedy available in the Code, violation of this section shall also be an infraction as provided in Section 1-6.

[Footnote: State law reference – Authority to modify turning at intersections, G.S. 20-153

Sec. 50-193. Driving through safety zone.

[Deleted. Preempted by North Carolina law.]

Sec. 50-194. Reserved.

Sec. 50-196. Driving on play streets.

Whenever authorized signs are placed designating any street, or part thereof, as a play street pursuant to section 50-181, no person shall drive a vehicle upon any such designated street, except persons who have business or who reside within the designated area.

SECTION 29. Chapter 50 – Traffic, Article VI – Pedestrians of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 50-376. - Application of article.

[Deleted. Preempted by North Carolina law.]**Sec. 50-377. Right-of-way at crosswalks.**

[Deleted. Preempted by North Carolina law.]

Sec. 50-378. Crossing at other than crosswalk.

[Deleted. Preempted by North Carolina law.]

Sec. 50-379. Walking on traveled portion of street.

[Deleted. Preempted by North Carolina law.]

Sec. 50-380. Soliciting rides.

[Deleted. Preempted by North Carolina law.]

Sec. 50-381. Special provisions relative to blind pedestrians.

[Deleted. Preempted by North Carolina law.]

Sec. 50-382. Unlawful use of white cane.

[Deleted. Preempted by North Carolina law.]

Sec. 50-383. Duty of drivers.

[Deleted. Preempted by North Carolina law.]

SECTION 30. Chapter 50 - Traffic, Article VII – Parades and Processions of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 50-417. Permit required for parades.

- (a) No parade is permitted unless a permit has been first obtained from the chief of police allowing the parade pursuant to this article.
- (b) A person seeking to obtain a parade shall file an application with the chief of police on forms provided by such official.
- (c) A person seeking to obtain a parade permit which requires a street closing or otherwise requires police officers to stop or reroute vehicular traffic upon any street because the participants will not comply with normal traffic regulations or controls shall file an application with the chief of police at least ten days before the time for which the parade is proposed to commence. Notwithstanding the preceding sentences, the chief of police shall consider an application for a parade which is filed within any shorter timeframes from those prescribed above where the purpose of the parade is a spontaneous response to a current event, or where other good and compelling causes are shown.
- (d) A person seeking to obtain a parade permit for Main Street which requires the closing of Main Street for greater than three hours shall file an application with the chief of police at least 45 days before the time for which the parade is proposed to commence. The chief of police shall notified downtown merchants via the Downtown Advisory Committee or successor committees at least 30 days before the time for which the parade is proposed to commence. Notwithstanding the preceding sentences, the chief of police shall consider an application for a parade which is filed within any shorter time-frames from those prescribed above where the purpose of the parade is a spontaneous response to a current event, or where other good and compelling causes are shown.
- (e) The application for a parade permit shall include the following:
 - (1) The name, address, telephone number, and email address of the person seeking to conduct the parade, and the name, address, telephone number and email address, if available, of the organization with which the person is affiliated or on whose behalf the person is applying to conduct the parade or public assembly (collectively "applicant");

- (2) The name, address, telephone number and email address, if available, for an individual who shall be designated as the "responsible planner and on-site manager" of the parade;
 - (3) The requested date, time, place, and route (from starting point to ending point) of the parade including the location where and time when the parade will assemble and disband, and any requested sidewalk or street closings;
 - (4) The anticipated number of persons, vehicles, and things that will constitute the parade or (including the basis on which this estimate is made), and a description of the vehicles and things that will be part of the parade;
 - (5) A general description of any recording equipment and sound amplification equipment, along with a general description of the size and composition of any banners, signs, flags, or other attention-getting devices to be used in connection with the parade;
 - (6) Arrangements for additional police protection and additional emergency medical services, if required under subsection 50-418(b);
- (f) A parade/assembly permit issued under this article shall include the information set out in paragraph (d) of this section, which information shall constitute conditions of the permit to the extent such information sets out the time, place, and manner of the parade or public assembly.
- (g) In addition to any other available remedy, violation of this section is also a misdemeanor as provided in Section 1-6.

Sec. 50-425. Prohibitions.

The following prohibitions shall apply to all parades:

- (1) It shall be unlawful for any person to stage, present, or conduct any parade without first having obtained a permit under this article.
- (2) It shall be unlawful for any person to participate in a parade for which the person knows a permit has not been granted.
- (3) It shall be unlawful for any participant in a parade to knowingly fail to comply with any conditions of the parade.
- (4) It shall be unlawful for any person participating in any parade to carry or possess any staff or pole, except for purposes of displaying any sign, poster, flag or banner, unless the staff or pole (i) is made of corrugated material, plastic, or wood (and not made of metal or metal alloy); (ii) is less than 40 inches in length; (iii) is one-fourth inch or less in thickness and two inches or less in width, or if not generally rectangular in shape, does not exceed three-fourths inch in its thickest dimension; and (iv) is blunt at both ends.
- (5) It shall be unlawful for any person participating in any parade to carry or possess any sign, poster, flag, banner unless such sign, poster, flag, banner is constructed or made of a cloth, paper, cardboard, rubber, or plastic material.
- (6) It shall be unlawful to assign or sell any parade permit granted under this article.
- (7) All participants in any parade shall be subject to all other applicable local, state and federal laws.

In addition to any other available remedy, violation of this section is also a misdemeanor as provided in Section 1-6. **Sec. 50-426. Weapons.**

With the exception of law enforcement officers acting within the scope of their duties, no firearms, or dangerous weapons of any kind, as defined by federal, state and local laws, may be possessed by a participant in a parade.

In addition to any other available remedy, violation of this section is also a misdemeanor as provided in Section 1-6. **Sec. 50-427. Public conduct during parades.**

- (a) No person shall unreasonably hamper, obstruct, impede, or interfere with any parade or with any person, vehicle, animal, or thing participating or used in a parade.
- (b) The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street constituting a part of the route of a parade. The chief of police shall post signs to that effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation of such signs.
- (c) In addition to any other available remedy, violation of this section is also a misdemeanor as provided in Section 1-6.

Sec. 50-429. - Penalties.

In addition to any remedy specifically provided, violation of any section or subsection of this article shall be subject to a civil penalty of \$500.00 to be recovered in the nature of a debt as allowed in section 1-6 of this Code.

Sec. 50-430. Vehicle processions.

- (a) *Definition.* For the purpose of this section, the term "*vehicle procession*" shall be deemed to mean:
 - (1) A group of motor vehicles;
 - (2) Preceded by a vehicle of a law enforcement agency with blue warning light activated;
 - (3) Traveling in single file with headlamps illuminated and emergency four-way flashers activated; and
 - (4) The lead vehicle shall bear a distinctive flag or marker.
- (b) *Right-of-way; penalty for violation of section.* The operator of any motor vehicle traveling upon, along or through any public street or highway, or entering upon or leaving such street or highway, shall yield the right-of-way to a vehicle procession. A vehicle procession shall be accorded the right-of-way at any intersection, regardless of the method of traffic control at such intersection or whether or not the same shall be activated. Any operator of any motor vehicle who shall fail to yield the right-of-way to any vehicle procession shall be liable for an infraction and shall be assessed a penalty of \$35.00 and court costs for each such failure.
- (c) *Driving through vehicle procession.* No vehicle not a portion of a vehicle procession shall be driven through any such procession, and the operator of any vehicle violating this subsection shall be guilty of an infraction and a fine of \$35.00 and court costs for each such violation. This subsection shall not apply to emergency vehicles as defined in G.S. 20-156 and G.S. 20-157, when operated in conformance with the provisions of G.S. 20-156 and G.S. 20-157.
- (d) *Speed of vehicle procession.* A vehicle procession may proceed at a speed not in excess of 20 miles per hour and shall be driven at a rate less than the maximum stated in this section if caution and circumspection shall dictate such reduced speed. In addition to any other remedy available, violation of this section is also an infraction as provided in Section 1-6.

SECTION 31. Chapter 50 - Traffic, Article VIII - Railroads of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 50-487. Obedience to warning device.

[Deleted. Preempted by North Carolina law.]

SECTION 32. Chapter 52 - Utilities, Article I – In General of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 52-4. Pollution of water.

No person shall place within the reservoir connected with the waterworks, or the dams connected therewith, or the streams running into such reservoir, any non-potable substance would make the water impure or unsafe. No owner or occupier of lands shall place, or have placed, or permit any of such substances to be placed, upon the grounds from which waters may flow into the streams that feed the reservoir.

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

Sec. 52-7. Unauthorized use of water.

No person having arrangements to use water from the city waterworks shall allow others to use the water without paying therefore. If a person or persons is found to be using water illegally, said person or persons shall be subject to penalties or fines, as prescribed and approved by city council.

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

Sec. 52-8. Use of fire hydrants.

- (a) Fire hydrants shall be provided for the sole purpose of protecting life and property against fire and shall be operated and maintained only by the water and fire departments or such persons as may be given authority by the utilities director of the water and sewer department, or authorized representative.
- (b) It shall be unlawful for any person to remove, or have removed, water from fire hydrants without authorization from the utilities director of the water and sewer department, or authorized representative, or to place upon or about any fire hydrant, gate valve, curb cock, meter, meter box, any object, material, debris or structure of any kind so as to prevent immediate access to the same.
- (c) In addition to any other available remedy, violation of this section is also a misdemeanor as provided in Section 1-6.

Sec. 52-13. Tampering with utility connections or appurtenances.

It shall be unlawful for any person to purposely block, cut on, cut off, tamper with or damage any meter, meter box, utility connection or appurtenance or to interfere with any meter, meter box, utility connection or appurtenance owned by the city, unless otherwise authorized, in writing, by the city manager or his assignee prior to accessing said utility connections or appurtenances.

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

SECTION 33. Chapter 52 - Utilities, Article IV – Connection to Water and Sewer Lines of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 52-128. Approval of application.

No connection shall be made to any sewer or water lateral except after the written application therefor has been approved by the water and sewer department.

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

Sec. 52-129. To be made only by city.

The construction of laterals for the connection of the sewer or water pipes on any lot with sewer or water pipes in any street or deeded easement, and the necessary excavation therefore, shall be done only by the city or by a state-licensed utility contractor(s) approved by the city.

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

SECTION 34. Chapter 52 - Utilities, Article V – Wastewater Use, Collection and Treatment of the Code of Ordinances for the City of Hendersonville shall be amended as follows

Sec. 52-216. Discharges generally.

It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, and/or to the POTW any wastewater except as authorized in accordance with the provisions of this article.

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

Sec. 52-217. Direct discharges.

It shall be unlawful to discharge into the waters of the state without first obtaining the approval of the city and then obtaining an NPDES permit in accordance with G.S. 143-215.1.

In addition to any other available remedy, violation of this section shall be punished in accordance with N.C.G.S.143-215.6B.

Sec. 52-218. Indirect discharges.

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining permission of the city.

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

Sec. 52-219. Wastewater generally.

All domestic, commercial and industrial wastewater discharges shall be contained within the POTW collection system. Stormwater, roof and gutter drains, and surface drainage shall not be admitted to the POTW.

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

Sec. 52-220. - Stormwater generally.

Stormwater, roof and gutter drains, and surface drainage shall be admitted to only such conduits as are specifically designated as storm drains. Noncontact process and cooling waters may, upon written application and approval by the POTW director, be discharged to storm drains.

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

Sec. 52-222. Protection of system, equipment and materials.

It shall be unlawful for any person to maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any facility, equipment or materials belonging to the city. No person shall pour, throw or discharge any substance, either solid or liquid, into any public sewer line at any manhole or at any opening therein. This protection against damage shall apply to any part of the POTW. Any person violating this section shall be subject to immediate arrest and prosecution.

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

Sec. 52-246. General discharge prohibitions.

No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. This general prohibition applies to all users of the POTW whether or not the user is subject to any national, state or local pretreatment standards or requirements.

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

Sec. 52-247. Specific discharge prohibitions.

- (a) No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any of the following pollutants, substances or wastewater:
- (1) Pollutants which create a fire or explosive hazard in the POTW including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the city, the state or EPA considers a fire hazard or a hazard to the system.
 - (2) Solid or viscous substances in amounts which will cause obstruction of flow or interference in the POTW. Prohibited materials include, but are not limited to, solids greater than one-half of an inch in any dimension, grease, garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, mud, spent lime, stone or marble dust, metal, glass or glass grinding or polishing wastes, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, or plastics.
 - (3) Petroleum oils, tar, asphalt residues, residues from refining or processing of fuel or lubricating oils, nonbiodegradable cutting oil or products of mineral oil origin in amounts that may cause interference or pass through.
 - (4) Any wastewater having a pH less than 5.0 or more than 11.0 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
 - (5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity (flow or concentration), either singly or by interaction with other pollutants, to cause interference with the POTW.
 - (6) Any wastewater having a temperature greater than 150 degrees Fahrenheit (66 degrees Celsius), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).
 - (7) Any pollutants which result in the presence of toxic gases, vapors or fumes, either singly or by interaction with other pollutants, that may cause acute worker health and safety problems.
 - (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW director in accordance with section 52-255 of this division.
 - (9) Any noxious or malodorous liquids, gases or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

- (10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or state criteria applicable to the sludge management method being used.
 - (11) Any wastewater which imparts color which cannot be removed by the treatment process including, but not limited to, dye wastes and vegetable tanning solutions which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
 - (12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW director in compliance with applicable state or federal regulations.
 - (13) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW director.
 - (14) Fats, oils or greases of animal or vegetable origin in amounts which in the discretion of the POTW director, may cause interference, pass through or obstruction to the POTW collection system.
 - (15) Any sludges, screenings or other residues from the pretreatment of industrial or nondomestic wastes.
 - (16) Any medical wastes, except as specifically authorized by the POTW director in a wastewater discharge permit.
 - (17) Any material containing ammonia, ammonia salts or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
 - (18) Any material that would be identified as hazardous waste according to 40 CFR 261 if not disposed of in a sewer except as may be specifically authorized by the POTW director.
 - (19) Any wastewater causing the treatment plant effluent to violate state water quality standards for toxic substances as described in 15A NCAC 2B .0200.
 - (20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
 - (21) Recognizable portions of the human or animal anatomy.
 - (22) Any wastes containing detergents, surface active agents or other substances which may cause excessive foaming in the POTW system or the receiving stream in other than trace amounts.
 - (23) At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.
- (b) Pollutants, substances, wastewater or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.
- (c) When the POTW director determines that a user is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or

contribute to interference of POTW operation or pass through, the POTW director shall:

- (1)

Advise the user of the potential impact of the contribution on the POTW in accordance with division 8 of this article; and
- (2)

Take appropriate actions in accordance with division 5 of this article for such user to protect the POTW from interference or pass through.
- (d)

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

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

- (a)

To implement the general and specific discharge prohibitions listed in this article, and to ensure that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern, local limits are required. An industrial waste survey is required prior to a user discharging wastewater containing in excess of the following.
- (b)

Unless otherwise authorized by a permit issued under this article, no user shall contribute or cause to be contributed, directly or indirectly, any waters or wastes containing pollutants at levels which exceed the pollutant levels associated with normal domestic strength wastewater or which exceeds given volume limitations (each as determined on a daily average basis).
- (1)

Strength limitations. For the following pollutants of concern, exceeding domestic strength levels shall mean in excess of:

250	mg/l BOD
250	mg/l TSS
25	mg/l NH3
0.003	mg/l arsenic
0.003	mg/l cadmium
0.061	mg/l copper
0.015	mg/l cyanide
0.049	mg/l lead
0.0003	mg/l mercury
0.021	mg/l nickel
0.005	mg/l silver
0.05	mg/l total chromium
0.175	mg/l zinc

- (2)

Volume limitations. Exceeding the volume limitations shall mean volumes greater than:

a.

Ten thousand gallons a day if tributary to a sewage lift station; or

b.

Twenty-five thousand gallons a day if tributary to the main gravity system.
- (c)

Domestic strength wastewater levels for pollutants not listed in this section shall be determined as necessary by the POTW director and shall be based on either actually measured local domestic strength wastewater levels or literature values.
- (d)

High strength user-specific local limits for appropriate pollutants of concern shall be included in wastewater permits, when necessary to ensure that the POTW's maximum allowable headworks loading will not be exceeded for pollutants of concern, and are considered pretreatment standards.
- (e)

The POTW director may impose mass limits in addition to, or in place of, the concentration-based limits.

- (f) When the director determines that a user is contributing to the POTW any of the above-enumerated substances in such amounts which exceed the limitations established in this section, the POTW director shall:
 - (1) Advise the user of the contribution to the POTW;
 - (2) Advise the user of the permit requirements of this article for such discharges; and
 - (3) Take the appropriate actions necessary for correction of the violation.
- (g) In addition to any other available remedy, violation of this section is also a misdemeanor as provided in Section 1-6.

Sec. 52-252. Dilution.

No user shall ever increase the use of water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the city or state.

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

Sec. 52-254. Accidental discharge/slug control plans.

- (a) The POTW Director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in the definitions. All SIUs must be evaluated within one year of being designated an SIU. The POTW director may require any user to develop, submit for approval and implement such a plan. Alternatively, the POTW director may develop such a plan for any user.
- (b) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge or a slug load. Also see sections 52-320 and 52-321 of this article.

Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review and shall be approved by the city before construction of the facilities may begin. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense.

- (c) An accidental discharge/slug control plan shall address, at a minimum, the following:
 - (1) Description of discharge practices, including nonroutine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the POTW director of any accidental or slug discharge, as required by section 52-321 of this article; and
 - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing

toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

- (d) Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this article.
- (e) In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.
- (f) Within five days following an accidental discharge, the user shall submit to the POTW director a written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to persons or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this article or any other applicable law.
- (g) A notice shall be permanently posted on the users bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.
- (h) In addition to any other available remedy, violation of subsections (e), (f), and (g) of this sections is also a misdemeanor as provided in Section 1-6.

Sec. 52-255. Hauled waste.

- (a) Septic tank waste may be introduced into the POTW only at locations designated by the POTW director, and at such times as are established by the POTW director. Such waste shall not violate division 4 of this article or any other requirements established by the city. The POTW director may require septic tank waste haulers to obtain wastewater discharge permits.
- (b) The POTW director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW director may require generators of hauled industrial waste to obtain wastewater discharge permits. The POTW director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this article.
- (c) Industrial waste haulers may discharge loads only at locations and times designated by the POTW director. No load may be discharged without prior consent of the POTW director. The POTW may collect samples of each hauled load to ensure compliance with applicable standards. The POTW director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste and volume and characteristics of waste. The form shall identify the type of industry known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
- (e) In addition to any other available remedy, violation of this section is also a misdemeanor as provided in Section 1-6.

Sec. 52-276. Nondomestic and/or high strength discharge without permit.

It shall be unlawful for any person to connect or discharge nondomestic and/or high strength wastewater to the POTW without first obtaining the permission of the POTW director. When requested by the POTW director, a user must submit information on the nature and characteristics of its wastewater prior to action on the request. The POTW director is authorized to prepare a form for this purpose and may periodically require users to update this information.

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

Sec. 52-277. Wastewater discharge permits.

- (a) The POTW director is authorized to allow connection or discharge to the POTW of wastewater which exceeds the limitations set forth in section 52-249 of this article by issuance of a wastewater discharge permit for nondomestic and/or high strength users.
- (b) The POTW director is authorized to make the determination between domestic and nondomestic users, between domestic strength and high strength users, and is further authorized to make the determination between nonsignificant and significant industrial users.
- (c) In addition to any other available remedy, violation of this section is also a misdemeanor as provided in Section 1-6.

Sec. 52-324. Notification of the discharge of hazardous waste.

- (a) The city prohibits the discharge of any hazardous wastes without notification and approval of the POTW director. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261, such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharge during the calendar month and an estimation of the mass and concentration of such constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under section 52-320 of this division. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections 52-316, 52-318 and 52-319 of this division.
- (b) Dischargers are exempt from the requirements of subsection (a) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which time the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (c) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as

a hazardous waste, the user must notify the POTW director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

- (d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (e) This section does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued under this article, or any applicable federal or state law.
- (f) In addition to any other available remedy, violation of this section is also a misdemeanor as provided in Section 1-6.

Sec. 52-328. Recordkeeping.

Users subject to the reporting requirements of this division shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method and time of sampling, and the name of the persons taking the samples; the dates the analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the POTW director.

In addition to any other available remedy, willful destruction of records in violation of this section is also a misdemeanor as provided in Section 1-6.

SECTION 35. Chapter 52 – Utilities, Article VI – Water Shortage Response and Conservation of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 52-437. Penalty for violation of article.

- (a) Any violation of the provisions of this article may be enjoined and restrained as provided in G.S. 160A-175.
- (b) Application, violation, enforcement, penalties. This section applies to all persons using city water, inside and outside the city limits, regardless of whether they have a contract for water service with the city, provided mandatory schedules or limits shall not apply to any public or volunteer fire department while fighting a fire. A customer of the city shall be responsible for all violations that occur associated with water that passes through the meter for which the customer is billed by the city. Any person who uses water in violation of a restriction, schedule or ban imposed on the use of water during mandatory or emergency stages of drought, or in violation of a water rationing policy, or who otherwise violates the provisions of this section, or who impedes or interferes with any action undertaken or ordered pursuant to this section and policies adopted hereunder, shall be subject to the penalties listed below:
 - (1) Enforcement by law enforcement. Upon the declaration of mandatory stage (A or B), declaration of emergency stage, or during any period of rationing, the manager, every police officer of the city and all others so authorized by the city may enforce any restrictions or bans imposed on the use of city water.
 - (2) Suspicion of violation. Whenever the city has reasonable cause to believe that a person is violating any of the provisions of this section or any policy or declaration or action plan adopted hereunder, the city shall immediately notify that person of the violation by affixing a written notice of violation

(NOV) to the property where the violation occurred and/or personally delivering or mailing such notice to the customer of record and to any other person known to the city who is responsible for the violation or its correction. Such notice shall describe the violation, order that it be corrected, cured or abated immediately or within such specified time as the manager determines is reasonable under the circumstances, and warn that more severe measures, such as civil penalties, criminal charges or termination of water service may be brought, assessed or imposed. If the order is not complied with within the allotted time period, the manager may undertake enforcement action as follows.

- (3) Enforcement action. Any person who, after being given notice of violation, does not comply with this section or policy adopted hereunder within the time period specified shall, at the option of the city, be subject to any of the following: civil penalties, criminal penalties where specifically indicated, termination of water service, injunctive relief or any appropriate equitable remedy issuing from a court of competent jurisdiction.

- b. Civil penalties. In addition to any other remedy specifically provided, violation of this section or any policy adopted hereunder may subject the violator or customer to a civil penalty as set forth in the city budget fee schedule per violation per day for so long as the violation exists. Each day on which a violation occurs or continues shall constitute a separate and distinct violation. In determining the amount of the civil penalty, the manager shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, efforts to correct the violation, the compliance history of the person against whom the violation is assessed, the cost of enforcement to the city, whether the violation was willful or intentional and any other factor as justice requires. The city shall serve a written citation on the violator, and the customer, if different, by personal delivery or by certified or registered mail, return receipt requested. The citation shall describe the violation and shall specify the amount of the civil penalty levied. The civil penalty is collectible in a civil action in the nature of debt. The imposition of one or more penalties for a violation shall not excuse any violation or permit it to continue.

Sec. 52-446. Compliance.

- (a) In the event the manager issues the notice described in this article, it shall be unlawful for any person to use or permit the use of water from the water system of the city's for any of the purposes hereinafter set forth until such time as this article is amended or repealed, or until the manager has declared such provisions no longer in effect. In exercising this authority, considerations shall be given to the following criteria: flow rate of the river(s), capabilities of the water production and distribution system, drawdown rates, outlook for precipitation, daily water use patterns, seasonal and long-term weather patterns and availability of water from other sources.
- (b) Hospitals, nursing homes and health care facilities shall comply with all restrictions imposed on residential and nonresidential water customers as may be applicable to each individual institution to the extent compliance will not endanger the health of the patients or residents of the institution.
- (c) Each hospital, nursing home or health care facility shall survey its water usage patterns and requirements and implement such additional conservation measures

as may be possible without endangering the health of its patients or residents to achieve a further reduction in the institution's water usage.

- (d) The following shall apply at all times to the outdoor sprinkling of lawns, shrubbery, trees, flowers, gardens, and other outside irrigation systems.
 - (1) By June 1, 2009, all irrigation systems equipped with a timer shall be equipped with rain sensors as approved by the city water and sewer department. Rain sensors shall be activated to prevent the system from operating after one-fourth inch of rain has fallen.
 - (2) It shall be unlawful to operate any irrigation system during times of rain or to operate an irrigation system, at any time, so as to disperse water on an impervious surface.
- (e) In addition to any other available remedy, violation of this section is also a misdemeanor as provided in Section 1-6.

Sec. 52-448. Landscaping water use permitted—Designated hours.

Beginning on May 1 and ending on September 30 each year, it shall be unlawful to use water for the spray irrigation of turf, gardens, trees, shrubbery or other vegetation between the hours of 9:00 am and 7:00 pm, unless otherwise exempted by city ordinance.

In addition to any other remedy available, violation of this section shall also be a misdemeanor as provided in Section 1-6.

SECTION 36. Chapter 52 - Utilities, Article VII – Construction or Alteration of Drinking Water Systems of the Code of Ordinances for the City of Hendersonville shall be amended as follows:

Sec. 52-482. Approval.

- (a) No person or unit of local government shall begin construction or alteration of a public water distribution system or award a contract for construction or alteration of a public water distribution system operating or being situate in whole or in any part, as of the time of commencement of construction or alteration, within the city limits or extraterritorial jurisdiction of the city unless:
 - (1) The plans for construction or alteration have been prepared by an engineer licensed by this state;
 - (2) The city has determined that the distribution system, as constructed or altered, will be capable of compliance with the drinking water rules;
 - (3) The city has determined that the distribution system is capable of interconnection at an appropriate time with an expanding municipal system;
 - (4) The city has determined that adequate arrangements have been made for the continued operation, service and maintenance of the public water distribution system; and
 - (5) The city has approved the plans and specifications.

(b) Penalty for violation:

- (1) A person who violates a provision of this section shall be guilty of a misdemeanor. If the violator is a business entity, any individual who is an officer, manager, general partner, director or other responsible principal of such entity and who had knowledge of such violation before it was discovered by the city and who failed to report such violation to the engineer before such discovery shall be deemed to be a violator under this section.
- (2) A person convicted under this section shall be sentenced to a term of imprisonment of not more than two years and assessed a fine of not more than \$500.00 for each violation hereof. For purposes of the time to be imposed, each day on which any violation occurs shall constitute a separate violation hereunder and under section 52-485.
- (3) Notwithstanding or any contrary provision of law, a person imprisoned for violation of this article shall not be released prior to the completion of the person's term of imprisonment unless and until a determination has been made by the district court that release of the person would not create a danger to the public health. This determination shall be made only after the medical consultant of the confinement facility and the state health director, in consultation with the local health director of the person's county of residence, have made recommendations to the court.

SECTION 37. Chapter 52 - Utilities, Article VIII – Cross-Connection and Backflow Prevention of the Code of Ordinances for the City of Hendersonville shall be amended as follows

Sec. 52-505. New unprotected cross-connections prohibited, existing cross-connections to be protected.

No contamination or pollution of public water system shall be allowed. All customers and any other person or entity receiving water from the city's public water system shall be in violation of this article if they fail to comply with any of the following:

- (a) New water service connections. No new residential water service connections to the public water system, on or after the effective date of this article, shall be made unless equipped with an approved dual check valve or approved equal. No new nonresidential and irrigation water service connections to the public water system, on or after the effective date of this article, shall be made unless equipped with an approved backflow prevention assembly, unless otherwise approved by the city prior to installation. The BPA shall be tested and properly functioning as prescribed herein prior to the issuance of a certificate of occupancy (CO) for any building. All new nonresidential construction plans and specifications shall be made available to the city for review to determine the health hazard and level (health or non-health) to the city's public water system.
- (b) Existing water service connections. An approved backflow prevention assembly shall be installed on all existing cross-connections to the city's public water system upon notification of the need for installation by the city resulting from circumstances such as, but not limited to, change of use, change or ownership or modifications to facilities, etc. Upon determining that a backflow prevention assembly (BPA) is required to be installed on an existing irrigation or nonresidential water service connection the city will notify the customer in writing of:
 - (1) The requirement for installation;
 - (2) The health hazard level ("high hazard" or "moderate hazard" or "non-health hazard") which has been established for that customer by the city based upon the use of their premises;
 - (3) The type of approved backflow prevention assembly required;
 - (4) The date by which it must be installed and tested. The customer will have the following time periods within which to install and test the specified backflow prevention assembly and submit test results to the city.
 - a. High hazard: Within 14 calendar days of date of notice, unless specified otherwise by city;
 - b. Moderate hazard: Within 30 calendar days of notice;
 - c. Non-health hazard: Within 60 calendar days of date of notice.

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

Sec. 52-507. No cross-connections.

No private water system may be connected to any private well, or to any spring, or to any other water source not approved by the state as a public water supply and commissioned by the city as a public water supply source, or to any other private source of water, or to any plumbing located on private property which may be connected to any of the above. Any such connection must be terminated upon the effective date of this article. It shall also be unlawful to have plumbing cross-connected or so installed that water from the city's public water system and water from or in any private water system may in any way become intermingled.

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

Sec. 52-508. Compliance.

No private water system shall be connected in any manner to the city's public water system nor may any service connection be made or maintained to the city's public water system unless the requirements of this article have been satisfied.

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

Sec. 52-511. Protection of the public water system during bulk water sales.

No bulk water may be taken except as a sale from a city owned and operated bulk sales facilities. It shall be unlawful to connect any truck, tank, or receiving vessel either directly or indirectly connected to any pipe, hose or outlet to the city's public water system, unless so authorized by the city, in writing.

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

Sec. 52-515. Penalties.

In addition to any other remedy specifically provided, the following penalties shall be applicable for a violation of this local law (see city's schedule of rates and fees currently in force for the penalty amounts):

- (a) Failure to install the appropriate backflow prevention assembly within a prescribed time frame after first notice.
- (b) Failure to install the appropriate backflow prevention assembly within the prescribed time frames after second notice.
- (c) Failure to install the appropriate backflow prevention assembly within the prescribed time frames after third notice - termination of service.
- (d) Failure to at least annually test the backflow prevention assembly - specified penalty and/or termination of water service.
- (e) Failure to replace or repair a backflow prevention assembly as required - specified penalty and/or termination of water service.
- (f) Falsifying records that are required to be submitted by this article - specified penalty per violation. If a certified backflow prevention assembly technician submits falsified records to the city, the city shall reserve the right to permanently revoke that certified

backflow prevention assembly technician's right to test BPAs within the city's public water system.

The city may increase any civil penalty assessed by 50 percent of the maximum civil penalty associated with the violation for a second violation of the same provision within a two-year period. The city may increase any civil penalty by doubling the amount of the penalty for a third violation of the same provision within a two-year period. Water service may be terminated after a third violation of the same provision within a two-year period.

Any person violating any provision of this article shall pay to the city all expenses incurred by the city in repairing any damage to the public water system caused in whole or in part by such violation and any expense incurred by the city in investigating such violation plus ten percent. All such expenses are deemed to be a part of the civil penalty assessed with the violation.

SECTION 38. 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 39. This Ordinance shall be effective upon its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 2nd day of March, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

C. Resolution Declaring Property Surplus & Authorizing Sale – *Tom Wooten, Director of Public Works*

Resolution #23-16

RESOLUTION BY THE HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE SALE OF A 2008 TORO INFIELD SANDPRO TO WEST HENDERSON HIGH SCHOOL

WHEREAS, the Hendersonville Public Works Department owns a 2008 Toro Infield Sand Pro; and;

WHEREAS, this piece of equipment is longer used by the public works department; and

WHEREAS, West Henderson High School desires to purchase the Toto Infield Sand Pro to help maintain their ball fields; 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 Public Works Department wishes to sell the Toro Infield Sand Pro to West Henderson High School at a value of \$4,000.

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

1. The 2008 Toro Infield Sand Pro identified by VIN # 08703-280000238 respectively is deemed surplus and approved to be sold.
2. The City Council Councils authorizes the sale of the 2008 Toro Infield Sand Pro to West Henderson High School in accordance with §160A-274 at a price of \$4,000.
3. The City Manager is authorized to execute the Bill of Sale with West Henderson High School.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 2nd day of March, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

D. Street Closure: Resolution of Intent-Portion of N. Wall Street (C23-16-SCL) – *Tyler Morrow, Planner II*

Resolution #23-17

**RESOLUTION OF INTENT TO CLOSE A
PORTION OF N. WALL STREET**

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

WHEREAS, TJF Enterprises, LLC has petitioned the City of Hendersonville City Council to close a portion of the street known as N. Wall Street, located between PIN 9568-78-7052 and PINs 9568-78-8039, 9568-78-8036, 9568-78-8044, 9568-78-8042, 9568-78-8041, and 9568-77-8957; 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 12th day of April 2023, in the Assembly Room of the City Operations Center to consider closing a portion of the street known as N. Wall Street located between PIN 9568-78-7052 and PINs 9568-78-8039, 9568-78-8036, 9568-78-8044, 9568-78-8042, 9568-78-8041, and 9568-77-8957. 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 portion of N. Wall Street proposed for closing is as follows:

Beginning at a drill hole in concrete,

and being the most NE corner of the

TJF Enterprises LLC property described in D.B. 948, PG. 520;

thence N 82°06'29" E a distance of 4.98' to a point;

thence N 82°06'29" E a distance of 4.98' to a point;

thence S 07°52'22" E a distance of 95.02' to a point;

thence S 08°15'00" E a distance of 41.95' to a point;

thence S 81°41'57" W a distance of 4.68' to a point;

thence S 81°41'57" W a distance of 4.81' to a point;

thence N 08°10'52" W a distance of 137.04' to a point;

which is the point of beginning.

Having an area of 1,320 square feet.

3. The City shall reserve all right, title, and interest in and to any utility infrastructure including water, sewer, and stormwater infrastructure within N. Wall Street, as well as an easement over, upon, across, under and through N. Wall Street for the placement, construction, and maintenance of public utilities including waterlines, sewer lines, stormwater management, and underground telecommunications facilities including cables, wires, and/or conduit.
4. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks.
5. 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.

- 6. 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 portion of N. Wall Street proposed for closure as required by G.S. 160A-299.
- 7. The City Council herewith declares its intent to close the street as described above.

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Adopted by the City Council of the City of Hendersonville, North Carolina on this 2nd day of March, 2023.

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

E. Annexation: Certificate of Sufficiency-7 Bridgette Loop Road (Lynwood Cabins LLC)
(C23-19-ANX) – Tyler Morrow, Planner II

Resolution #23-18

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. April 12th, 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 9569-14-9568, described in the plat recorded in Book 2022 - ____ [to be inserted at recording of the plat] of the Henderson County Registry, said PIN 9569-14-9568 being described by metes and bounds as follows:

Beginning at an existing iron pin at the southeast corner of Lot 27 of Lynnwood Subdivision, as shown on a plat filed in Plat Cabinet B, at Slide 158, in the Henderson County Registry;

Running with the existing Hendersonville city limits for the following five calls:

South 06 degrees 45 minutes 14 seconds West 11.01 feet to an existing pin;

Thence South 64 degrees 19 minutes 43 seconds East 241.17 feet to an existing iron pin;

Thence South 21 degrees 01 minutes 28 seconds West 179.75 feet to an existing iron pin;

Thence South 25 degrees 10 minutes 06 seconds West 364.83 feet to an existing iron pin along NC Highway 191 (Haywood Rd.)

Thence North 49 degrees 12 minutes 56 seconds West 79.98 feet along Haywood Road (NC 191) to an existing iron pin;

Thence, leaving Haywood Road (NC 191) and departing from the existing Hendersonville City limits, North 06 degrees 31 minutes 42 seconds East 185.36 feet to an existing iron pin;

Thence North 54 degrees 52 minutes 25 seconds West 311.62 feet to a calculated point at the corner of Lynnwood Circle (SR #1349);

Thence North 86 degree 12 minutes 56 seconds East 143.22 feet to an existing iron pin;

Thence North 22 minutes 52 degrees 12 seconds East 223.02 to an existing iron pin

Thence running South 75 degrees 49 minutes 58 seconds East 70.49 feet to an existing iron pin, the point and place of beginning, containing 3.06 acres, more or less.

Re: Petition for Contiguous Annexation
Petitioner: Lynnwood Cabins LLC (Diane Newman, Member Manager)
File No. C23-19-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 2nd day of March, 2023.

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

F. **Parking Fee Amendment** – *Brian Pahle, Assistant City Manager*

Ordinance #23-14

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND SECTION 8 OF THE FISCAL YEAR 2022-23 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, on January 5th, 2023 the City adopted a resolution amending the fee schedule to reflect changes for the new parking system; and

WHEREAS, additional changes are need for the fee schedule to reflect all changes to the updated parking ordinance.

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

1. Section 8 of the Fiscal Year 2022-23 Budget Ordinance for the City of Hendersonville shall be amended, effective March 1st, 2023, to revise the Fee Schedule as follows:

Parking Fees, Fines & Penalties:	
All Other Parking Violations C.O. 50	\$50.00
Construction parking permit (per day)	\$15.00
Crosswalk	\$50.00
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
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
Overtime/Expired meter	\$50.00
Parking Meter - Surface Lots and Decks (per hour)	\$1.50 (\$10 max per parking session)
Parking Meter - Main St. and Avenues (per hour)	\$2.00
Penalty after 30 days additional	\$100.00

Adopted by the City Council of the City of Hendersonville, North Carolina on this 2nd day of March, 2023.

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

G. **PULLED** Memorandum of Understanding (MOU) with Henderson County for Construction Related Activities Along Edwards Park and the VFW Site – *Angela S. Beeker, City Attorney*

H. **Request from Hope Coalition to Use Operation Assembly Room for Teen Court** – *John Connet, City Manager*

Resolution #23-20

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE USE OF THE OPERATION CENTER ASSEMBLY ROOM BY THE HOPE COALITION

WHEREAS, The Hope Coalition is proposing to establish a Teen Court to serve as a diversion program for teenagers who perpetrate minor criminal offenses; and

WHEREAS, they wish to utilize a public facility for teen court on a monthly basis; and

WHEREAS, they have requested permission to use the City Operations Assembly Room once a month from 4:00 PM - 7:00 PM; and

WHEREAS, the City's facility use policy establishes a rental rate of \$50.00 per use; and

WHEREAS, the Hope Coalition is requesting that the City Council waive the rental fee for the Teen Court Program.

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

1. The City Council authorize the use of the Operation Center Assembly Room once a month from 4:00 PM to 7:00 PM for the Hope Coalition Teen Court.
2. The facility use fees be waived on a monthly basis in order to facilitate the Teen Court Diversion Program.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 2nd day of March, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

I. Downtown Office Lease Agreement – Jamie Carpenter, Downtown Manager

Resolution #23-21

**RESOLUTION OF INTENT BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO LEASE
CITY OWNED REAL PROPERTY AT 125 5TH AVE WEST**

WHEREAS, the City of Hendersonville owns property located at 125 5th Avenue West described in deed of record in Deed Book 3225, Page 388, Henderson County Registry; and

WHEREAS, the City of Hendersonville purchased the property at 125 5th Ave West in 2018 for \$475,000 for the purposes of building public restrooms on the ground floor and office space on the second floor; and

WHEREAS, the City's Downtown Division will be relocated to City Hall and the City does not have another current need for the second-floor offices at 125 5th Ave West; and

WHEREAS, North Carolina General Statute § 160A-272 authorizes the City Council to lease City owned real property the City Council determines will not be needed by the City for the term of the lease; and

WHEREAS, North Carolina General Statute § 160A-272 requires public notice at least 30 days before approving the execution of a lease in excess of one year; and

WHEREAS, the City of Hendersonville intends to lease the individual office spaces for market rate which will pay towards the building's debt service.

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

1. The City intends to authorize a lease for the second floor offices and shared use of common spaces located at 125 5th Ave West.
2. The annual rent shall be \$12,000, paid monthly, for an initial three-year term, with an option to renew for two additional one year terms;
3. The City Council hereby declares its intent to authorize a lease at its next regular meeting of April 12, 2023 upon the terms stated herein.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 2nd day of March, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

J. March 2023 Budget Amendments – Adam Murr, Budget Manager

TO MAYOR & COUNCIL - March 02, 2023				FISCAL YEAR 2023	
		Form Number - 03022023-01			
BUDGET AMENDMENT					
FUND 301					
ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
301-0000-420050-G2101	Grant Revenue	4,511,800	-	-	4,511,800
301-1002-540001-G2101	Special Appropriation	2,000,000	-	2,000,000	-
301-1002-598901-G2101	Transfer Out (to 010)	2,511,800	2,000,000	-	4,511,800
FUND 301	TOTAL REVENUES		-	-	
	TOTAL EXPENDITURES		2,000,000	2,000,000	
A budget amendment reflecting the use of APR funds received for revenue replacement as authorized through final guidance. ARP funds will be used specifically for governmental services salaries for the period 07/01/2022 through 01/20/2023. \$4,511,800 is used by this amendment for revenue replacement. The lines above detail the impact for each department. Note: Department 1002-Administration, Department 1008-Finance, Department 1014-City Engineer, Department 1200-Development Assistance, Department 1300-Police, Department 1400-Fire, Department 1502-Public Works Administration, Department 1525-Grounds/Parks Maintenance, Department 1555-Streets & Highways.					

TO MAYOR & COUNCIL - March 02, 2023			FISCAL YEAR 2023		
			Form Number - 03022023-02		
BUDGET AMENDMENT					
FUND 460					
ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
460-0000-470010-23003	Bond Proceeds (2023 Revenue Bond)	-	525,000	-	525,000
460-7050-550103-23003	Capital Outlay - CIP	-	525,000	-	525,000
FUND 460	TOTAL REVENUES		525,000	-	
	TOTAL EXPENDITURES		525,000	-	
A budget amendment reflecting the creation of a capital project ordinance for the AMI Meter Replacement Project, #23003. This project is proposed for funding via the 2023 Revenue Bond, not to exceed \$525,000. The project replaces large/aging meters in the system to improve revenue security and service to our customers.					

TO MAYOR & COUNCIL - March 02, 2023			FISCAL YEAR 2023		
			Form Number - 03022023-03		
BUDGET AMENDMENT					
FUND 301 460					
ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
460-0000-470900-21020	Fund Balance Appropriated	300,000	-	300,000	-
460-7035-550102-21020	Capital Outlay - Services and Fees	300,000	-	300,000	-
FUND 460	TOTAL REVENUES		-	-	
	TOTAL EXPENDITURES		-	-	
301-0000-420050-21020	Grant Revenue (DWI/SWIA)	-	400,000	-	400,000
301-7035-550102-21020	Capital Outlay - Services and Fees	-	400,000	-	400,000
FUND 301	TOTAL REVENUES		400,000	-	
	TOTAL EXPENDITURES		400,000	-	
A budget amendment reflecting the deletion of the former Water Treatment Plant Master Plan Project #21020 in fund 460 and the re-establishment of the project in the Grant Project Fund (301). The City received a DWI/SWIA grant for \$400,000, replacing the need for a \$300,000 use of reserve funding for the project initially established in fund 460.					

TO MAYOR & COUNCIL - March 02, 2023			FISCAL YEAR 2023		
			Form Number - 03022023-04		
BUDGET AMENDMENT					
FUND 460					
ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
460-0000-532400	Misc.		-	40,000	
460-0000-470900	Fund Balance Appropriated		-	40,000	
FUND 460	TOTAL REVENUES		-	40,000	
	TOTAL EXPENDITURES		-	40,000	
460-0000-470010-16019	Debt issuance	5,372,860	-	-	5,372,860
460-0000-470100-16019	Transfer in	615,840	-	-	615,840
460-0000-470900-16019	Fund Balance Appropriated	-	40,000	-	40,000
460-0000-598901-16019	Transfer Out	615,840	-	-	615,840
460-1014-550102-16019	C/O - Services and Fees	568,180	40,000	-	608,180
460-1014-550103-16019	C/O - CIP	4,654,680	-	-	4,654,680
460-1014-551000-16019	C/O - Land/easement/ROW	150,000	-	-	150,000
FUND 460	TOTAL REVENUES		-	-	
	TOTAL EXPENDITURES		40,000	-	
A budget amendment using existing resources in the Water and Sewer Capital Project Fund to increase the Northside project to reflect higher than anticipated construction administration and engineering costs.					

TO MAYOR & COUNCIL - March 02, 2023			FISCAL YEAR 2023		
			Form Number - 03022023-05		
BUDGET AMENDMENT					
FUND 301					
ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
301-0000-460110-16021	Reimbursements	575,594	7,485	-	583,079
301-1014-519104-16021	Professional Services Engineering	575,594	7,485	-	583,079
FUND 301	TOTAL REVENUES		7,485	-	
	TOTAL EXPENDITURES		7,485	-	
A budget amendment reflecting a final summary report prepared by Hart & Hickman for the Mud Creek Dump investigation project for which the City will be reimbursed by NCDEQ for +\$7,485.					

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
410-0000-470100-19019	Transfer In (from 010)	159,579	12,500	-	172,079
410-0000-420050-19019	Grant Revenue (Stormwater)	-	70,000	-	70,000
410-0000-470010-19019	Bond Proceeds (2022 Installment Financing)	13,805,943	-	82,500	13,723,443
410-1002-550102-19019	Capital Outlay - Services and Fees	-	-	-	-
410-1002-550103-19019	Capital Outlay - CIP	13,965,522	-	-	13,965,522
FUND 410 (Fire Station #1)	TOTAL REVENUES	13,965,522	82,500	82,500	13,965,522
	TOTAL EXPENDITURES	13,965,522	-	-	13,965,522
410-0000-470010-19019	Bond Proceeds (2022 Installment Financing)	-	652,204	-	652,204
410-1002-550103-19019	Capital Outlay - CIP	-	652,204	-	652,204
FUND 410 (Temp. Fire Station)	TOTAL REVENUES	-	652,204	-	652,204
	TOTAL EXPENDITURES	-	652,204	-	652,204
410-0000-460090-21019	Contribution (Henderson County)	100,000	-	-	100,000
410-0000-460090-21019	Contribution (Other Agencies)	2,500	-	15,000	17,500
410-0000-470010-21019	Bond Proceeds (2022 Installment Financing)	2,043,853	82,500	-	2,126,353
410-1002-550103-21019	Capital Outlay - CIP	2,146,353	97,500	-	2,243,853
FUND 410 (Edwards Park)	TOTAL REVENUES	2,043,853	82,500	-	2,243,853
	TOTAL EXPENDITURES	2,146,353	97,500	-	2,243,853
410-0000-470010-19021	Bond Proceeds (2022 Installment Financing)	1,500,000	-	-	1,500,000
410-1400-550103-19021	Capital Outlay - CIP	1,500,000	-	-	1,500,000
FUND 410 (Replace HFD Ladder)	TOTAL REVENUES	1,500,000	-	-	1,500,000
	TOTAL EXPENDITURES	1,500,000	-	-	1,500,000
410-0000-470010-19020	Bond Proceeds (2022 Installment Financing)	800,000	-	-	800,000
410-1400-550103-19020	Capital Outlay - CIP	800,000	-	-	800,000
FUND 410 (Replace HFD Engine)	TOTAL REVENUES	800,000	-	-	800,000
	TOTAL EXPENDITURES	800,000	-	-	800,000
2022 Installment Financing Subtotal		18,802,000			
Other Financing Sources Subtotal		359,579			
Total Project Revenues (19019, 19020, 19021, and 21019)		19,161,579			
Total Project Appropriation (19019, 19020, 19021, and 21019)		19,161,579			

TO MAYOR & COUNCIL - March 02, 2023			FISCAL YEAR 2023		
			Form Number - 03022023-07		
BUDGET AMENDMENT					
FUND 010					
ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-410001	Sales and Use Tax	5,345,500	63,191	-	5,408,691
010-0000-534999	Contingency	19,359	-	19,359	-
010-1300-519200	Contracted Services	32,450	22,000	-	54,450
010-1400-519210	Rural Fire Dept. Contracts	-	11,050	-	11,050
010-1002-519104	Professional Services Engineering	-	49,500	-	49,500
FUND 010	TOTAL REVENUES		63,191	-	
	TOTAL EXPENDITURES		82,550	19,359	
A budget amendment increasing sales and use tax revenues to reflect higher than anticipated collections. The amendment uses increased sales tax revenues plus an allocation of contingency funds to allocate budget for a virtual equipment upgrade at HPD and to fund an interlocal agreement with Henderson County related to the Ecusta Trail project.					

K. March 2023 Capital/Grant Project Ordinances and Reimbursement Resolutions – Adam Murr, Budget Manager

Resolution #R-23-22

HENDERSONVILLE, NORTH CAROLINA
DECLARATION OF OFFICIAL INTENT TO REIMBURSE

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

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

Expenditures to be Incurred. The Issuer anticipates incurring expenditures (the "Expenditures") for EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE AMI METER REPLACEMENT (PROJECT #23003), ORDINANCE #O-23-16 (the "Projects").

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

Maximum Principal Amount of Debt to be Issued. The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is \$525,000.

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

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this 2nd day of March, 2023.

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

Ordinance #O-23-16

**CAPITAL PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE AMI METER
REPLACEMENT PROJECT, #23003**

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 AMI Meter Replacement Project, #23003.

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

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
460	7050	550103	23003	Capital Outlay - CIP	\$525,000
Total Project Appropriation					\$525,000

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

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
460	0000	470010	23003	Debt Proceed (2023 Rev. Bond)	(\$525,000)
Total Project Appropriation					(\$525,000)

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

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

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

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

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

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this 2nd day of March, 2023.

/s/Barbara G. Volk, Mayor
Attest: /s/Jill Murray, City Clerk

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

L. Planning and Management Services Agreement with Hendersonville Connections Center, Inc. – John Connect City Manager

Resolution #R-23-23

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL
TO APPROVE A PLANNING AND MANAGEMENT SERVICES AGREEMENT WITH HENDERSONVILLE
CONNECTIONS CENTER, INC.**

WHEREAS, the City of Hendersonville is desirous of contracting with the Hendersonville Connections Center, Inc., for the purpose of their providing planning and management services towards the establishment of a crisis and day center in the City of Hendersonville; and

WHEREAS, a crisis and day center will help to meet the immediate and short term needs of residents of the City of Hendersonville and the greater Hendersonville area who are in crisis through partnership with onsite community partners that can provide needed services to the clients of the center, with an eye towards permanent, safe and stable long term housing, health care, mental health care, and other health and human services care as needed;

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

4. The Planning and Management Services Agreement (“Agreement”) between the City of Hendersonville and Hendersonville Connections Center, Inc., a North Carolina nonprofit corporation, is approved as presented. .
5. The City Manager is authorized to execute the Agreement with such changes as he deems appropriate to carry out the intent of the Agreement, in consultation with the City Attorney.
6. The City Manager, City Finance Director, and City Attorney are authorized to take such further actions as may be needed to carry out the terms of the Agreement.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 2nd day of March, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

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

6. PRESENTATIONS

- A. Proclamation-March for Meals – **PULLED. Mayor is presenting in person on March 20, 2023.****
- B. Proclamation – American Red Cross Month**

**Proclamation
American Red Cross Month
March 2023**

WHEREAS, the American Red Cross is a humanitarian organization that eases people’s suffering during life’s emergencies in Hendersonville, North Carolina and across the United States and around the world; and

WHEREAS, the American Red Cross Chapter serving Western North Carolina Chapter has a long history of helping our neighbors in need by delivering shelter, care and hope during disasters; making our community safer through its lifesaving Home Fire Campaign; providing lifesaving blood; teaching skills that save lives; and supporting military, veterans, and their families; and

WHEREAS, we thank and honor the selfless volunteers, dedicated employees and generous supporters who make this compassionate work possible; and

WHEREAS, last year in Western North Carolina, 223 active volunteers, helped 200 households affected by 181 local disasters; trained 8,289 people in First Aid, CPR & AED, babysitting and other lifesaving skills; collected more than 23,871 units of blood; and served 454 military members, veterans, and their families; and

WHEREAS, people in our community depend on the American Red Cross, whose lifesaving mission is powered by the devotion of volunteers, generosity of donors and partnership of community organizations.

NOW, THEREFORE, I, Barbara G. Volk, Mayor of the City of Hendersonville, by virtue of the authority vested in me by the Constitution and laws of Hendersonville, North Carolina, do hereby proclaim March, 2023, as Red Cross Month. We dedicate the month of March to all those who support its vital work to prevent and alleviate human suffering in the face of emergencies. I encourage all Americans to support this organization and its noble humanitarian mission.

PROCLAIMED this 2nd day of March, 2023.

/s/Barbara G. Volk, Mayor
Attest: /s/Jill Murray, City Clerk

C. Proclamation – We Are Hope Week for Henderson County Public Schools.

**Proclamation
Honoring the Observance of
“We Are Hope” Week in Henderson County Public Schools’
Middle & High Schools
February 27th - March 3rd, 2023**

WHEREAS, substance and alcohol abuse negatively affect many areas of the brain, the liver, the heart, and other body parts and can cause adverse behavioral, psychological, and social consequences; and

WHEREAS, there were more than 63,600 drug overdose deaths in the United States in 2016, and the drug overdose death rate has more than tripled from 1999 to 2016; and

WHEREAS, substance and alcohol abuse continues to occur among children and youth in our society: in 2017, 12.1 percent of high school students in North Carolina smoked cigarettes, 44.1 percent used an electronic vape product, 26.5 percent drank alcohol, 36.5 percent used marijuana, 5.3 percent used cocaine, and 15 percent took prescription drugs without a doctor’s prescription, according to the Centers for Disease Control and Prevention’s 2017 Youth Risk Behavior Surveillance; and

WHEREAS, student leaders in Henderson County Public Schools’, six high schools and four middle schools, have joined with local Henderson County Hope Coalition in educating their peers on alcohol, tobacco, marijuana and prescription drug use and abuse; and

WHEREAS, students at Apple Valley Middle, Flat Rock Middle, Hendersonville Middle, Rugby Middle, East Henderson High, Henderson County Early College High, Hendersonville High, North Henderson High, and West Henderson High are pledging to be and remain substance-free.

NOW THEREFORE BE IT RESOLVED, I, Barbara G. Volk, Mayor of the City of Hendersonville, by virtue of the authority vested in me proclaim that February 27th-March 3rd, be observed in Henderson County Public Schools’, middle and high schools as “We Are Hope” substance abuse awareness week.

Proclaimed this the 2nd day of March, 2023.

/s/Barbara G. Volk, Mayor
Attest: /s/Jill Murray, City Clerk

D. Proclamation for 2023 as “The Year of the Trail” in the City of Hendersonville – Brent Detwiler, City Engineer

**Proclamation
YEAR OF THE TRAIL 2023**

WHEREAS, the City of Hendersonville's natural beauty is critical to its residents' quality of life, health, and economic wellbeing; and

WHEREAS, the trails that span across our community are an integral part of the recreational and transportation possibilities of our area and promote an enjoyment of scenic beauty by our residents and our visitors; and

WHEREAS, the parks, greenways, trails, and natural areas in our community are welcoming to all and provide a common ground for people of all ages, abilities, and backgrounds to access our rich and diverse natural, cultural, and historic resources; and

WHEREAS, trails offer quality-of-life benefits to all as expressions of local community character and pride, as outdoor workshops for science education, as tools for economic revitalization, as free resources for healthy recreation, as accessible alternative transportation, and as sites for social and cultural events; and

WHEREAS, nature trails with the community vary from the Oklawaha Greenway along Mud Creek, to the soon to be completed Clear Creek Greenway and Henderson County’s Ecusta Trail, to natural surface and paved trails within our parks and greenpaces; and

WHEREAS, the North Carolina General Assembly designated 2023 as the Year of the Trail in North Carolina to promote and celebrate the state's extensive network of trails that showcase our state's beauty, vibrancy, and culture; and

WHEREAS, North Carolina is known as the "Great Trails State"; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that City Council does hereby proclaim 2023 as "THE YEAR OF THE TRAIL" in the City of Hendersonville and commend its observance to all people.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 2nd day of March, 2023.

7. PUBLIC HEARINGS

A. Annexation: Public Hearing-Cottages at Mastermind (C23-02-ANX) – Tyler Morrow, Planner II

The City of Hendersonville has received a petition from The Hammond Family Trust and John and Betty Hammond for contiguous annexation of PINs 9579-48-2415 and 9579-48-6832 located on Francis Road and Mastermind Lane that is approximately 12.76 acres.

On February 8th, 2023, City Council accepted the City Clerk's Certificate of Sufficiency for the petition submitted by The Hammond Family Trust and John and Betty Hammond and set March 2nd, 2023, as the date for the public hearing.

The City Attorney confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:08 p.m.

Ken Fitch addressed City Council remotely via Zoom online software expressing concern if the sewer connection is still an issue or if it has been resolved. Tyler Morrow said the final design has not been submitted yet.

The public hearing was closed at 6:09 p.m.

Council Member Jerry Smith moved that City Council adopt an ordinance of the City of Hendersonville to extend the Corporate Limits of the City as a contiguous annexation, to annex that property owned by The Hammond Family Trust and John and Betty Hammond, identified as PINs 9579-48-2415 and 9579-48-6832, finding that the standards established by North Carolina General Statute 160A-31 have been satisfied and that the annexation is in the best interest of the City. A unanimous vote of the Council followed. Motion carried.

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

IN RE: Petition for Contiguous Annexation
Parcel Numbers: 9579-48-2415 and 9579-48-6832
Cottages at Mastermind (File# C23-02-ANX)

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

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

WHEREAS, a public hearing on the question of this annexation was held at 305 Williams Street (City Operations Center), Hendersonville, NC at 5:45 pm, on the 2nd day of March 2023, after due notice by publication as provided by law on February 19th 2023; and

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

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

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

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

1: By virtue of the authority granted by N.C.G.S. 160A-31, as amended, the following described contiguous area is hereby annexed and made part of the City of Hendersonville as of the 2nd day of March 2023.

Being all of that real property consisting of PINs 9579-48-2415 and 9579-48-6832 described in the plat recorded in Book 2023- _____ [to be inserted at recording of the plat] of the Henderson County Registry, said PINs 9579-48-2415 and 9579-48-6832 being described by metes and bounds as follows:

BEGINNING at a 1" crimped top pipe being a corner on the northern property line of Bon Worth Francis Road, LLC (hereinafter "BWFR") as described in Deed Book 1267, Page 107; said pipe having "NAD 83 (2011)" coordinates of N: 598,493.05 feet and E: 974,463.91 feet and lying a grid bearing and distance of North 68°26'59" West 1168.52 feet from NCGS CORS Station "NCHE" (with coordinates of N: 598,063.83 feet and E: 975,550.74 feet); thence from said POINT OF BEGINNING with the BWFR line South 01°07'30" East 57.19 feet to 3/4" open top pipe; thence South 81°07'51" West 234.84 feet to a 5/8" rebar lying in the eastern limit of the right-of-way of Francis Road (S.R. 1517); thence leaving the BWFR line with the right-of-way of Francis Road the following 4 (four) calls:

- 1) On a curve to the left having a radius of 184.43 feet, an arc length of 44.97 feet, a chord bearing of North 00°48'44" West, and a chord distance of 44.86 feet to a 1" open top pipe;
- 2) On a curve to the left having a radius of 184.43 feet, an arc length of 36.32 feet, a chord bearing of North 13°26'23" West, and a chord distance of 36.26 feet to a 5/8" rebar with "EHA" cap;
- 3) On a curve to the left having a radius of 332.37 feet, an arc length of 64.35 feet, a chord bearing of North 24°37'42" West, and a chord distance of 64.25 feet to a 5/8" rebar with "EHA" cap;
- 4) North 30°10'30" West 103.92 feet to a 5/8" rebar with "EHA" cap;

Thence leaving Francis Road with the existing City limits also being the southernmost line of Cedar Bluffs Limited Partnership (hereinafter "CBLP") as described in Deed Book 1006, Page 141 on a bearing of North 76°05'56" East 215.70 feet to a 1" open top pipe; thence continuing with the existing City limits also being the eastern CBLP line North 05°22'49" East (passing a 1" square iron at 399.58 feet; and passing a 5/8" rebar with "EHA" cap at 627.93 feet) a total distance of 657.94 feet to an unmarked point in the center of the creek known as Allen Branch, said point also lying on the southern line of Wal-Mart Real Estate Business Trust (hereinafter "Walmart") as described in Deed Book 1085, Page 91; thence leaving the CBLP line with the existing City limits also being the center of Allen Branch and the southern Walmart line, the following 32 (thirty two) calls:

- 1) South 77°56'58" East 24.45 feet to an unmarked point;
- 2) South 82°02'13" East 21.98 feet to an unmarked point;
- 3) North 88°06'05" East 48.93 feet to an unmarked point;
- 4) South 82°28'37" East 64.97 feet to an unmarked point;
- 5) South 58°50'20" East 11.90 feet to an unmarked point;
- 6) South 76°43'27" East 16.95 feet to an unmarked point;
- 7) South 61°28'08" East 26.29 feet to an unmarked point;
- 8) South 79°03'33" East 16.10 feet to an unmarked point;
- 9) South 61°29'15" East 50.12 feet to an unmarked point;
- 10) South 66°59'05" East 29.12 feet to an unmarked point;
- 11) South 48°56'44" East 9.77 feet to an unmarked point;
- 12) South 69°45'29" East 37.15 feet to an unmarked point;
- 13) South 74°01'28" East 23.15 feet to an unmarked point;
- 14) South 64°37'46" East 9.50 feet to an unmarked point;
- 15) South 51°12'36" East 9.91 feet to an unmarked point;
- 16) South 59°06'54" East 16.14 feet to an unmarked point;
- 17) South 51°54'17" East 22.27 feet to an unmarked point;
- 18) South 69°09'16" East 14.47 feet to an unmarked point;
- 19) North 88°04'25" East 18.65 feet to an unmarked point;
- 20) South 75°31'01" East 12.91 feet to an unmarked point;
- 21) South 44°16'47" East 19.76 feet to an unmarked point;
- 22) South 47°21'26" East 31.56 feet to an unmarked point;
- 23) South 54°24'42" East 25.85 feet to an unmarked point;
- 24) South 69°58'01" East 18.46 feet to an unmarked point;

- 25) South 83°11'00" East 34.15 feet to an unmarked point;
- 26) South 34°28'04" East 7.59 feet to an unmarked point;
- 27) South 54°16'23" East 40.45 feet to an unmarked point;
- 28) South 34°54'26" East 34.80 feet to an unmarked point;
- 29) South 43°34'08" East 18.45 feet to an unmarked point;
- 30) South 59°25'04" East 25.78 feet to an unmarked point;
- 31) South 39°09'59" East 35.96 feet to an unmarked point;
- 32) South 44°44'37" East 13.66 feet to an unmarked point;

Thence leaving the center of Allen Branch with the property lines of Walmart and Robert D. Williams as described in Deed Book 597, Page 321, Deed Book 700, Page 37, and Deed Book 188, Page 178 on a bearing of South 14°06'49" West (passing a 5/8" rebar at 28.17 feet) a total distance of 581.02 feet (the last 120.74' more or less running with existing City limits) to a 1" square iron at the northeastern corner of the BWFR property; thence leaving the Williams line with the northern BWFR line North 84°36'57" West 498.45 feet to the POINT AND PLACE OF BEGINNING, containing 12.76 acres, more or less.

2: Upon and after the second day of March 2023, the above-described territory, and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Hendersonville and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A- 58.10, as amended.

3. The Mayor of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Henderson County Board of Elections, as required by G. S. 163-288.1.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 2nd day of March, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

B. Subdivision Text Amendment: Changes to Expedited and Minor Subdivisions – Tyler Morrow, Planner II

John Lively initiated a text amendment to our expedited review procedures after speaking with City staff concerning the requirements for smaller subdivisions (3 lots or less) to be reviewed as a minor subdivision when the total acreage of the site falls between 2 and 5 acres. Minor subdivisions require certain infrastructure to be installed or bonded prior to the conveyance of lots.

In Mr. Lively's case, he lives on a privately maintained gravel road, in the ETJ with well water and a septic system. In order to divide his 3.16-acre lot into 3 lots, he would be required to be reviewed as a minor subdivision. Minor subdivisions must connect to the public potable water and sanitary sewer systems, which would have included Mr. Lively extending both utilities to his property, neither of which currently serve his property. As a result of connecting to the public sewer system, Mr. Lively would be required to annex into the City of Hendersonville.

Minor Subdivisions must also be served by a NCDOT-maintained roadway, or a right-of-way constructed to and maintained in accordance with NCDOT or city standards. Blythewood Drive, where Mr. Lively's property is located is a privately maintained gravel road. He would be required to build a street to NCDOT standards and dedicate it to NCDOT for maintenance. The continuation of a public street would require that it then be reviewed as a major subdivision.

Outside of the Mr. Lively's petition request, City staff is proposing additional changes to the expedited subdivision section to align with state statutes. There are also wording changes to the minor subdivision language clarifying that those standards are for subdivisions of parcels between four to eight lots (including the parent parcel) with no extension of or changes to public streets.

The City Attorney confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:23 p.m.

Lynne Williams addressed City Council remotely via Zoom online software expressing concern that the property next to her was broken down into three lots and she is concerned about trees being torn down and conserving the canopy lots. Would like oversight into the environmental protections.

The public hearing was closed at 6:25 p.m.

Council Member Debbie-Roundtree moved that City Council adopt an ordinance amending the official City of Hendersonville Subdivision Ordinance, Section 2.04. Review Procedures by revising subsection F. Expedited subdivision and subsection. I. Minor subdivision, 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 petition aligns with the Comprehensive Plan’s goals to Promote compatible infill development (Strategy PH-1.1.) and to amend zoning and/or subdivision standards to require and/or offer incentives for variation in lot sizes. (Action PH-2.1.1.).

2. We [find] this petition, in conjunction with the recommendations presented by staff, 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 text amendment creates flexibility for property owners while still limiting potential impacts to the greater community.*
- 2. The proposed text amendment removes additional obstacles to accomplish less impactful infill developments.*
- 3. The proposed text amendment could create opportunities for additional housing stock to be available for residents.*

A unanimous vote of the Council followed. Motion carried.

Ordinance #23-18

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE CITY OF HENDERSONVILLE Subdivision ORDINANCE, SECTION 2.04. REVIEW PROCEDURES BY REVISING SUBSECTION F. EXPEDITED SUBDIVISION AND SUBSECTION. I. MINOR SUBDIVISION TO AMEND THE REQUIREMENTS FOR EXPEDITED AND MINOR SUBDIVISIONS IN THE CITY OF HENDERSONVILLE.

WHEREAS, the City of Hendersonville’s Planning Board has reviewed and recommended, voting 8-0 in support of the adoption, a subdivision text amendment to requirements for expedited and minor subdivisions within the City of Hendersonville’s jurisdiction; and

WHEREAS, the proposed amendment is intended to encourage compatible infill development by reducing the upfront infrastructure costs of low impact subdivisions; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina that Section 2.04. Review Procedures, Subsection F. Expedited Subdivision and Subsection. I. Minor Subdivision of the Subdivision Ordinance of the City of Hendersonville be amended as follows:

Sec. 2.04. Review procedures.

F. Expedited subdivision.

- 1. Purpose and intent.** The purpose for this expedited subdivision review procedure is to allow certain land divisions to be reviewed via an expedited review procedure based on their small size and limited likelihood to create significant impacts on surrounding lands.

Figure 2.04.D F: Conservation Expedited Subdivision Procedure	
STEP	ACTION
1	FILE APPLICATION Filed with Development Assistance Department <u>Community Development Department</u> -Required prior to conveyance of lots
2	COMPLETENESS DETERMINATION See Section 2.03.D.5, completeness Determination -Application shall include copies of any protective covenants or deed restrictions -Plat shall include all required certification language

3	STAFF REVIEW
4	CITY MANAGER DECISION Decision shall be made in writing
5	NOTIFICATION OF DECISION Delivered via personal service, electronic mail, or 1st class mail
6	RECORDATION With the Henderson County Register of Deeds within 10 days of approval

2. **Applicability.**

a. The standards in this section shall apply to divisions of land meeting all the following criteria:

i. The proposed division of land is not exempted from the subdivision standards of this ordinance in accordance with G.S. 160D-802; and

ii. The proposed division will not result in more than three lots (including any residual or "parent" parcel); and

iii. The area of land subject to the division shall be comprised of ~~at least five~~ more than two (2) acres under common ownership; and

iv. No land included in an expedited subdivision application shall have been the subject of an expedited subdivision application approval within the preceding ten years; and

v. The use of all lots is in conformity with the zoning district where located; and

vi. No extension of public streets is proposed.

b. Divisions of land not meeting all these standards shall be reviewed as a minor subdivision or major subdivision, as appropriate.

c. Lots within an expedited subdivision are not exempted from any applicable zoning district dimensional requirements.
3. **Expedited subdivision review procedure.**

a. **Application submittal.**

i. Applicable (see section 2.03.D, application filing and acceptance).

ii. Expedited subdivision plats shall be prepared by a licensed professional authorized by the state to prepare such documents.

iii. ~~Applications for an expedited subdivision shall include an evaluation from Henderson County Environmental Health indicating that an on-site wastewater system and on-site potable water system may be used on each lot not connected to the public potable water or sanitary sewer systems.~~

b. **Staff review and action.**

i. Applicable (see section 2.03.E, staff review and action).

ii. The city manager shall review and make an administrative decision/determination regarding the application in accordance with section 2.04.F.4, expedited subdivision review standards. Notice of the administrative decision/determination shall be given in accordance with section 2.03.~~K~~ J.1.

iii. If an expedited subdivision application is denied, then the reasons for denial shall be stated in writing. The applicant may revise and resubmit an expedited subdivision application that has been denied. Alternatively, the applicant may appeal the city manager's administrative decision or determination to the zoning board of adjustment in accordance with section 2.04 F.9. appeal.
4. **Expedited subdivision review standards.**

a. An expedited subdivision shall be approved if the application complies with the following:

i. The expedited subdivision plat is on a sheet or sheets suitable for recording with the Register of Deeds in Henderson County;

ii. The expedited subdivision plat is prepared and sealed by a licensed professional authorized by the state to prepare such documents;

iii. The expedited subdivision plat complies with all applicable standards in this ordinance and G.S. 47-30;

iv. The expedited subdivision plat includes all required certifications;

v. ~~The applicant has secured all required state and federal permit approvals;~~

vi. ~~All lots have been certified by Henderson County Environmental Health as capable of accommodating the wastewater generated from the proposed use, in cases when the lots are not served by a centralized wastewater system;~~

vii. ~~All lots have been certified by Henderson County Environmental Health as served by an acceptable source of potable water in cases when the lots are not served by a centralized potable water system;~~

viii. All lots in the expedited subdivision comply with the applicable dimensional requirements for the zoning district where located;

- ix.

~~The lots are served by a NCDOT maintained roadway or a right of way constructed to and maintained in accordance with city standards; and A permanent means of ingress and egress is recorded for each lot.~~
- x.

No land included in an expedited subdivision application shall have been the subject of an expedited subdivision application approval within the preceding ten years.
- b.

Subdivisions of land located within a special flood hazard area shall comply with all applicable city standards for flood damage prevention, and include the following statement:

"Use of land within a floodplain or a special flood hazard area is substantially restricted by the City of Hendersonville."
5.

Recordation.

a.

Once an expedited subdivision plat is approved, a signed statement by the city manager shall be entered on the face of the plat. The expedited subdivision plat may not be recorded without this and all other required certifications.

b.

Land may not be conveyed or construction started until the expedited subdivision plat is recorded.
6.

Effect.

a.

Approval of the expedited subdivision plat allows the sale or conveyance of lots within the subdivision.

b.

Building permits may be issued following recordation of the expedited subdivision plat.

c.

Land subject to an expedited subdivision approval shall not be further subdivided as an expedited subdivision within ten years of the date of the prior expedited subdivision approval.
7.

Amendment. Amendment of an expedited subdivision approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
8.

Expiration. The period of validity for an expedited subdivision plat shall be determined in accordance with chapter 40 of the City of Hendersonville Code of Ordinances.
9.

Appeal. Appeal of an administrative decision or determination by staff under this section 2.04.F. expedited subdivisions, shall be reviewed and decided by the BOA in accordance with section 2.04.C, appeal.
- I.

Minor subdivision.

1.

Purpose and intent. The purpose for this minor subdivision review procedure is to allow certain land divisions to be reviewed via an administrative review procedure based on the limited number of new lots and no extension of or changes to existing public streets is required.

2.

Applicability.

a.

Subdivisions of land that include ~~up to four~~ four to eight lots (including the parent parcel) with no extension of or changes to public streets are minor subdivisions and shall be reviewed in accordance with the standards in this section.

Figure 2.04.I: Minor Subdivision Procedure	
STEP	ACTION
1	PRE-APPLICATION CONFERENCE Optional
2	FILE APPLICATION Filed with Development Assistance Department <u>Community Development Department</u> -Required prior to conveyance of lots
3	COMPLETENESS DETERMINATION See Section 2.03.D.5, Completeness Determination -Application shall include copies of any protective covenants or deed restrictions -Plat shall include all required certification language
4	STAFF REVIEW
5	CITY MANAGER DECISION Decision shall be made in writing
6	NOTIFICATION OF DECISION Delivered via personal service, electronic mail, or 1st class mail
7	RECORDATION With the Henderson County Register of Deeds within 30 days of approval

- b.

All lots shall connect to the public potable water and sanitary sewer systems as part of the establishment of the minor subdivision. However, connection to the public water or sewer system shall not require the subdivision to be reviewed as a major subdivision.
- c.

No lot within a minor subdivision (including the parent parcel) shall be the subject of another minor subdivision application for a period of three years from the date the minor subdivision is approved.
3.

Minor subdivision review procedure.

a.

Pre-application conference. Applicable (see section 2.03.C, pre-application conference).

b.

Application submittal.

i.

Applicable (see section 2.03.D, application filing and acceptance).

- ii. Applications shall be prepared by a licensed professional authorized by the state to prepare such documents.
 - iii. In cases where a minor subdivision is part of a larger phased development, the application materials shall illustrate all various stages and phases of the development as well as the schedule for completion of public and private improvements associated with the development.
 - c. **Staff review and action.**
 - i. Applicable (see section 2.03.E, staff review and action).
 - ii. The city manager shall review the application and may submit it to technical staff or to other outside agencies, as appropriate, for further technical review, as appropriate.
 - iii. Following receipt of comments from technical review, if conducted, the city manager shall review and make an administrative decision/determination regarding the application in accordance with section 2.04.I.4, minor subdivision review standards. Notice of the administrative decision or determination shall be given as required by section 2.03.K.1.
 - iv. If a minor subdivision application is denied, then the reasons for denial shall be stated in writing. The applicant may revise and resubmit a minor plat that has been denied. Alternatively, the applicant may appeal the denial in accordance with section 2.04.I.9 appeal, below.
- 4. **Minor subdivision review standards.**
 - a. A minor subdivision shall be approved if the application complies with the following:
 - i. The minor subdivision plat is on a sheet or sheets suitable for recording with the Henderson County Register of Deeds;
 - ii. The minor subdivision plat is prepared and sealed by a licensed professional authorized by the state to prepare such documents;
 - iii. The minor subdivision plat complies with the applicable standards in G.S. 47-30;
 - iv. The minor subdivision plat includes all required certifications;
 - v. All lots shall be served by a NCDOT-maintained roadway or a right-of-way constructed to and maintained in accordance with NCDOT or city standards, as appropriate;
 - vi. The applicant has secured all required state, federal, and other applicable permit approvals;
 - vii. The minor subdivision is in substantial conformance with all applicable requirements in this ordinance;
 - viii. All lots in the minor subdivision shall maintain minimum lot widths in accordance with the requirements for the zoning district where located;
 - ix. All required improvements depicted on the minor subdivision plat are installed and inspected by the city, or are subject to a performance guarantee (see section 2.05, performance guarantees); and
 - x. The minor subdivision complies with all standards and conditions of any applicable permits and development approvals.
 - b. Minor subdivisions of land located within a special flood hazard area shall comply with all applicable city standards for flood damage prevention, and include the following statement:
"Use of land within a floodplain or a special flood hazard area is substantially restricted by the City of Hendersonville."
- 5. **Recordation.**
 - a. Once a minor subdivision is approved, a signed statement of approval by the city manager shall be entered on the face of the plat. The minor subdivision plat may not be recorded without this certification.
 - b. A minor subdivision plat shall not be recorded until after the city manager receives confirmation that the proposed subdivision has been approved by the appropriate United States Postmaster, or evidence that the applicant has addressed comments submitted by the postmaster.
- 6. **Effect.** Approval of a minor subdivision allows the sale or conveyance of lots within the subdivision. Building permits may be issued following recordation of the minor subdivision plat.
- 7. **Amendment.** Amendment of a minor subdivision approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.
- 8. **Expiration.** The period of validity of a minor subdivision approval shall be determined in accordance with chapter 40 of the City of Hendersonville Code of Ordinances.
- 9. **Appeal.** Appeal of an administrative decision or determination by staff under this section 2.04.I. minor subdivision, shall be reviewed and decided by the BOA in accordance with section 2.04.C, appeal.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 2nd day of March, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

C. Rezoning: Standard Rezoning – Signal Hill Rezoning (P23-06-RZO) – Matthew Manley, AICP/Planning Manager

The City of Hendersonville is in receipt of an application for a Standard Rezoning from James Koffman and Travis Fowler of First Victory, Inc, applicant. The applicant is requesting to rezone the subject property (PINs: 9579-07-6259; 9579-06-5791; 9579-06-7975; 9579-06-8507; 9579-06-8308; and 9579-06-8117) totaling 13.01 acres located at Signal Hill Rd and Lafolette St/Amazing Grace Ln, from R-20, Low Density Residential to R-15, Medium Density Residential.

If rezoned, there will not be a binding site plan, list of uses or conditions placed on the site. All permitted uses within the R-15 district would be allowed on the site. 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.

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

Ken Fitch addressed City Council remotely via Zoom online software expressed concern for the forested ridge where hawks nest, as well as, having smaller lots, meaning less trees, meaning the hawks will lost their habitats. Also, losing tree canopy.

Mayor Volk read a digital comment from Virginia Haynes that was sent in on March 1, 2023.

Good evening, City Council. My name is Virginia Haynes and my husband- Dwain and I live adjacent to the proposed development on Signal Hill Road. My husband I are one of several homeowners in the area who are affected by the growth in the area we have called home for almost 30 years. We have many concerns about this development however, I will limit this to a few.

1. Does the city mean to eliminate all-natural landscape in and around the city? The recent growth within the city and surrounding ETJ have taken from the natural beauty of our city. As we lose trees and natural habit- Hendersonville loses it beauty.

2. The approximate 13 acres of land proposed for development in the Signal Hill project is home to deer, fox, wolf and an annual hawks nestling. We enjoy watching turkey, and other smaller wildlife including a few white squirrels. Where will these animals move to?

3. Signal Hill Road was not built for the amount of traffic that currently travels from 25 to Thompson Street. With the addition of Signal Hill Apartments, Mini Storage, Apartments coming in the summer near the WHKP tower, and the new homes on Clear Creek road, it is unsafe. The road stays in poor condition because it was not build for the 18 wheel trucks that now use the road every time traffic is delayed on 26. Traffic to and from the landfill from across the eastern part of the county leaves the road littered with bags of trash. Potholes constantly form and it is impossible at certain times to pull out of our road.

4. The proposed increase to medium density development will add a substantial amount of storm water runoff. With the number of roofs, roads, driveways, etc, this runoff will directly impact all of the surrounding property, including ours and all of the Cherry Creek Basin. We do not want our back yard flooded every time it rains making that portion of our property unusable.

5. Finally, we have large permanent silt ponds at the new Auto body Shop, Signal Hill apartments, the mini storage and I assume one will be required at the new large apartment complex at the corner of Signal Hill and North Main/Clear Creek. We are surrounded by stagnant water- breeding mosquitos.

Please consider the homeowners that have been your neighbors for many years. There are 7 property owners with over 2 acre lots. There is an established neighborhood between Amazing Grace Lane and Lafollett and there are several homeowners with 1/3 acre lots. We choose to live in this beautiful part of the county. As we become surrounded by high and medium density complexes, we hope you will protect the natural beauty, the wildlife, the safety of an overused road, the sanitation and the value of our homes, by denying the rezoning and allowing the low density zoning to remain in place to help limit these issues.

Lynne Williams addressed City Council remotely via Zoom online software expressed concern for the trees on site, the forested habitat and loss of that. Asking for more oversight and protection of the tree canopy.

Travis Fowler (the applicant) spoke in person. He explained that the specific reason for the change in density was to allow us to move the development further up and away from the canopy trees. We will still have to make a sewer connection along Cherry Creek but specifically the reason for the change in zoning is to lessen the impact and the cost of development per lot on the houses to bring the cost of the houses down to a more affordable range.

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

Council Member Hensley asked if we can look into truck traffic to be sure they are following the protocol.

Council Member Smith said that this is the most density that he is comfortable with. Any more than this, is too much.

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 properties (PINs: 9579-07-6259; 9579-06-5791; 9579-06-7975; 9579-06-8507; 9579-06-8308; & 9579-06-8117) from R-20 (Low Density Residential) to R-15 (Medium Density Residential) 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 High Intensity Neighborhood & Medium Intensity Neighborhood designations call for Single Family Residential as a primary land use and the proposed zoning district permits single-family & two-family residential 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 it permits the same land uses as the existing zoning district.

2. The petition provides for a marginal increase in density in close proximity to a wide range of commercial uses.

3. The petition would potentially provide additional housing that would utilize existing infrastructure.

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

A unanimous vote of the Council followed. Motion carried.

Ordinance #O-23-19

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL NUMBERS: 9579-07-6259; 9579-06-5791; 9579-06-7975; 9579-06-8507; 9579-06-8308; & 9579-06-8117 BY CHANGING THE ZONING DESIGNATION FROM R-20 (LOW DENSITY RESIDENTIAL) TO R-15 (MEDIUM DENSITY RESIDENTIAL)

IN RE: Parcel Numbers: 9579-07-6259; 9579-06-5791; 9579-06-7975; 9579-06-8507; 9579-06-8308; & 9579-06-8117
(File # P23-06-RZO)

WHEREAS, the City is in receipt of a Zoning Map Amendment application from James Koffman & Travis Fowler of First Victory, Inc [Applicant] and Barbara L. White/Living Trust [Owner].

WHEREAS, the Planning Board took up this application at its regular meeting on February 9th, 2023; voting 8-0 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

WHEREAS, City Council took up this application at its regular meeting on March 2nd, 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 9579-07-6259; 9579-06-5791; 9579-06-7975; 9579-06-8507; 9579-06-8308; & 9579-06-

8117 from R-20 Low Density Residential to R-15 Medium Density Residential.

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 2nd day of March, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

D. Rezoning: Standard Rezoning – 806 Shepherd St. (P22-110-RZO) - Matthew Manley, AICP/Planning Manager

The City is in receipt of a Zoning Map Amendment (Standard Rezoning) application from David Mayo (applicant) and Diane & James Ward (owners). The applicant is requesting to rezone the subject property from R-15 (Medium Density Residential) to C-3 (Highway Business). The subject parcel (PIN 9578-41-9518) is located at the intersection of Shepherd St. and Old Spartanburg Rd and is approximately 0.56 acres in total. The parcel contains an existing structure originally built as a single-family residence. As a standard rezoning, there will not be a binding site plan, list of uses and/or conditions placed on the site if rezoned. All permitted uses within the C-3 district would be allowed on the site. 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.

The City Attorney confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 6:56 p.m.

Lynne Williams addressed City Council remotely via Zoom online software expressed concern about saving the trees.

The public hearing was closed at 6:57 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 subject property (PIN: 9578-41-9518) from R-15 (Medium Density Residential) 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: The Neighborhood Activity Center designation calls for neighborhood retail sales and services as a primary recommended land use; and office, multi-family and other similar uses as secondary recommended land uses at the location of the subject property. 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 petition allows for increased intensity of uses at the intersection of two minor thoroughfares. 2. The petition would align with the parcels proximate to the subject property which are zoned C-3 and located between Old Spartanburg Rd and Spartanburg Hwy. 3. The petition creates the opportunity for infill development at a greater density / intensity. 4. The petition promotes walkable neighborhoods by creating mixed land use patterns that place residents within walking distance of services.

A unanimous vote of the Council followed. Motion carried.

Ordinance #O-23-20

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL NUMBER 9578-41-9518 BY CHANGING THE ZONING DESIGNATION FROM R-15 MEDIUM DENSITY RESIDENTIAL TO C-3 HIGHWAY BUSINESS

IN RE: Parcel Number: 9578-41-9518 806 Shepherd St Rezoning
(File # P22-110-RZO)

WHEREAS, the City is in receipt of a Standard Rezoning application from David Mayo (applicant) & Diane & James Ward (applicant & property owner).

WHEREAS, the Planning Board took up this application at its regular meeting on January 12th, 2023; voting 8-0 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

WHEREAS, City Council took up this application at its regular meeting on March 2nd, 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 Number 9578-41-9518 from R-15 Medium Density Residential to C-3 Highway Business.
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 2nd day of March, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

E. Rezoning: Conditional Zoning District – Lakewood Apartments (P22-54-CZD) –
Matthew Manley, AICP/Planning Manager

The City of Hendersonville is in receipt of an application for a Conditional Rezoning from Travis Fowler of First Victory, applicant and Group Ventures INC., property owner. The applicant is requesting to rezone the subject property, PINs 9579 -39-2060, 9579- 38-2595, 9579-29-0718, 9579-19-2770 and located off Lakewood Road, from I-1, Industrial to UR-CZD, Urban Residential Conditional Zoning District for the construction of 322 multi - family units on approximately 60.56 acres. This equates to a density of 5.31 units/acre. The proposal includes the addition of 8 multi-family structures, a clubhouse with pool and a day care center totaling 136,030 Sq Ft. Additionally, the development proposes 530 parking spaces at a rate of 1.65 spaces per unit (not including day care parking). The site plan features a greenway trail with an access to the City's planned Clear Creek Greenway. The Site Plan includes the provision of 40.24 acres of Open Space. Of the 911 trees surveyed on the site, the proposal intends to preserve 528 of them (58%). The developer proposes to plant 244 trees in the development and 140 in the floodplain restoration area.

The City Attorney confirmed this public hearing has been advertised in accordance with North Carolina General Statutes. The public hearing was opened at 7:19 p.m.

Attorney Brian Gulden introduced himself and said he represents Travis Fowler and explained that he took specific language from surrounding communities to draft the language for this. We did 5 units at 60 AMI and 5 units at 80 AMI because we don't have any experience with who is going to apply and we don't want to leave any units empty, so we compromised. Council Member Hensley asked if he was the one that wrote the finishings clause in there. Mr. Gulden said yes and that was taken straight out of the inclusionary zoning of Charlotte and we are happy to strike it.

Travis Fowler of First Victory expressed that he wanted to simplify a few things. We don't think it's a good idea to have different finishings in different units so we are not going to do that. The finishes will be the same for everyone. We are also prepared to agree to a stipulation that NCDOT provide a driveway permit for our site and they will regulate it for us as per their requirements. The Tree Board made several recommendations to us and we have agreed to them. There have been discussions by the Planning Board about dark sky and we have a new solar light that we have used in other apartment complexes and it has a remote control and you can change the direction of the light and the intensity, the nature of the light and the color of the light and we're going to use those on this project and I believe we will be dark sky compliant. Also, this property is adjacent to I-26 and there are trees on that property that the Tree Board asked us to remove and we agreed. What I would also like to do is go across the stream in the floodplain area and reforest that area which will provide shade to Clear Creek. There is also a large greenspace adjacent to this property that we're either going to give to a non-profit or to the City. There is also the greenway that is going to pass through this development. Some butterflies and some squirrels will be displaced but that happens with development.

Lynne Williams addressed City Council remotely via Zoom online software and expressed concern about the forest and the birds, the monarchs and all of the animals that live on top of the ridge. She also expressed concern for bird migration and the stream buffer and encouraged that we not encroach on any of the streams and urged council to save more canopies.

Ken Fitch addressed City Council remotely via Zoom online software and expressed the good and bad that comes with this development. Some of his concerns are on many levels, about the current ecosystem including deer, monarch butterflies, a variety of birds and frogs, the stream, roads, and being dark sky compliant and the importance of keeping the canopy trees.

The public hearing was closed at 7:45 p.m.

Council Member Jerry Smith said that the developer seems be willing to negotiate and work with everyone, however, this development is too dense. We are currently as dense as Asheville and that level of density is not a level I'm willing to support and it just has too many units.

Jonathan Guy of Kimley-Horn said looking at NCDOT's improvement plans, they include a left turn lane into the daycare, a roundabout for the main access point which does address site distance. It also includes working with NCDOT and the developer of Universal at Lakewood on the intersection of Francis and Sugarloaf for improvements there. All in all, I am comfortable with the recommendations that have been put forth.

Council Member Roundtree is concerned about the traffic pattern on Francis Road as she used to live near there and they used to call it Deadman's Curve and she had a family member die there two years ago hitting a tree.

Council Member Jennifer Hensley moved that City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PINs: 9579-39-2060, 9579-38-2595, 9579- 29-0718, & 9579-19-2770) from I-1, Industrial to URCZD, Urban Residential Conditional Zoning District, for the construction of 322 multi-family units based on the site plan and list of conditions submitted by and agreed to by the applicant, [dated 2-21-2023,] and presented at this meeting and subject to the following:

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

- 1. Residential Dwellings, Multi-Family***
- 2. Child Care Center***

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

- 1. Developer agrees to provide a TIA deemed acceptable by the City and by NCDOT.***
- 2. Developer agrees to recommendations made by City Transportation consultant for the daycare access at Lakewood Rd.***
- 3. Developer agrees to provide mitigation at the intersection of US 64 & Francis Rd/Sugarloaf as recommended by the City Transportation consultant in consultation with NCDOT and in conjunction with the required mitigation associated with the Universal at Lakewood development.***
- 4. Make 10 rental units of affordable housing, 5 at or below 60% Area Median Income (AMI) and 5 at or below 80% Area Median Income (AMI) for the initial 10 years that the buildings are in service. The developer shall provide an annual report to the City of Hendersonville Development Office to prove compliance with this requirement.***
- 5. The Developer shall plant a pollinator garden to facilitate the preservation of the monarchs.***

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

The petition aligns with the City's 2030 Comprehensive Plan's Goals for the 'Business Center', 'Regional Activity Center' and 'Natural Resource and Agriculture Area' Future Land Uses Designations. Specifically, the proposal is consistent with the Secondary Recommended Land Uses and Development Guidelines under LU-13.

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

- 1. The proposed density and housing type are compatible with the surrounding area.*
- 2. The petition proposes to provide additional housing to offset local rental demand.*
- 3. The petition proposes to connect to the City's greenway network*
- 4. The petition proposes to offset tree loss with a net gain of 1 tree.*
- 5. The petition provides childcare on-site.*

A 3-2 vote of the Council followed. Motion carried. Council Member Smith and Council Member Roundtree were nays.

Ordinance #O-23-21

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCELS POSSESSING PIN NUMBERS: 9579-39-2060, 9579-38-2595, 9579-29-0718, & 9579-19-2770 BY CHANGING THE ZONING DESIGNATION FROM I-1, INDUSTRIAL TO UR-CZD, URBAN RESIDENTIAL CONDITIONAL ZONING DISTRICT

IN RE: Parcel Numbers: 9579-39-2060, 9579-38-2595, 9579-29-0718, & 9579-19-2770
 Addresses: No Address Assigned
 Lakewood Apartments: (File # P22-54-CZD)

WHEREAS, the City is in receipt of a Conditional Rezoning application from applicant, Travis Fowler of First Victory, and property owners, Marilyn Barnwell & Robert Hogan of Group Ventures, Inc., for the construction of 322 multi-family units on approximately 60.56 acres near the intersection of Francis Rd and Lakewood Rd, and

WHEREAS, the Planning Board took up this application at its regular meeting on January 12, 2023; voting 8-0 to recommend City Council approve an ordinance with conditions amending the official zoning map of the City of Hendersonville, and

WHEREAS, City Council took up this application at its regular meeting on March 2, 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: 9579-39-2060, 9579-38-2595, 9579-29-0718, & 9579-19-2770, changing the zoning designation from I-1, Industrial to UR-CZD, Urban Residential Conditional Zoning District
2. Development of the parcel pursuant to this Ordinance is subject to the following.
 - a. Development shall comply with the site plan submitted by the applicant dated February 21, 2023, including the conditions listed therein, as modified by City Council which shall be added to the site plan. The updated site shall be submitted to the City at or before the applicant's execution of this Ordinance].
 - b. Permitted uses shall include:
 - i. Residential Dwellings, Multi-Family
 - ii. Childcare Center
 - c. Additional conditions that shall be satisfied prior to final site plan approval include:
 - i. Developer agrees to provide a TIA deemed acceptable by the City and by NCDOT.
 - ii. Developer agrees to recommendations made by City Transportation consultant for the daycare access at Lakewood Rd.
 - iii. Developer agrees to provide mitigation at the intersection of US 64 & Francis Rd/Sugarloaf as recommended by the City Transportation consultant in consultation with NCDOT and in conjunction with the required mitigation associated with the Universal at Lakewood development.
 - iv. For a minimum period of ten (10) years, developer/owner will provide ten (10) units, constructed within the proposed residential development, as affordable housing (the "Commitment"). Affordable housing means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit. Eligible households for at least five (5) of the affordable housing units shall be households with an income at or below 60% Area Median Income (AMI) based on the size of the household as set forth in the "Housing Needs Assessment" (Assessment) commissioned by Dogwood Health Trust and performed by Bowen National Research in November 2020. The remaining affordable housing units shall be for households with an income at or below 80% AMI based on the size of the household as set forth in the Assessment. The affordable housing units within the residential development shall be leased only to tenants who meet the financial requirements for an eligible household and whose primary residence shall be the affordable housing unit. Subletting of affordable housing units shall not be permitted. If a household's gross income increases above the maximum eligible household income level for a household of its size, the household may

continue to lease and occupy the affordable housing unit for the remainder of the lease term plus a one-year renewal without developer losing the designation of such unit as an affordable housing unit. In such an event, the rental for the affordable housing unit may be increased during the one-year renewal to a rate not to exceed 30% of the resident's monthly adjusted household income provided that the increased rent may not exceed the market rate rent in the development for units with the same number of bedrooms. Affordable housing units shall be constructed concurrently with the market rate units within the development and shall be dispersed among such market rate units and throughout the development. Developer or its designee shall be responsible to develop regulations to ensure compliance with the Commitment including the specific methodology for income verification. The developer or its designee shall monitor compliance during the term of the Commitment and, on a yearly basis will provide, in a timely manner, a report to the City's Community Development Department (or their successor department) setting forth Developer's review of compliance.

- v. Developer shall plant a pollinator garden to facilitate the preservation of the monarchs.
- 3. Except where modified by the terms of this Ordinance, development of the parcel(s) shall occur in accordance with the final site plan requirements of Article VII of the Zoning Ordinance of the City of Hendersonville, North Carolina.
- 4. Except where explicit relief is granted by the terms of this Ordinance, the development of the parcel(s) shall occur in accordance with all applicable standards within local ordinances and policies.

This ordinance shall not be effective until the list of use(s) and conditions, established herein, is consented to in writing by the applicant and all owners of the subject property. Upon such written consent, this ordinance shall be effective retroactive to the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 2nd day of March, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

8. UNFINISHED BUSINESS - None

9. NEW BUSINESS

A. Downtown Business Investment Initiative – *Jamie Carpenter, Downtown Manager*

The Downtown Division has received a grant from Dogwood Health Trust in the sum of \$400,000 to be used over 24 months, with \$360,000 going to a small business loan program that will be administered by Mountain BizWorks (a CDFI), targeted at “under-fueled” businesses who need access to capital, including historically underutilized businesses. The remainder goes to partnering with programs to provide business training and assistance in partnership with marketing firms, nonprofits and educational centers. The grant was applied for in partnership with Mountain BizWorks and Black Wall Street AVL, in addition to in-kind partnerships with Blue Ridge Community College and the Small Business Center.

Bruce Waller, Executive Director of Black Wall Street, introduced himself and said he is glad to be a part of this awesome and historical moment.

Christine Laucher from Mountain Bizworks introduced herself as one of the partners and as part of a Community Development Financial Institution (CDFI) and has helped launch several places on Main Street and Downtown Hendersonville.

Rebekah Wallace from Mountain Bizworks introduced herself and thanked Jamie for all of her hard work on this.





Funded \$400,000 over 2 years:

- \$360,000 for loan program
- \$40,000 for training, technical assistance and program R&D




Phase 1

Training & Technical Assistance

Current businesses & new businesses

Connecting People to Programs:

- One-on-one training
- Network of support
- Resource Navigators
- Training
- BRCC Small Business Success Plan
 - 5 downtown businesses participated in February 2023










Phase 1

Access to Capital

Revolving Loan Fund

- Initial earmark for within Main Street and 7th Avenue Districts (50/50 split)
- Opportunities to revise contract as needed
- 5 year term - City can decide future uses
 - Growing loan fund
 - funding programs and support related to goals of program



75



Phase 1

Physical Space

Downtown Office - 125 5th Avenue W

- 2 individual offices to be leased at market rate
 - revenue from lease can further support resources for the program
- Additional cubicle space and conference room available for shared use:
 - Businesses who participate in program through training programs, mentorship, loan recipients.
- Will provide: access to internet, printer/copier, meeting room space with virtual meeting ability.



Future Phases:

- Adapt programs based on the needs of businesses
- Training & Technical Assistance
- Physical Space
- Larger incubator space, market space, location in 7th Avenue District
- Leverage additional funds - commercial real estate, business growth
- Access to Capital
- Local Wealth & Investment
- Research & Development on how to leverage funds from local investors (angel funds, investment crowdfunding, etc)



Next Steps:

- Early March - Finalize contracts w/ Legal
- Mid March - Project team meeting prior to kickoff
- April - Program kickoff meetings, can be combined with 7th Avenue branding launch
 - Identify needs from participants
- Summer -
 - Further define training/technical assistance needs
 - Connect with lenders if ready

Council Member Debbie Roundtree moved that City Council adopt the Resolution By The City Of Hendersonville City Council To Direct The City Manager To Negotiate A Contract With Grant Project Partners To Establish The Downtown Business Opportunity Initiative as presented.

A unanimous vote of the Council followed. Motion carried.

Resolution #23-24

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO DIRECT
THE CITY MANAGER TO NEGOTIATE A CONTRACT WITH GRANT PROJECT
PARTNERS TO ESTABLISH THE DOWNTOWN BUSINESS OPPORTUNITY
INITIATIVE**

WHEREAS, the Dogwood Health Trust (the “Trust”) has established a grant that provides funding to municipalities for the development of and businesses within Investment Areas as defined by 12 CFR § 1805.201(b)(3)(ii) (“Investment Areas”); and

WHEREAS, the City of Hendersonville has within its municipal border areas designated as Investment Areas; and

WHEREAS, the City of Hendersonville, in particular its Downtown Development division applied for a grant from the Trust to establish a small business loan program for low-income entrepreneurs who are unable to access traditional financial services due to a lack of creditworthiness, small business education and technical assistance, and the development of a community investment fund (collectively “Allowable Purposes”); and

WHEREAS, the City’s has been awarded \$400,000.00 by the Trust to be used for the Allowable Purposes; and

WHEREAS, the City’s application partners included Mountain BizWorks as lending partner and Black Wall Street as a training and technical assistance partner; and

WHEREAS, the City of Hendersonville has accepted 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 agrees to partner with Mountain BizWorks to administer \$360,000 in loans funded by the grant terms to be used for the Allowable Purposes; and
2. The City agrees to partner with Black Wall Street AVL to provide services funded by the grant terms to be used for the Allowable Purposes; and
3. The City Manager is authorized to execute a contract with Mountain BizWorks and with Black Wall Street AVL, with such changes as he deems appropriate, provided they are consistent with the terms of this Resolution;
4. City Staff are authorized and directed to proceed with the development of the programs for the Allowable Purposes for the terms of the grant program.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 2nd day of March, 2023.

/s/Barbara G. Volk, Mayor

Attest: /s/Jill Murray, City Clerk

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

**B. Adoption of Resolution Authorizing Mayor Volk to Enter into a Contract with the
North Carolina Association of Chiefs of Police – John Connet, City Manager, Blair
Myhand, Police Chief, and Angela S. Beeker, City Attorney**

In August 2020 a Hendersonville Police K-9 severely injured a local resident after escaping control of its police department handler. This incident resulted in a lawsuit against the City. The City Council has requested that the City Manager, Chief of Police and City Attorney review the events that led to this attack. City staff is proposing to hire the North Carolina Association of Chiefs of Police to conduct the investigation. A panel of three seasoned police professionals will review the events that led to the incident.

Council Member Lyndsey Simpson moved that the City Council adopt the resolution authorizing Mayor Volk to enter into a contract with the North Carolina Association of Chiefs of Police.

A unanimous vote of the Council followed. Motion carried.

Resolution #23-25

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO AUTHORIZE THE MAYOR
TO ENTER INTO A CONTRACT WITH THE NORTH CAROLINA ASSOCIATION OF CHIEFS OF POLICE**

WHEREAS, a Hendersonville Police K-9 attacked a Henderson County resident in August 2020 which resulted in serious injuries; and

WHEREAS, the City Council has directed City staff to review the events that led to the incident; and

WHEREAS, the Association of Chiefs of Police offers consulting services to assist local police agencies in evaluating programs or policies; and

WHEREAS, the City of Hendersonville would like to contract with the North Carolina Association of Chiefs of Police to investigate our police K-9 program and the events that led to the August 2020 incident. .

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

1. The Mayor is authorized to enter into a contract with the North Carolina Association of Chiefs of Police to review the events that led to the August 2020 Police K-9 attack in the amount of \$17,000.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 2nd day of March, 2023.

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

C. Parking Ordinance Amendments and Adoption of Official City Parking Map – Angela S. Beeker, City Attorney

Attached for City Council’s consideration is the proposed An Ordinance to Amend Chapter 50, Traffic, Articles IV Traffic Control Devices, and Article V Stopping, Standing and Parking, of the City of Hendersonville Code of Ordinances and to Adopt the Official City Parking Map Designating Parking Zones.

PARKING ZONES

METERED ZONES

- On-street

PAID ZONES

- Off-street

UNMETERED ZONES

- Time limit
- No time limit

Metered On-Street Parking Zones (9am-7pm)

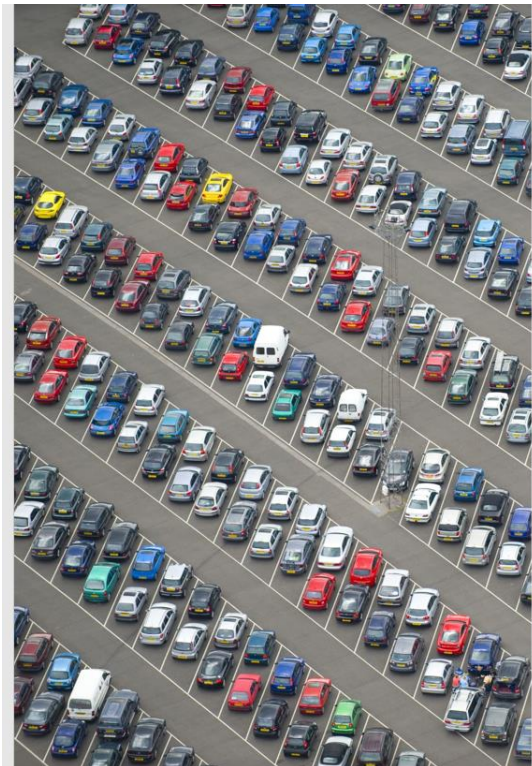
Kiosk = meter (app may be used also)

5 consecutive hour limit per parking session/1 per day/30 minutes between parking sessions

\$2.00 / hour

Parking 30 minutes or less – no meter fee

Parking 31 minutes - \$2.00



PAID PARKING ZONES

• Interior Lots

- **Mixed Lots (9am-7pm)**
 - Parking by Permit
 - Hourly Paid Parking - \$1.50/hour
 - No time limit (except EV – 3 hours)
 - Parking 1 hour or less – no charge
 - Parking 61 minutes - \$3.00
- **Permit-Only Zones**
 - Parking by Permit Only – 24/7
 - No time limits

• Exterior Lots

- Permit only M-Sat, Sun open to public, free

• Parking Deck

- No time limit
- Paid parking 24/7 – “regulated parking hours” doesn’t apply.
- \$1.50 hour up to \$10.00 max/parking session
- New parking session starts at 4:00 a.m.
- Parking 1 hour or less – no charge
- Parking 61 minutes - \$3.00

General Rules of Parking

- Fees charged in 1-hour increments
- Check-in is required (kiosk, Park-mobile app)
- One free parking period (30 min/1 hour) per 5 consecutive hours of time
- Handicapped – no time limits
- Regulated Parking hours – 9am-7pm, applies to interior mixed lots and metered on-street parking zone
- Paid time is parked time - No refunds

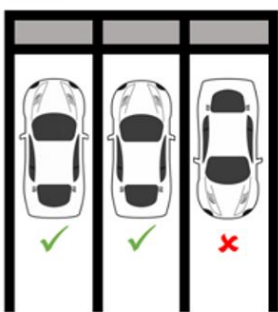


Figure 1. Backing into a space is prohibited.

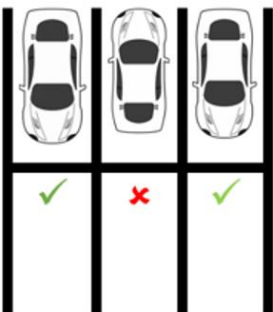


Figure 2. Pull-through parking is prohibited.

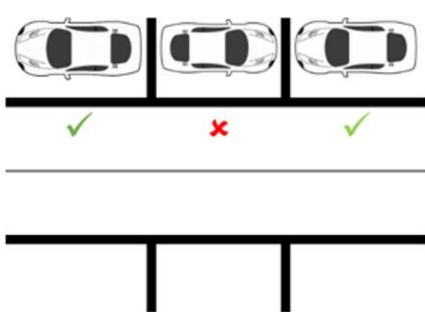


Figure 3. Parallel parking must go with the flow of traffic.

This will get you a parking ticket

This will also get you a parking ticket:

Parking outside of the lines

Illegally Parking in a handicapped spot

Forgetting to extend your paid-for parking time/paid-for meter fees

Forgetting to check-in

Parking longer than is permitted within a limited time zone

Entering the wrong license plate number at check-in, eg "1111"

This will get you towed:

Parking in a no-parking zone

Parking in a prohibited spot

- Blocking a driveway
- Too close to a fire hydrant
- In a fire lane

Habitual Violations (\$100 fine)

- 6 or more parking tickets in 6 month period
- 3 outstanding parking tickets

Parking in violation of the ordinance 24 hours or more

Parking Citation Review Process

Tickets must be paid within 30 days of receipt - \$100 penalty.

Informal Review – request must be made w/in 5 days of citation

Citation may be set aside if person can show:

- They were actually in compliance OR
- The Citation was issued in error

If denied, payment owed within original 30 days of receipt of citation to avoid \$100 penalty.

Council Member Jerry Smith moved that City Council to adopt An Ordinance to Amend Chapter 50, Traffic, Articles IV Traffic Control Devices, and Article V Stopping, Standing and Parking, of the City of Hendersonville Code of Ordinances and to Adopt the Official City Parking Map Designating Parking Zones, as presented.

A unanimous vote of the Council followed. Motion carried.

10. CITY COUNCIL COMMENTS –

Council Member Jerry Smith thanked Public Works for working on the parking area across from Jen’s office in front of the high school to repaint and put a spot there. Thank you to everyone involved in that.

Council Member Jennifer Hensley said this month at the MPO meeting we are voting on project swaps and we had to cut down on projects so we’ve requested that we swap out the Kanuga Road project so that we can have the 64 Interchange fixed, so I just wanted to give everyone a heads up about that.

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

City Manager John Connet pointed out that surplus items have been sold off in the last month according to policy and is included in the agenda packet. I also wanted to remind Council of our Council/Staff Retreat next Thursday evening and all day Friday. You do have homework attached to the last Hendersonville Herald. There’s four questions to prep you for Friday so please do your homework and bring it with you. It will be helpful if you do it before you get there. Thank you.

12. CLOSED SESSION

A. Closed Session – *John Connet, City Manager*

At 8:50 p.m. Council Member Lyndsey Simpson moved that City Council enter closed session pursuant to NCGS § 143-318.11 (a) (1) and (5) to prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes and to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

At approximately 9:00 p.m. Council Member Lyndsey Simpson moved that City Council return to open session. A unanimous vote of the Council followed. Motion carried.

13. ADJOURN

There being no further business, the meeting was adjourned at approximately 9:00 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST:

Jill Murray, City Clerk



MINUTES

March 9, 2023 & March 10, 2023

SPECIAL CALL MEETING OF THE CITY COUNCIL

2-DAY BUDGET/STAFF RETREAT

OLD CITY COUNCIL CHAMBERS - 2ND FLOOR, CITY HALL | 160 SIXTH AVE. E. 6:00 p.m.

Hendersonville Police Department | 630 Ashe Street 8:30 a.m.

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

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

Facilitator: Julie Brenman, Fountainworks Facilitation Management Consulting

1. CALL TO ORDER

Mayor Volk called the meeting to order at 6:07 p.m. and welcomed those in attendance. A quorum was established with all members in attendance.

Julie Brenman of Fountainworks Facilitation Management Consulting gives an overview of the two-day event as follows:

Evening one was recessed at 8:02 p.m.

Hendersonville Council Retreat

March 9-10, 2023



Presented by:



Meeting Purpose

The Town of Hendersonville had a retreat from 6 p.m. to 8 p.m. on Thursday, March 9, 2023, in the Council Chambers at City Hall. A second day of the retreat was held from 8:30 a.m. to 2 p.m. on Friday, March 10, 2023, at the Hendersonville Police Department.

Fountainworks staff professionally facilitated the meeting. Comments were captured as the conversation flowed and do not reflect any priority unless otherwise noted. The purpose of the retreat was to:

- Update officials on town financials and various departments
- Share City Council priorities with staff to enable all leaders to be on the same page about upcoming priorities

Day 1 - Welcome

The retreat kicked off with a brief welcome by City Manager John Connett, who discussed the goals for the day. He also set the theme as: *Building a strong foundation for our growing future*. Mr. Connett said his hope is the retreat would focus on establishing a foundation of growth for the next three to five years. Of the priorities from 2017, four out of the top five have been accomplished, and priorities set in 2020 are underway as well. We want to build the foundation and prioritize what is important to the City Council.

Financials Overview

Assistant City Manager Brian Pahle and the budget staff delivered an overview of the city's financial situation. During the discussion, they reviewed dashboards available on the website that are live and available to the public. They also reviewed a Gantt chart with project status updates.

Officials then reviewed the city's financing options, which include 160A installment financing, general obligation bonds, special obligation bonds, and synthetic TIFs. This led into an overview of the key financials from the last audit (FY 2022). The City Council reviewed the budget to actuals for the general fund and enterprise fund accounts as well as the fund balance.

When discussing the salary and benefits for city employees, staff expressed gratitude for Council's leadership in updating the salary and benefits to recruit as well as retain employees. Other topics discussed included:

- There is no increase expected in medical premiums
- There is an interest to explore on-site day care, remote work, and extended time for paid family leave
- Staff would like feedback on a 401k match as well as what it would cost for up to 3% match
- Officials would like benchmarking information on merit pay
- There is a need for feedback on other benefits e.g. hiring bonus

Before wrapping for the day, officials discussed the general fund and a revenue neutral tax rate. Staff also shared the general fund model with the discussion continuing on day 2.

Day 2 – Orientation and Accomplishments

Julie Brenman from Fountainworks welcomed everyone to the Hendersonville Police Department, which allowed the City Council to see their efforts pay off as the building was one of their previous priorities.



Hendersonville City Manager John Connett also highlighted the building as part of many accomplishments the City Council and staff have seen come to fruition in recent years. The police department and other recent achievements were featured on a graphic accomplishment map, which will be displayed at City Hall.



Station Visits

After a brief break, the City Council took some time to visit stations set up throughout the room where staff covered topics including: transportation, development/housing, parks/greenways, financing and staffing, as well as sustainability. Each official got to ask questions and dig deeper into the topics before coming back together as a group to debrief.





Station Debrief

Following the individual discussions, the City Council came together to discuss what they learned. The group discussed their priorities and got an opportunity to vote on their top choices with red dots representing their #1 pick, green dots representing their #2 pick, and blue dots representing their #3 choice. The following notes were captured from the discussion:

- Create a Parks Department (1 red, 2 green dots)
 - Parks bond? (2 blue dots)
 - Plant trees in flood plain- Southside park
 - 1¢ lodging tax earmark for parks- \$500k
 - Take care of existing parks and green spaces
 - Splash pad ribbon cutting
 - Signage for parks (people don't know them all)
 - Improve and expand parks- Purchase land (1 green dot)
- Public space/park
 - Caswell to Roundabout
 - Southside/S. Main Street
 - Connect amenities
 - Bike racks
- Striping South Main for bikes
- 1% Merit? (1 green dot)
 - Keeps people moving in pay grade compared to new employees
 - Increase COLA- want to keep up
- Appreciate the data available to public
- How to pay for what we want
 - 42¢ → Rev. neutral
 - 49¢ → to pay for basic plans
- Educate and lobby 1/4¢ sales tax, \$3.5m (1 green, 4 blue dots)
- Homeless Downtown
 - Graffiti and property damage
 - How to support law enforcement
- City Boards + Volunteers (1 green dot)
 - We hear them and value them
 - Educate them
 - Stay in ordinances
 - Simplify their "jobs"
 - They do a lot of work
- Comprehensive plan
 - The right density (1 green dot)
 - Support density to make more affordable housing
 - Consider height of development
 - Style guidelines, MSD overlays (1 red, 1 green dot)
 - Form based code, by-right development
 - Look for other areas to encourage commercial development to keep from overuse of downtown (like 7th Ave.)
- Strategic plan for affordable housing
 - Input from residents
 - Possible incentives for developers to do workforce housing (1 green, 1 blue dot)
 - Affordable housing with good quality of life (1 red dot)
 - Workforce housing
 - Resolution to have powers of authority (1 red dot)
 - Housing at all price points
- Tree canopy (2 blue dots)
 - Support neighborhood woods
 - Increase tree budget
- Continue to pursue grants
- H.I.I.P. program and educate on facade grounds (1 blue dot)
- More money for facade grants
 - Workaround
- Finalize + implement sustainability plan (3 blue dots)
 - Incorporate into comp plan
 - Combine environmental sustainability and Tree Boards

- Update or strengthen Tree Ordinances/Role of boards in review
- #1 in bike/ped accidents, #54 fatalities
 - Need more data on accidents
 - Red light runners, accidents widespread
- Transportation planning (1 red, 1 green, 1 blue dot)
 - Transportation bond? (include sidewalks)
 - How to address street cuts, repairs
 - Traffic calming policy
 - Fix the damn streets 😊
 - Traffic impact of new development
 - Better connectivity and traffic flow
 - Narrow King Street, allow sidewalks





Priorities

As the final activity, the City Council discussed their priorities to ensure the staff had a good understanding of how to accomplish them.



The following weighted priorities were captured (in the dot voting exercise, red dots had a weight of 5 points, green dots had 3 points, and blue dots were weighted with 1 point):

Priorities:

- Parks department and park improvements (17)
- Strategic Plan for Housing (14)
- Comprehensive plan (11)
- Transportation Planning (9)
- 1/4¢ sales tax (7)
- Environmental Sustainability Board + Tree Board (3)
- City Boards training and appreciation (3)
- *COLA, Merit (3)
 - *Note some Council members said they assumed this would continue, thus did not set it as a new priority.
- Tree Canopy (2)
- Façade/Stormwater Grants (1)

Wrap Up

Before adjourning, Mr. Connett thanked the City Council members for their time, ideas, and energy, adding it will help staff know they are working in the right direction. He said he appreciated all of feedback and said he looks forward to the future growth of Hendersonville and to building on the theme of *Building a strong foundation for our growing future*.

City Council Members thanked the City Manager and staff for arranging the workshop and were appreciative of each other's ideas.

2. ADJOURN

There being no further discussion, the meeting was adjourned at 1:29 p.m. on March 10, 2023 upon unanimous assent of the Council.

ATTEST:

Barbara G. Volk, Mayor

Jill Murray, City Clerk



MINUTES

March 22, 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 4:01 p.m. and welcomed those in attendance. A quorum was established with all members in attendance.

2. CONSIDERATION OF AGENDA

No changes, no vote.

3. PRESENTATIONS

A. Police Department Strategic Plan - *Blair Myhand, Police Chief*

Chief Myhand gave a brief presentation of his multi-year strategic plan (2022-2025) and explained the department’s values, organizational structure, focus areas, as well as, how many calls, crashes, arrests and incident reports taken.

VALUES

INTEGRITY

WE UPHOLD THE HIGHEST STANDARDS OF HONESTY, NO MATTER THE COST.
OUR CHARACTER IS SHOWN THROUGH OUR ETHICAL CONDUCT WITHOUT
DEFERENCE TO THE INDIVIDUAL, SITUATION, OR THE OUTCOME. DOING WHAT
IS RIGHT IS OUR HIGHEST GUIDING PRINCIPLE.

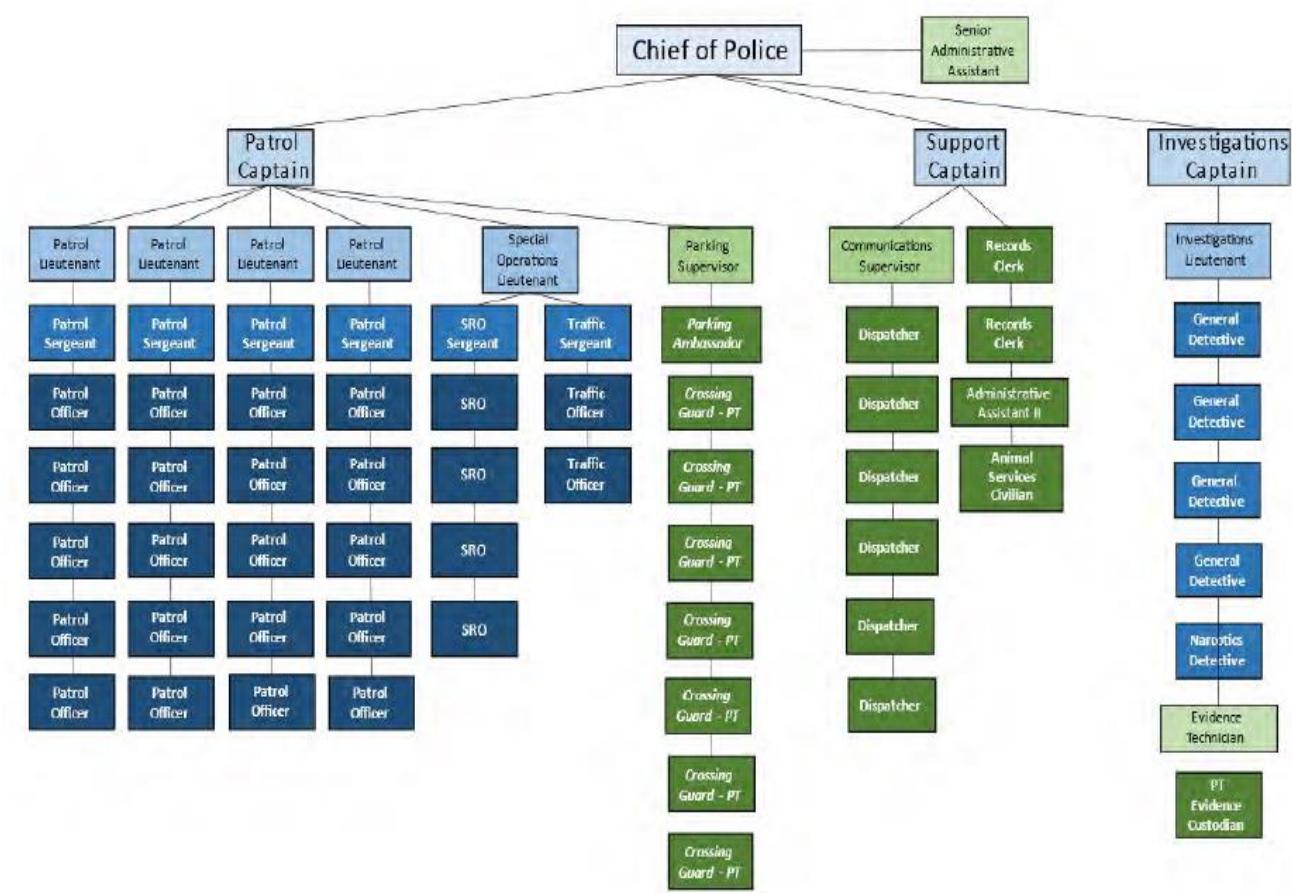
RESPECT

WE SERVE WITH UNDERSTANDING, OPENNESS, AND KINDNESS. WE BELIEVE
EVERYONE SHOULD BE TREATED EQUALLY REGARDLESS OF OUR DIFFERENCES
AND WE ACT ACCORDINGLY. YOU HAVE VALUE.

PROFESSIONALISM

SERVING IN A MEANINGFUL WAY IS DONE BY SKILLED INDIVIDUALS,
IRRESPECTIVE OF STRESS, INCONVENIENCE, OR CONTEMPT. TRAINING AND
EDUCATION ENHANCE OUR KNOWLEDGE, SKILLS, AND ABILITIES.
WE GROW FROM OUR PAST; NOT ROOT OURSELVES IN IT.

ORGANIZATIONAL STRUCTURE



These four focus areas were selected based on input from staff and the public alike.

We selected these topics because they represent the most critical steps to building a safe community - which is our goal.



1.1 - Objective: Establish a Culture of Transparency and Accountability

- **1.1.1** - Design a model of communicating with the public and city leaders in a crisis.
- **1.1.2** - Conduct and analyze data through an annual public survey.
- **1.1.3** - Maintain NCLM Risk Reduction Review accreditation.**
- **1.1.4** - Enroll and achieve CALEA accreditation.**
- **1.1.5** - Enroll and achieve NCLEA accreditation.**
- **1.1.6** - Ensure compliance with SB 300.**
- **1.1.7** - Streamline and fully implement an early warning system process.
- **1.1.8** - Ensure all sworn personnel meet Rap Back electronic fingerprinting state requirements.

1.2 - Objective: Policy and Oversight

- **1.2.1** - Involve community members in policy development and review.
- **1.2.2** - Make department policies available for public view.
- **1.2.3** - Collect and analyze demographic data on enforcement activities.
- **1.2.4** - Study efficacy of the Civilian Advisory board and make revisions as necessary.
- **1.2.5** - Review and revise 1/3rd of policies and procedures annually, or as needed.

1.3 - Objective: Technology and Social Media

- **1.3.1** - Study the efficacy of technology that allows callers to give telecommunicators access to cell phone live video during critical incidents.
- **1.3.2** - Establish an evaluation process to study the effectiveness of emerging technology.
- **1.3.3** - Strategy: Upgrade and maintain effective BWC (Body Worn Cameras) and In-Car camera systems utilizing cloud storage.
- **1.3.4** - Develop a process of public input regarding new technologies.

1.4 - Objective: Improve special event planning.

- **1.4.1** - Prepare and utilize Incident Action Plans for all special events.
- **1.4.2** - Prepare and file after action reviews for all special events.
- **1.4.3** - Review all AARs (After Action Reviews) and implement improvement recommendations to enhance future special event operations.
- **1.4.4** - Ensure City of Hendersonville Special Event Policy meets public safety needs to secure the event from harm.

Promote Staff Training and Education

2.1 - Objective: Maintain adequate staffing levels across all bureaus.

- **2.1.1** - Conduct a triennial workload analysis for all employee positions to assess scope of assigned work.
- **2.1.2** - Review and revise department structure to meet future workload requirements.
- **2.1.3** - Implement and utilize effective standards and evaluation systems that provide valuable feedback to improve employee performance.

2.2 - Objective: Maintain adequate employee pay and benefits.

- **2.2.1** - Ensure employee pay and benefits are consistent with like departments.

2.3 - Objective: Develop staff competencies across bureaus and functions.

- **2.3.1** - Provide career opportunities for non-supervisory staff where able.
- **2.3.2** - Research need and assign personnel to Task Force positions as available when in the city's best interest.
- **2.3.3** - Research and implement a "temporary assignment" program promoting staff development across department functions.
- **2.3.4** - Partner with colleges and universities to provide formal education to interested employees at reduced or no costs.
- **2.3.5** - Enhance de-escalation skills program through use of scenario-based training.
- **2.3.6** - Review and revise as necessary the Field Training Officer/Communications Training Officer programs at least once annually.
- **2.3.7** - Implement a progressing driver training program to reduce crashes and improve driver capabilities during emergency driving.

2.4 - Objective: Ensure personnel are qualified for promotion with the organization.

- **2.4.1** - Design and conduct leadership development assessment centers in advance of expected promotional opportunities.
- **2.4.2** - Develop and conduct promotional assessment center processes as needed to fill supervisory vacancies.
- **2.4.3** - Develop and maintain an internal 5-year retirement forecast database.
- **2.4.4** - Provide leadership training to personnel throughout their careers.
- **2.4.5** - Develop learning goals for each level of leadership.
- **2.4.6** - Incentivize training and formal education for all personnel.

2.5 - Objective: Recruit, Hire, and Retain a diverse workforce.

- **2.5.1** - Implement a recruitment strategy to attract high caliber applicants for all positions based on industry best practices.
- **2.5.2** - Ensure hiring practices are focused on value added rather than value neutral.
- **2.5.3** - Remove obstacles from the hiring process that limit interest in law enforcement jobs.
- **2.5.4** - Ensure equity in position classifications at least triennially.

Build a Safer Community

3.1 - Objective: Reduce the number and severity of motor vehicle crashes in the city.

- **3.1.1** - Deploy personnel based on crash data.
- **3.1.2** - Develop and implement a method to record traffic complaints and document officer activities related to the complaint.
- **3.1.3** - Develop strategies to reduce crashes focusing on contributing factors as reported on DMV-349.**
- **3.1.4** - Research the viability of conducting new driver training at Hendersonville High School.
- **3.1.5** - Conduct at least one seatbelt checking station per quarter.
- **3.1.6** - Conduct at least one license checking station per patrol team per quarter.

3.2 - Objective: Reduce incidents of impaired driving in the city.

- **3.2.1** - Conduct two multi-agency DWI (Driving While Impaired) checking stations annually.
- **3.2.2** - Apply for grant funding to bolster TST (Traffic Safety Team) staffing and equipment.
- **3.2.3** - Intentionally focus on and enforce DWI violators based on data.
- **3.2.4** - Maintain adequate staffing levels for the Traffic Safety Team.
- **3.2.5** - Study the impact of social districts on incidents of driving while impaired. Make recommendations as necessary.

3.3 - Objective: Improve Community Engagement Opportunities.

- **3.3.1** - Develop and adopt policies and strategies that reinforce the importance of community engagement in managing public safety.
- **3.3.2** - Infuse community policing throughout the culture of the organization.
- **3.3.3** - Analyze the need to have a dedicated Community Policing Officer position. Staff accordingly.
- **3.3.4** - Develop and adopt policies and strategies that reinforce the importance of community engagement in managing public safety.
- **3.3.5** - Design and conduct at least one Citizen Policing Academy annually.

3.4 - Objective: Develop and implement “least harm” strategies.

- **3.4.1** - Implement a citation in lieu of arrest philosophy for minor offense where appropriate.
- **3.4.2** - Increase the number of CIT (Crisis Intervention Training) officers.
- **3.4.3** - Support Teen Court Diversion Program.
- **3.4.4** - Implement restorative justice practices in policy and procedures

3.5 - Objective: Enhance response to active shooters.

- **3.5.1** - Equip all sworn personnel with active shooter ballistic protection (i.e., vests, shields, etc.)
- **3.5.2** - Ensure rapid deployment training is minimally conducted annually for all sworn officers.
- **3.5.3** - Maintain adequate staffing levels for rapid deployment instructors.
- **3.5.4** - Adjust training, tactics, and procedures based on lessons learned from previous active shooter incidents.

4.1 - Objective: Provide peer support training and personnel

- 4.1.1 - Study the efficacy of implementing a peer support group within the department.
- 4.1.2 - Research and utilize technology to enhance employee access to mental health resources.
- 4.1.3 - Research the value of having at least one mental health check-up annually as part of the yearly performance evaluation process.

4.2 - Objective: Enhance the Embedded Mental Health Clinician (EMHC) program.

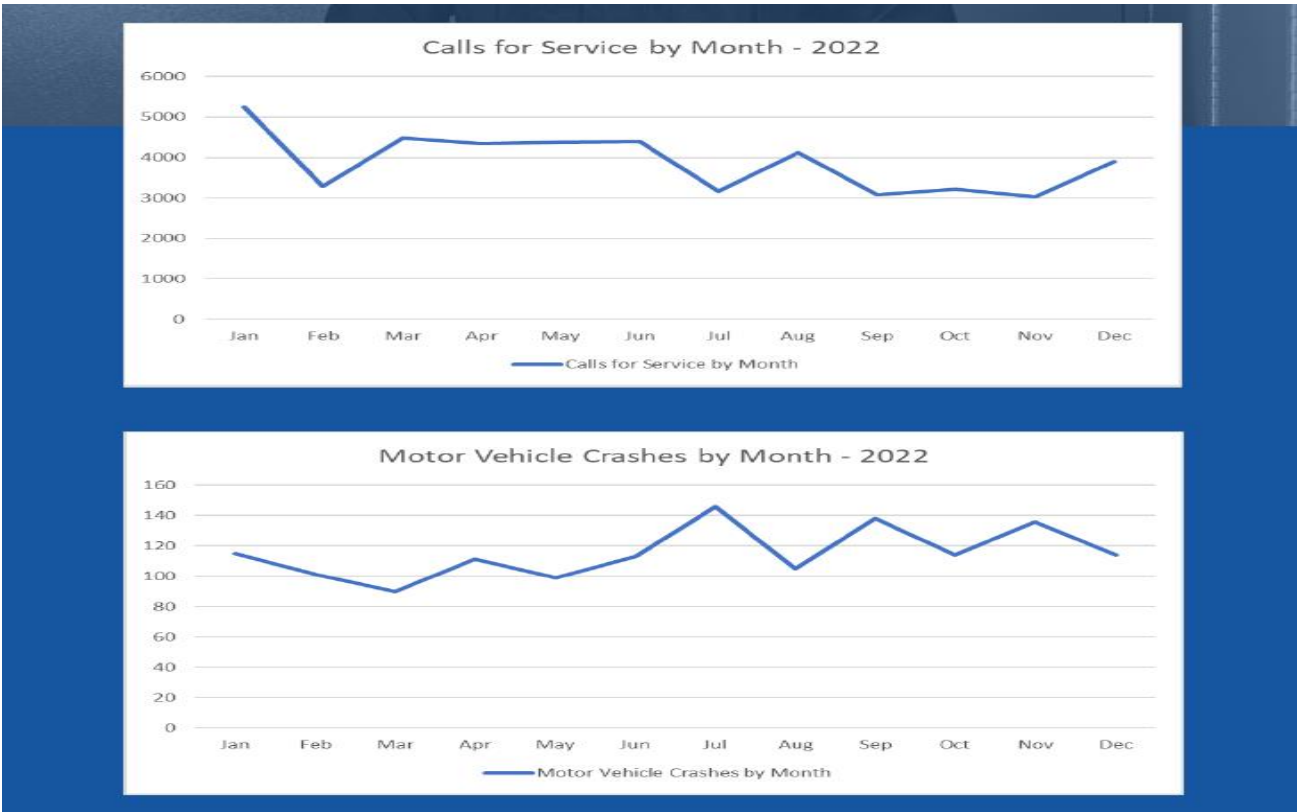
- 4.2.1 - Explore funding sources to offset the cost of the EMHC process at the department.**
- 4.2.2 - Study the need to increase EMHC capacity in the department.

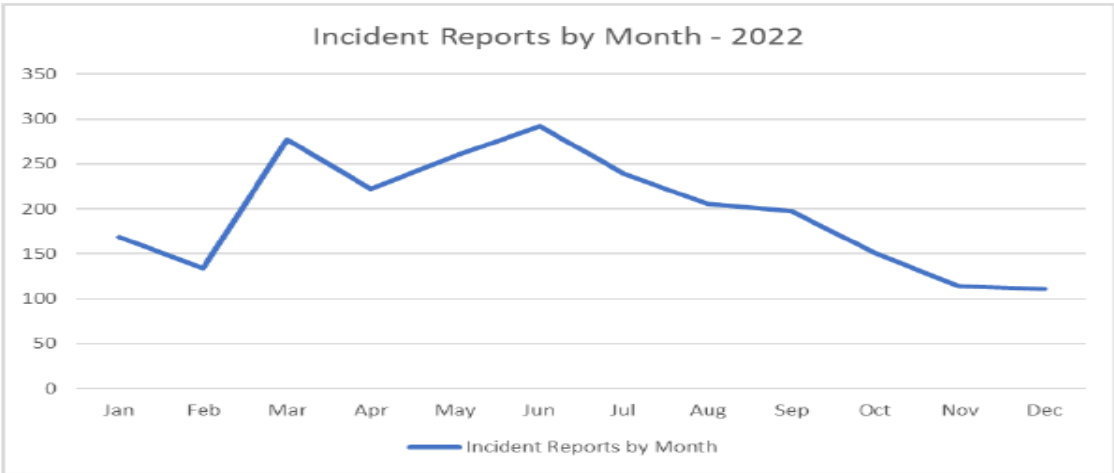
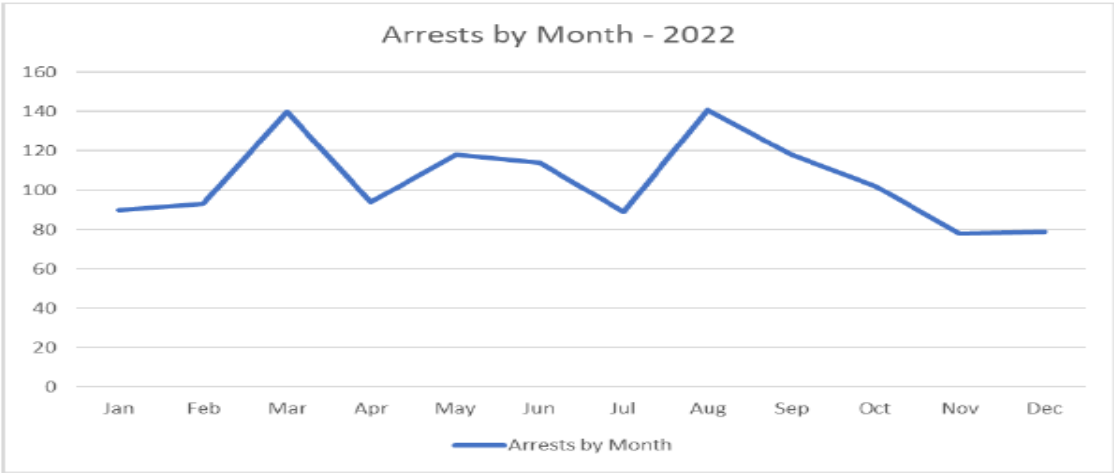
4.3 - Objective: Enhance Officer response to mental health calls for service.

- 4.3.1 - Study industry best practices regarding co-responder models in handling mental health calls for service.
- 4.3.2 - Explore funding sources to offset the cost of implementing a co-responder model in the department.

4.4 - Objective: Promote mental health and wellbeing for all employees.

- 4.4.1 - Promote safety and wellness at every level of the organization.
- 4.4.2 - Promote the utilization of on-duty physical fitness training.
- 4.4.3 - Study the efficacy and legality of making physical fitness testing part of the annual performance evaluation process.





B. Budget Preview – Mike Huffman, Stormwater Manager

Mike Huffman gave a budget preview with a brief stormwater utility update giving a brief background, study overview, proposed revenue increases and the budget overview for FY22 & FY23.

Stormwater Utility Background

- + Established by Ordinance in July 2021
 - + 2-year hold on rates
- + Estimated Annual Revenue ~ \$1.1M
- + Cap & Credit Program
 - + \$250/month Cap = -\$275,000

Property Type	Stormwater Service Charge
Residential unit: detached single-family house, duplex, or a manufactured home	1 ERU (\$5.00) per month
Other residential uses: , residential structures that contain more than two units	1 ERU (\$5.00) per dwelling unit per month
Non-Residential	1 ERU per 3000 SF Impervious area per month
Cap	\$250.00 per month for all non-residential parcels
Credit	Non-residential are eligible for a 50% reduction in monthly stormwater service charges.
Stormwater Service Charge Credit Application Fee	\$50 per parcel

Rate Study Overview

- + Completed in Spring 2021
- + Level of Service B – C
- + Assumptions
 - + Proactive management and replacement of prioritized capital assets
 - + Preventative Operation and Maintenance Activities
 - + Compliant NPDES stormwater program
 - + FY 2021 Residential Flat Rate = \$5 / month
 - + FY 2021 Non-Residential Rates = \$5/ERU

General Stormwater Operations Level of Service Matrix				
Level of Service	Program Management Activities	NPDES Compliance Activities		Capital Improvement Projects
		Non-OGM Related Compliance Activities	Operation and Maintenance Program Activities	
A or 5	Comprehensive Planning + Full Implementation Capabilities	Exemplary Permit Compliance	Fully Preventative/ 100% Routine	10-year Plan
B or 4	Pro-Active Planning + Systematic CIP Implementation Capabilities	Pro-Active Permit Compliance	Mixture of Routine and Inspection Based	20-year Plan
C or 3	Priority Planning + Partial CIP Implementation Capabilities	Minimal Permit Compliance	Inspection Based	40-year Plan
D or 2	Reactionary Planning + Minimal CIP Implementation Capabilities	Below Minimum Permit Compliance	Responsive Only (Complaint-based)	50-year Plan
F or 1	No Planning + No CIP Implementation Capabilities	Non-Compliance	Less than full response to all complaints	75-year or More Plan

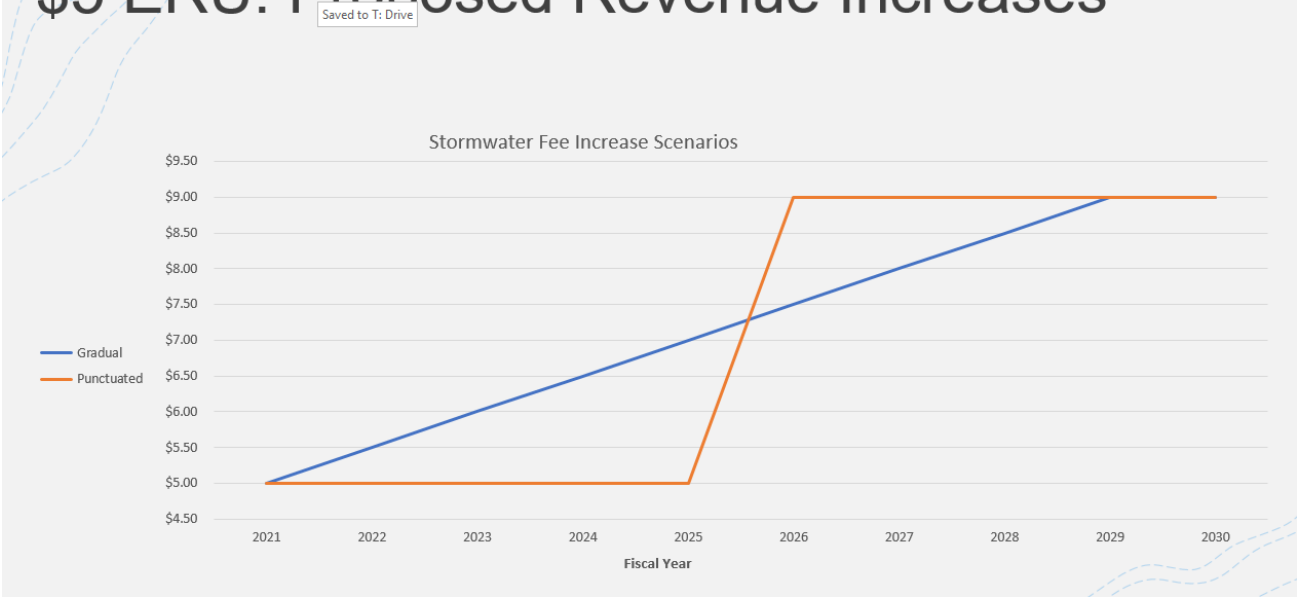
Level C: Revenue and Rate Assumptions

- + Generates \$1M-\$1.4M+ annually in the first 5 years
- + Healthy rate increase in year 1; 3% increases in years 2-5
- + Will require significant rate increase in years 6-10 to address deferred capital projects



Rate	Revenue (2021)	Revenue (2025)	Revenue (2030)	Capital Outlay (10yr)	FTE
\$5.00	\$1.4m	\$1.75m	\$2.8m	\$36.5m	3.5

\$5 ERU: Proposed Revenue Increases



PROJECT DESCRIPTION	FY 2020	CUMULATIVE	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10
	COST	COST	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Additional Sub watershed Stormwater Improvements		2,850,000	150,000	300,000	300,000	300,000	300,000	300,000	300,000	300,000	300,000	300,000
Stormwater Vehicle Replacement (SUV)	30,000	30,000	30,000									
New Imagery	25,000	145,000	25,000		27,000		29,000		31,000		33,000	
							★ 7,393,000					
Wash Creek	6,377,474	7,393,000										
Britain Creek	3,915,942	4,961,000							★ 4,961,000			
Mud Creek	8,650,790	11,626,000									★ 11,626,000	
Devils Fork	1,141,746	1,446,000								1,446,000		
Other Watersheds	6,386,067	8,090,000							★ 8,090,000			
TOTAL	26,527,018	36,541,000	205,000	300,000	327,000	300,000	7,722,000	300,000	331,000	14,797,000	333,000	11,926,000
DEBT PACKAGES		33,516,000					7,393,000			14,497,000		11,626,000
ANNUAL DEBT		33,516,000	\$0	\$0	\$0	\$0	\$7,393,000	\$0	\$0	\$14,497,000	\$0	\$11,626,000
ANNUAL CAPITAL OUTLAY		3,025,000	\$205,000	\$300,000	\$327,000	\$300,000	\$329,000	\$300,000	\$331,000	\$300,000	\$333,000	\$300,000

FY 22 Stormwater Budget Overview

- + Net Change in Fund Balance:
Decrease by \$210,064 in FY22
- + Pay and Class
- + Decreased revenue from ETJ

Budget	Dollars	Percent
Revenue		
Total Revenue	\$996,764	
Expenditures		
Personnel/Benefits	\$541,154	44%
Operating	\$596,069	49%
Capital	\$41,450	3.5%
Debt Service	\$44,578	3.6%
Total Expenditures	\$1,233,278	

FY 23 Stormwater Budget Overview

- + Net Change in Fund Balance:
Decrease of \$10,780 in FY23

Budget Estimate	Dollars	Percents
Revenue		
Total Revenues	1,238,950	
Expenditures		
Personnel/Benefits	725,962	52%
Operating	313,153	23%
Capital	289,162	21%
Debt Service	61,380	4%
Total Expenditures	1,389,657	

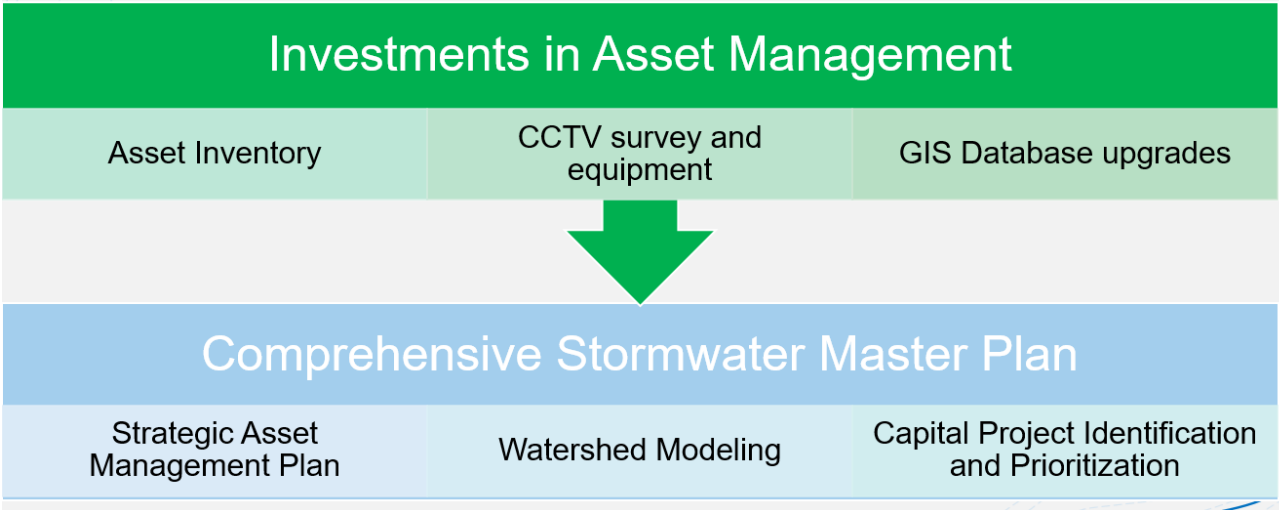
PROJECT DESCRIPTION	FY 2020	CUMULATIVE	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10
	COST	COST	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Additional Sub watershed Stormwater Improvements		2,850,000	150,000	300,000	300,000	300,000	300,000	300,000	300,000	300,000	300,000	300,000
Stormwater Vehicle Replacement (SUV)	30,000	30,000	30,000									
New Imagery	25,000	145,000	25,000		27,000		29,000		31,000		33,000	
							7,393,000					
Wash Creek	6,377,474	7,393,000										
Britain Creek	3,915,942	4,961,000								4,961,000		
Mud Creek	8,650,790	11,626,000										11,626,000
Devils Fork	1,141,746	1,446,000								1,446,000		
Other Watersheds	6,386,067	8,090,000								8,090,000		
TOTAL	26,527,018	36,541,000	205,000	★ 300,000	★ 327,000	★ 300,000	7,722,000	300,000	331,000	14,797,000	333,000	11,926,000
DEBT PACKAGES		33,516,000					7,393,000			14,497,000		11,626,000
ANNUAL DEBT		33,516,000	\$0	\$0	\$0	\$0	\$7,393,000	\$0	\$0	\$14,497,000	\$0	\$11,626,000
ANNUAL CAPITAL OUTLAY		3,025,000	\$205,000	\$300,000	\$327,000	\$300,000	\$329,000	\$300,000	\$331,000	\$300,000	\$333,000	\$300,000

FY 24 Capital Requests


Project	Total Project	FY24 Adjusted
7th Avenue Streetscape Stormwater Improvements	100,000	100,000
Annual Brush and Leaf Grinding	289,500	27,000
Comprehensive Stormwater Master Plan, # 22016	1,300,000	400,000
General Stormwater Infrastructure	1,450,000	100,000
Green Infrastructure in City ROW	1,800,000	150,000
Lower Mud Creek Flood Reduction, #22021	3,030,000	1,200,000
Stormwater Easement Acquisition	95,000	5,000
Stream Bank Stabilization/ Buffer Enhancement	265,000	20,000
Streets/Stormwater Trailer Replacement	40,000	20,000
Sullivan Park Stream Restoration, Project# 21029	-	340,000

Capital Requests not including grant funds = \$422,000


Looking Forward




Funding Options




Increase rates
Rates have been fixed for 2 years
\$250/Month Cap (- \$275,000 annually)



Grants
Grants are not guaranteed
Strong focus on water quality



Loans
Limited options



Other
Revenue Bonds
Tax Increment Financing

Capital Reserve Fund

- +Any local government or public authority may establish and maintain a capital reserve fund for any purposes for which it may issue bonds
 - + shall be established by resolution or ordinance of the governing board
 - +state the purpose for which the fund is created (Stormwater Capital Improvements)
 - +the approximate time period during which money will be accumulated (5 years)
 - +the approximate amount to be accumulated (\$2M)
 - +the source from which the money will be derived (stormwater revenue)

City Manager Connet explained to Council that we are not looking for an answer today but wanted you to know that this will be part of the budget and the question is should we raise the \$5 fee or raise the cap? Council Member Hensley asked for a copy of the rate study.

C. Budget Preview – Environmental Services Fund – *Adam Murr, Budget Manager and Tom Wooten, Public Works Director*

Tom Wooten gave a budget preview speaking about what is different, financial trends and city rates and services.

WHAT’S DIFFERENT?

What our Environmental Service Team Accomplishes (MVPs):

- A citizen noticed a bag of **trash left outside a nearby business for an extended period. The Environmental Services team took swift action and went above and beyond** their regular duties to dispose of the waste.
- A resident took the time to express gratitude for the exceptional service provided by the Environmental Services team. She reached out when a **neighbor moved and left unwanted items on the curb that could potentially attract wildlife, and the team promptly arrived to clear the area.** The resident was impressed with the City team’s professionalism and kind demeanor.
- A City employee took notice of an **Environmental Services crew member making multiple trips across a parking lot, carrying a trash bag and litter picker.** Impressed by his dedication, the employee called in to commend his colleague, only to find out that **it wasn’t even his assigned duty for the day.** The employee felt compelled to highlight the often-overlooked hard work of the **Environmental Services crews, who provide invaluable services to the City.**

WHAT’S DIFFERENT? - SUMMARY

We’re fortunate to have a solid – solid waste team

- The City receives positive reviews
- Others receive... not positive reviews
- Providing our team resources is key to a positive customer service experience
- The next few slides depict how our resources are used, and how to continue adapting



FINANCIAL TRENDS

	Total Revenues	Total Expenditures	Fund Balance Appropriated	Fund Balance End of Year	Fund Balance % of Approp.
FY20 Actual	1,499,865	1,551,643	51,778	250,579	16.1%
FY21 Actual	1,337,541	1,362,504	24,963	225,616	16.6%
FY22 Actual	1,889,139	1,728,415	(160,724)	386,340	22.4%

Fiscal Year 2019 – 2020 (FY20)

- Solid waste truck \$242,439
- Brush & leaf contract \$30,000
- Tree removal from R.O.W. \$11,000
- Tipping fees \$210,000
- Fund Balance Appropriation \$51,778

Environmental Services Fund: The total budget for this Fund is \$1,662,855 in FY19-20. There is no recommended changes in rates and the budget includes a fund balance appropriation of \$149,855. It is estimated that the actual fund balance appropriation will be less at year end. The Fund’s fund balance totals \$420,132 as of June 30th, 2018 and is expected to decrease by approximately \$143,776 to end FY18-19. Seeing that fund balance has been required to fund non-recurring capital outlay, the Council will need to consider a more sustainable funding structure for capital needs in future years. This combined with growing service demands at the outer edges of our corporate limits, will drive the need to look at rates and revenue options in FY20-21 and beyond.

FINANCIAL TRENDS

	Total Revenues	Total Expenditures	Fund Balance Appropriated	Fund Balance End of Year	Fund Balance % of Approp.
FY20 Actual	1,499,865	1,551,643	51,778	250,579	16.1%
FY21 Actual	1,337,541	1,362,504	24,963	225,616	16.6%
FY22 Actual	1,889,139	1,728,415	(160,724)	386,340	22.4%

Fiscal Year 2020 – 2021 (FY21)

- Debt Service on Waste Trucks \$68,798
- Brush & leaf contract \$30,000
- Tree removal from R.O.W. \$11,000
- Tipping fees \$210,000
- Fund Balance Appropriation \$24,963

Environmental Services Fund

The Environmental Services Fund (ESF) provides sanitation services to rate payers within the City. The ESF’s total budget for FY20-21 is \$1,404,017, including a fund balance appropriation of \$95,217. The Fund’s balance as of June 30th, 2019 totals \$294,357. The Fund balance is anticipated to decrease in FY19-20 by approximately \$87,789.

There are no recommended changes to rates included in the budget; however, Council will need to consider a more financially sustainable funding structure for future capital needs in FY21-22.

FINANCIAL TRENDS

	Total Revenues	Total Expenditures	Fund Balance Appropriated	Fund Balance End of Year	Fund Balance % of Approp.
FY20 Actual	1,499,865	1,551,643	51,778	250,579	16.1%
FY21 Actual	1,337,541	1,362,504	24,963	225,616	16.6%
FY22 Actual	1,889,139	1,728,415	(160,724)	386,340	22.4%

Fiscal Year 2021 – 2022 (FY22)

- Debt Service on Waste Trucks \$70,971
- ESF/SW – 75/25 brush truck \$120,000
- Brush & leaf contract \$35,000
- Tree removal from R.O.W. \$11,000
- Tipping fees \$220,000:
 - \$10,000 increase over FY21
- Fund Balance Increase \$160,724
 - Waste truck not received until FY23

- On Feb. 26, 2021, City Council reviewed a rate proposal for next budget year, which will increase revenues to sustain operations and enable Staff to study operational efficiencies and best-practices.
- The City Manager recommends City Council adopt an updated schedule of rates and fees for the ESF, summarized below:
 - Residential 32gal Waste and Recycling Fees **\$20.00**
 - Increase of **\$3.75 per month.**
 - Raises the rate for customers who participate in recycling to the same rate as customers who do not recycle.
 - Residential 96gal Waste and Recycling Fees **\$22.00**
 - Increase of **\$3.50 per month.**
 - Raises the rate for customers who participate in recycling to the same rate as customers who do not recycle.

FINANCIAL TRENDS					
	Total Revenues	Total Expenditures	Fund Balance Appropriated	Fund Balance End of Year	Fund Balance % of Approp.
FY23 Adopted	1,523,100	1,631,401	108,301	278,039	17.0%
FY23 Revised	1,565,100	1,926,414	352,956	33,384	1.7%
FY23 Estimate	1,553,562	1,817,914	264,352	121,988	6.7%

Fiscal Year 2022 – 2023 (FY23)

- Debt Service – Waste Truck \$55,960
- Debt Service – Brush Truck \$37,334
- Brush & leaf contract \$84,000 (+\$54k):
 - \$42,000: 50/50 Split → ESF/STW
- Tree removal \$20,000 (+\$9k)
- Tipping fees \$250,000 (+\$30k)
- Personnel increase \$90,558 (9.9%, P&C)
- Purchase of FY22 Waste Truck \$243,313
- Without the waste truck lapse:
 - \$48,208 Q1 Personnel/Hiring Bonus +1 FTE
 - \$66,586 Mid-Year Amendment/P&C 65th
 - \$114,794 TOTAL
- Fund Balance Appropriation:
 - \$108,301 appropriation based on adopted
 - Est. \$199,160 end of year appropriation
- No Rate Increases

FINANCIAL TRENDS					
	Total Revenues	Total Expenditures	Fund Balance Appropriated	Fund Balance End of Year	Fund Balance % of Approp.
FY24 Request	1,523,100	1,851,082	327,982	(205,994)	-11.1%
FY24 Adjusted	1,782,100	1,874,947	92,847	29,141	1.6%
FY24 Estimate	1,817,904	1,816,794	(1,110)	123,098	6.8%

Fiscal Year 2023 – 2024 (FY24)

- Debt service continues to increase for vehicle and equipment purchases by roughly \$62,250 (1/2-year ppmt.)
- New customers to serve create initial cost to the City – bin purchases, fuel, increased workload
- Tipping fees increase + \$15k
- Fuel cost increases + roughly \$5k
- Waste truck, leaf machine, vehicle \$500k
- \$50k Route/Comp. Study included at requested, adjusted, & estimated level
- New Sanitation Employee at requested budget level ~\$54k
- Estimate Assumptions:
 - 102.5% revenue collection
 - 96.0% of budget expended

FINANCIAL TRENDS SUMMARY

Looking at the crystal ball...

- Tipping fees increased from **\$210k** in FY20, we estimate **\$265k** in FY24
- Fuel and other operating expenses continue to rise
- Need for a **\$50k** FY24 route/efficiency/comp. study
- Contracted services, e.g., brush/leaf grinding have increased:
 - **\$30k** in FY20 and FY21
 - **\$35k** in FY22
 - **\$84k** this FY(23), but we mitigated by splitting cost 50/50 with Stormwater
- Personnel costs increased following pay & class:
 - **\$843k** FY21 actual
 - **\$1.06M** FY22 actual
 - **\$1.04M** FY23 estimate
- Equipment is needed, increasing debt service costs:
 - FY20 waste truck → final debt payment FY27
 - FY22 waste truck + brush truck → final debt payment FY29
 - FY24 waste truck + leaf machine + vehicle → final debt payment FY31
 - FY20 debt = **\$34k** | FY23 debt = **\$93k** | FY24 debt = **\$165k**

CITY RATES & SERVICES

	FY24 REC. HVLNC (32gal)	FY24 REC. HVLNC (96gal)	Maybins	Lions Club	McMinns	Waste Pro	Waste Industries (GSL)
Residential Services:							
Waste Collection	23.00	25.00	27.00	24.00	26.00	28.00	20.50
Recycling	-	-	5.00	-	-	3.80	18.62
Combined Waste + Recycling	23.00	25.00	32.00	24.00	26.00	31.80	39.12
Additional Services:							
Walk-Out/Assistance	-	-	13.00	5.00	N/A	35.00	35.00
Over/Double Capacity	-	-	13.00	N/A	N/A	N/A	N/A
Missed Collection	-	-	N/A	10.00	N/A	Varies	N/A
Bin Delivery Fee/Deposit	60.00	60.00	N/A	N/A	N/A	N/A	35.00
Electronic Disposal	30.00	30.00	N/A	Varies	N/A	N/A	N/A
White Good Disposal	25.00	25.00	N/A	Varies	N/A	N/A	N/A
Brush Collection	-	-	N/A	N/A	N/A	N/A	N/A

Recommendation

- Increase fees to remain in-line with competition in FY24/ sustain the ESF:
 - 32gal Residential Customer: **\$20/month → \$23/month**
 - 96gal Residential Customer: **\$22/month → \$25/month**
 - Commercial Customer: **\$28/month → \$32/month**

CITY RATES & SERVICES

FY24 Recommended:

- \$23/month residential 32gal
 - +\$3/month
- \$25/month residential 96gal
 - +\$3/month
- \$16/month comm. Recycling
 - +\$2/month
- \$32/month other comm.
 - +\$4/month

Additional Consideration

- +142 customers in early FY24
 - Townes at Stonecrest
- Route/comp. study in FY24
 - \$50,000 budget
- PW researching franchise agreements vs. providing commercial service

ENVIRONMENTAL SERVICES	
General	
Utility Bill Late Fee	\$10.00 or 5% of past due balance, whichever is greater
Small Special Load (collected with pickup truck and city staff)	\$50.00
Large Special Loads (tipping fee added to special fee)	\$150.00
Stolen/Damaged Cart Replacement Fee	\$100.00
Televisions/computer monitors - per item	\$30.00
White Goods (washers, dryers, refrigerators, hot water heaters, etc.) - per item	\$25.00
Special Event - Cart Delivery, Pickup, and Material Disposal - per cart fee	\$20.00
Violations	
Illegal Dumping Fee - Offense 1	Warning
Illegal Dumping Fee - Offense 2	\$50.00
Illegal Dumping Fee - Offense 3	\$100.00
Illegal Dumping Fee - Offense 4 (+)	\$150.00
Commercial Waste and Recycling	
Commercial Recycling (up to four 65gal. bins, collected once/week)	\$16.00 per bin
Commercial Recycling (up to four 65gal. bins, collected twice/week)	\$32.00 per bin
Commercial Waste (per 96gal. bin)	\$32.00 per bin
Commercial Waste and Recycling (96gal. bin)	\$32.00 per set of bins
Residential Waste and Recycling	
Residential Waste - 32gal.	\$23.00 per bin
Residential Waste, Assisted - 32gal.	\$23.00 per bin
Residential Waste and Recycling - 32gal.	\$23.00 per set of bins
Residential Waste and Recycling, Assisted - 32gal.	\$23.00 per set of bins
Residential Waste - 96gal.	\$25.00 per bin
Residential Waste, Assisted - 96gal.	\$25.00 per bin
Residential Waste and Recycling - 96gal.	\$25.00 per set of bins
Residential Waste and Recycling, Assisted - 96gal.	\$25.00 per set of bins

D. Cemetery Update – Mark Stierwalt, Public Works Supervisor

Mark Stierwalt gave a status update on the Oakdale Cemetery and offered recommendations for the future.

Annual Costs

- Lawn Care \$20K
- Tree Work \$2K
- 2hrs of Staff time per burial
- Two Buildings to maintain. \$1K

Additional Costs

- Major Tree work
- Roads need to be repaved every 25 years
- Repairing/maintain/straightening abandoned headstones \$?
- Mausoleum

Upcoming Projects

- Renovate the historical round house. - Estimated \$30K

Could host small funerals in inclement weather or serve other purpose.

- Repave Roads - 25 Year cycle
- Renovate Mausoleum - Estimated \$30K
- Educational Kiosk - \$10-20K
- Ground Penetrating Radar (GPR) – To determine unused sections for more space
- Resurvey after GPR

Is there an issue?

YES!!!

There is no exit strategy.

We will run out of lots and our primary funding source for maintenance.

Perpetual care means forever.

How much Space is left?

- 327 lots Available in Section Q
- 22 Spaces in the Mausoleum
- Some lots are by regulation "abandoned".
- North Side has sporadic spacing. We don't know how many without an investigation.
- Additional $\frac{3}{4}$ acre available on north side.

Local Cemetery Pricing

- Forest Lawn \$1925 & \$2495 perpetual care
- Blue Ridge Gardens in Pisgah Forest \$1850 - \$2150
- Riverside in Asheville \$1625 or \$1300 for City residents
- Pollack Memorial in Asheville \$2000
- Woodland Memorial in Greenville SC range from \$4000-\$8000
- Average cost is \$1906.00 - \$2503.00

Recommendations

Prepare for the long haul.

- Raise rates: \$1500 per lot for city residents
\$2000 per lot for all others
\$5000 for mausoleums spaces (higher maintenance)
Average rate \$1900 & up
- Fill in vacant spaces on North Side (investigation and survey required)
- Develop 2 lots on North side 100-200 lots minus cost to develop.
- Start a fund to cover maintenance. Interest would cover/offset lawncare and maintenance in perpetuity.



Mark also mentioned bringing back a columbarium.

4. NEW BUSINESS – None

Council Member Hensley reminded everyone that Commissioner McCall is spearheading a spring Litter Sweep countywide at 9:00 a.m. on Saturday, April 22nd and then Earth Fest is that same day from 10:00a.m. – 3:00p.m.

There being no further business, the meeting was adjourned at 5:42 p.m. upon unanimous assent of the Council.

Barbara G. Volk, Mayor

ATTEST:

Jill Murray, City Clerk



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

SUBMITTER:	Adam Steurer	MEETING DATE:	March 22, 2023
AGENDA SECTION:	Consent	DEPARTMENT:	Utilities
TITLE OF ITEM, Presenter Name, Title:	Resolution to Accept Funding for the Water Treatment Facility AIA Master Plan – Adam Steurer, Utilities Engineer		
<u>SUGGESTED MOTION(S):</u>	I move City Council to adopt the Resolution by the City Council to accept funding for the Water Treatment Facility AIA Master Plan Study		

SUMMARY:
The City of Hendersonville has been approved for American Rescue Plan (ARP) funding from the State Fiscal Recovery Fund in the amount of \$400,000. The Master Plan Study will generally include the following: asset inventories and condition assessments of existing infrastructure and major process equipment, evaluation of each treatment process, recommended facility improvements and expansions.

The attached resolution is required for the application.

BUDGET IMPACT: \$0. The project is funded through a grant

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

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

ATTACHMENTS:

Resolution

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL
ACCEPTING AMERICAN RESCUE PLAN FUNDING
FOR THE PURPOSE OF THE WATER TREATMENT FACILITY AIA MASTER PLAN**

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

WHEREAS, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of \$ 400,000 to perform an Asset Inventory and Assessment Master Plan study detailed in the submitted application, and;

WHEREAS, the City of Hendersonville intends to perform said project in accordance with the agreed scope of work, 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 of Hendersonville does hereby accept the American Rescue Plan (ARP) offer of \$400,000.
2. That the City of Hendersonville does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.
3. That John Connet, City Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

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

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Becker, City Attorney



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER:	Amanda Lofton	MEETING DATE: 03/22/2023
AGENDA SECTION:	CONSENT	DEPARTMENT: Finance
TITLE OF ITEM, Presenter Name, Title:	Henderson County Tax Adjustments - <i>Amanda Lofton, Deputy Tax Collector</i>	

SUGGESTED MOTION(S): I move that City Council resolve to direct and authorize the tax releases submitted by Henderson County Tax Collector as presented and relieve the Henderson County Tax Collector and the Deputy Tax Collectors of the charges owed.

SUMMARY:

The Deputy Tax Collector, Amanda Lofton, would like to submit for your approval the tax bill adjustments occurring between December 1, 2022 and February 28, 2023. These adjustments include all Discoveries, Releases, Refunds, and Forgiven Interest. These adjustments were provided by Henderson County Tax Department. Documentation is available in the Tax Office.

BUDGET IMPACT: \$ 0.00

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

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:

Summary Total of Tax Adjustments

ICPTS Pending Release/Refund Report. Thursday, January 6, 2022*

CITY OF DISTRICT	OWNER	ABSTRACT	NOTE	VALUE CHANGE	ADJ. NUMBER	DISTRICT CODE	LEVY TYPE	BILLED	PAID	RELEASE
HENDERSONVILLE	BATTISTE, DANA LYNN	0003097020-2020-2020-0000	PER DOCUMENTATION PROVIDED, PROPERTY WAS MOVED TO KENTUCKY JUNE 2019. DOCUMENTATION ON FILE	(\$4,550)	8035	JURSC10	TAX	\$22.30	\$0.00	\$22.30
							LATE LIST FEE	\$2.23	\$0.00	\$2.23
							TOTAL:			\$24.53
							ABSTRACT TOTAL:			\$24.53
		0003097020-2021-2021-0000	PER DOCUMENTATION PROVIDED, PROPERTY WAS MOVED TO KENTUCKY JUNE 2019. DOCUMENTATION ON FILE	(\$4,350)	8036	JURSC10	TAX	\$22.62	\$0.00	\$22.62
							LATE LIST FEE	\$2.26	\$0.00	\$2.26
							TOTAL:			\$24.88
							ABSTRACT TOTAL:			\$24.88
							OWNER TOTAL:			\$0
										\$49.41
	HENDERSONVILLE AFFORDABLE HOUSING CORPORATION	0000607657-2021-2021-0000	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$3,085,900)	8022	JURSC10	TAX	\$16,046.68	\$0.00	\$16,046.68
							LATE LIST FEE	\$0.00	\$0.00	\$0.00
							TOTAL:			\$16,046.68
							ABSTRACT TOTAL:			\$16,046.68
		0000607662-2021-2021-0000	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$393,000)	8026	JURSC10	TAX	\$2,043.60	\$0.00	\$2,043.60
							LATE LIST FEE	\$0.00	\$0.00	\$0.00
							TOTAL:			\$2,043.60
							ABSTRACT TOTAL:			\$2,043.60
		0002317469-2021-2021-0000	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$222,900)	8024	JURSC10	TAX	\$1,159.08	\$0.00	\$1,159.08
							LATE LIST FEE	\$0.00	\$0.00	\$0.00
							TOTAL:			\$1,159.08
							ABSTRACT TOTAL:			\$1,159.08
		0002317619-2021-2021-0000	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$360,900)	8021	JURSC10	TAX	\$1,876.68	\$0.00	\$1,876.68
							LATE LIST FEE	\$0.00	\$0.00	\$0.00
							TOTAL:			\$1,876.68
							ABSTRACT TOTAL:			\$1,876.68
		0002318138-2021-2021-0000	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$1,728,500)	8023	JURSC10	TAX	\$8,988.20	\$0.00	\$8,988.20
							LATE LIST FEE	\$0.00	\$0.00	\$0.00
							TOTAL:			\$8,988.20
							ABSTRACT TOTAL:			\$8,988.20

DISTRICT	OWNER	ABSTRACT	NOTE	VALUE CHANGE	ADJ. NUMBER	DISTRICT CODE	LEVY TYPE	BILLED	PAID	RELEASE
CITY OF HENDERSONVILLE	HENDERSONVILLE AFFORDABLE HOUSING CORPORATION	0002318138-2021-2021-0000	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$1,728,500)	8023	JURSC10	TOTAL:			\$8,988.20
							TAX	\$14,712.36	\$0.00	\$14,712.36
							LATE LIST FEE	\$0.00	\$0.00	\$0.00
							TOTAL:			\$14,712.36
							ABSTRACT TOTAL:			\$14,712.36
		0002740606-2021-2021-0000	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$2,829,300)	8017	JURSC10	TAX	\$14,712.36	\$0.00	\$14,712.36
							LATE LIST FEE	\$0.00	\$0.00	\$0.00
							TOTAL:			\$14,712.36
							ABSTRACT TOTAL:			\$14,712.36
		0002849992-2021-2021-0000	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$910,600)	8033	JURSC10	TAX	\$4,735.12	\$0.00	\$4,735.12
							LATE LIST FEE	\$0.00	\$0.00	\$0.00
							TOTAL:			\$4,735.12
							ABSTRACT TOTAL:			\$4,735.12
		0002853962-2021-2021-0000	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$1,019,900)	8025	JURSC10	TAX	\$5,303.48	\$0.00	\$5,303.48
							LATE LIST FEE	\$0.00	\$0.00	\$0.00
							TOTAL:			\$5,303.48
							ABSTRACT TOTAL:			\$5,303.48
		0002857909-2021-2021-0000	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$503,100)	8020	JURSC10	TAX	\$2,616.12	\$0.00	\$2,616.12
							LATE LIST FEE	\$0.00	\$0.00	\$0.00
							TOTAL:			\$2,616.12
							ABSTRACT TOTAL:			\$2,616.12
		0002857941-2021-2021-0000	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$507,000)	8019	JURSC10	TAX	\$2,636.40	\$0.00	\$2,636.40
							LATE LIST FEE	\$0.00	\$0.00	\$0.00
							TOTAL:			\$2,636.40
							ABSTRACT TOTAL:			\$2,636.40
		0002859692-2021-2021-0000	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$190,800)	8030	JURSC10	TAX	\$992.16	\$0.00	\$992.16
							LATE LIST FEE	\$0.00	\$0.00	\$0.00
							TOTAL:			\$992.16
							ABSTRACT TOTAL:			\$992.16

DISTRICT	OWNER	ABSTRACT	NOTE	VALUE CHANGE	ADJ. NUMBER	DISTRICT CODE	LEVY TYPE	BILLED	PAID	RELEASE
Y OF HENDERSONVILLE AFFORDABLE HOUSING CORPORATION										
0000	0002859693-2021-2021-	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$322,300)	8029	JURSC10	TAX	\$1,675.96	\$0.00	\$1,675.96	\$0.00
						LATE LIST FEE	\$0.00	\$0.00	\$0.00	\$0.00
						TOTAL:				\$1,675.96
						ABSTRACT TOTAL:				\$1,675.96
0000	0002859694-2021-2021-	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$212,800)	8028	JURSC10	TAX	\$1,106.56	\$0.00	\$1,106.56	\$0.00
						LATE LIST FEE	\$0.00	\$0.00	\$0.00	\$0.00
						TOTAL:				\$1,106.56
						ABSTRACT TOTAL:				\$1,106.56
0000	0002859695-2021-2021-	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$158,800)	8027	JURSC10	TAX	\$825.76	\$0.00	\$825.76	\$0.00
						LATE LIST FEE	\$0.00	\$0.00	\$0.00	\$0.00
						TOTAL:				\$825.76
						ABSTRACT TOTAL:				\$825.76
0000	0002865876-2021-2021-	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$1,302,700)	8018	JURSC10	TAX	\$6,774.04	\$0.00	\$6,774.04	\$0.00
						LATE LIST FEE	\$0.00	\$0.00	\$0.00	\$0.00
						TOTAL:				\$6,774.04
						ABSTRACT TOTAL:				\$6,774.04
0000	0003098269-2021-2021-	LOST EXEMPTION AFTER 2020 TRANSFER, FAILED TO PUT BACK ON FOR 2021. GOVERNMENT HAS OWNERSHIP INTEREST IN PROPERTY.	(\$3,439,300)	8032	JURSC10	TAX	\$17,884.36	\$0.00	\$17,884.36	\$0.00
						LATE LIST FEE	\$0.00	\$0.00	\$0.00	\$0.00
						TOTAL:				\$17,884.36
						ABSTRACT TOTAL:				\$17,884.36
						OWNER TOTAL:				\$89,376.56
0000	0002130514-2015-2015-	VOID ABSTRACT 12/31/2014; TAXPAYER PROVIDED DOCUMENTATION AND A REQUEST FOR RELEASE/REFUND; TAXPAYER SOLD HIS WATERCRAFT; PER WILDLIFE, WATERCRAFT TRANSFERRED OWNERSHIP 05/28/2014	(\$3,290)	8059	JURSC10	TAX	\$0.00	\$0.00	\$0.00	\$15.13
						LATE LIST FEE	\$0.00	\$0.00	\$0.00	\$1.51
						TOTAL:				\$16.64
						ABSTRACT TOTAL:				\$16.64
0000	0002130514-2016-2016-	VOID ABSTRACT 12/31/2015; TAXPAYER PROVIDED DOCUMENTATION AND A REQUEST FOR RELEASE/REFUND; TAXPAYER SOLD HIS WATERCRAFT; PER WILDLIFE, WATERCRAFT TRANSFERRED OWNERSHIP 05/28/2014	(\$4,120)	8060	JURSC10	TAX	\$0.00	\$0.00	\$0.00	\$18.95
						LATE LIST FEE	\$0.00	\$0.00	\$0.00	\$1.90
						TOTAL:				\$20.85
						ABSTRACT TOTAL:				\$20.85

DISTRICT	OWNER	ABSTRACT	NOTE	VALUE CHANGE	ADJ. NUMBER	DISTRICT CODE	LEVY TYPE	BILLED	PAID	RELEASE
CITY OF HENDERSONVILLE	NELL, SAMUEL D	0002130514-2017-2017-0000	VOID ABSTRACT. TAXPAYER PROVIDED DOCUMENTATION AND A REQUEST FOR RELEASE/REFUND. TAXPAYER SOLD HIS WATERCRAFT, PER WILDLIFE, WATERCRAFT TRANSFERRED OWNERSHIP 05/29/2014	(\$4,010)	8061	JURSC10	TAX LATE LIST FEE TOTAL:	 \$0.00 	\$0.00 \$0.00	\$18.85 \$1.88 \$20.73
OWNER TOTAL:				\$0						\$58.22
RTS AFFORDABLE HOUSING CORPORATION		0002319201-2021-2021-0000	EXEMPTION REMOVED IN ERROR. WAS GOVERNMENT PROPERTY TO AN ENTITY THAT THE GOVERNMENT HAS SUBSTANTIAL INTEREST. EXEMPTION ADDED BACK AFTER ERROR FOUND.	(\$736,200)	8064	JURSC10	TAX LATE LIST FEE TOTAL:	 \$3,828.24 \$0.00	\$0.00 \$0.00	\$3,828.24 \$0.00 \$3,828.24
OWNER TOTAL:				\$0						\$58.22
		0002319329-2021-2021-0000	EXEMPTION REMOVED IN ERROR. WAS GOVERNMENT PROPERTY TO AN ENTITY THAT THE GOVERNMENT HAS SUBSTANTIAL INTEREST. EXEMPTION ADDED BACK AFTER ERROR FOUND.	(\$404,800)	8065	JURSC10	TAX LATE LIST FEE TOTAL:	 \$2,104.96 \$0.00	\$0.00 \$0.00	\$2,104.96 \$0.00 \$2,104.96
OWNER TOTAL:				\$0						\$58.22
		0002852280-2021-2021-0000	EXEMPTION REMOVED IN ERROR. WAS GOVERNMENT PROPERTY TO AN ENTITY THAT THE GOVERNMENT HAS SUBSTANTIAL INTEREST. EXEMPTION ADDED BACK AFTER ERROR FOUND.	(\$46,300)	8069	JURSC10	TAX LATE LIST FEE TOTAL:	 \$240.76 \$0.00	\$0.00 \$0.00	\$240.76 \$0.00 \$240.76
OWNER TOTAL:				\$0						\$58.22
		0002861309-2021-2021-0000	EXEMPTION REMOVED IN ERROR. WAS GOVERNMENT PROPERTY TO AN ENTITY THAT THE GOVERNMENT HAS SUBSTANTIAL INTEREST. EXEMPTION ADDED BACK AFTER ERROR FOUND.	(\$43,600)	8068	JURSC10	TAX LATE LIST FEE TOTAL:	 \$226.72 \$0.00	\$0.00 \$0.00	\$226.72 \$0.00 \$226.72
OWNER TOTAL:				\$0						\$58.22
		0002863175-2021-2021-0000	EXEMPTION REMOVED IN ERROR. WAS GOVERNMENT PROPERTY TO AN ENTITY THAT THE GOVERNMENT HAS SUBSTANTIAL INTEREST. EXEMPTION ADDED BACK AFTER ERROR FOUND.	(\$31,200)	8066	JURSC10	TAX LATE LIST FEE TOTAL:	 \$162.24 \$0.00	\$0.00 \$0.00	\$162.24 \$0.00 \$162.24
OWNER TOTAL:				\$0						\$58.22
		0002869956-2021-2021-0000	EXEMPTION REMOVED IN ERROR. WAS GOVERNMENT PROPERTY TO AN ENTITY THAT THE GOVERNMENT HAS SUBSTANTIAL INTEREST. EXEMPTION ADDED BACK AFTER ERROR FOUND.	(\$32,800)	8067	JURSC10	TAX LATE LIST FEE TOTAL:	 \$170.56 \$0.00	\$0.00 \$0.00	\$170.56 \$0.00 \$170.56
OWNER TOTAL:				\$0						\$58.22



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Adam Steurer, Utilities Engineer **MEETING DATE:** April 12, 2023

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

TITLE OF ITEM: Justification for the Sole Source Purchase of Large Water Meter Chamber Registers- *Adam Steurer, Utilities Engineer*

SUGGESTED MOTION(S):

I move City Council adopt the *Resolution by the City of Hendersonville City Council to Authorize the Sole-Source Purchase of Large Water Meter Chamber Registers* as presented.

SUMMARY:

The City utilizes its Automated Metering Infrastructure (AMI) system to read water meters and subsequently bill its customers based on individual water consumption. The City standardized its AMI system to Sensus metering equipment when the AMI system was installed approximately 10 years ago. Only Sensus metering equipment is compatible with the City's AMI system.

Large diameter water meters, meters sized 1.5 inches in diameter and greater, have chamber registers with batteries that have a lifespan of 10 years. Therefore, the large diameter meters that were installed during the initial AMI system installation have reached the end of their useful life and require replacement. The large diameter meter chamber registers will be provided by Ferguson Enterprises as the sole authorized Sensus Distributor for the State of North Carolina to ensure the equipment will be properly supported and warranted. The chamber registers once received will be replaced by City staff.

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

BUDGET IMPACT: \$519,425.07

Is this expenditure approved in the current fiscal year budget? Project is funded through a CPO. #23003

If no, describe how it will be funded.

ATTACHMENTS:
Resolution

Sole-source Justification letter from Sensus
Quotation from Ferguson Enterprises

Resolution #R-_____

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE SOLE-SOURCE PURCHASE OF LARGE WATER METER
CHAMBER REGISERS**

WHEREAS, the City utilizes its Automated Metering Infrastructure (AMI) system to read water meters and subsequently bill its customers based on individual water consumption. The City standardized its AMI system to Sensus metering equipment when the AMI system was installed approximately 10 years ago. Only Sensus metering equipment is compatible with the City's AMI system.; and

WHEREAS, large diameter water meters, meters sized 1.5 inches in diameter and greater, have chamber registers with batteries that have a lifespan of 10 years. Therefore, the large diameter meters that were installed during the initial AMI system installation have reached the end of their useful life and require replacement. The large diameter meter chamber registers will be provided by Ferguson Enterprises as the sole authorized Sensus Distributor for the State of North Carolina to ensure the equipment will be properly supported and warranted. The chamber registers once received will be replaced by City staff; and

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

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

1. A soul-source purchase of large water meter chamber registers manufactured by Sensus from Ferguson Enterprises, the sole authorized dealer in the state of North Carolina, is authorized in the amount of \$519,425.07.
2. Staff is authorized to approve change orders which cumulatively do not exceed the available project budget of \$525,00.00.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 12th day of April, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

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

March 24, 2022

Re: Sole Source

To Whom It May Concern:

Sensus, a Xylem brand recognizes Ferguson Enterprises as the sole Authorized Distributor of Sensus products for the state of North Carolina. Purchasing Sensus products from an authorized distributor in your area ensures that your products will be properly supported and warranted. Please contact Ferguson Enterprises for all of your Sensus needs.

We look forward to providing your business with quality water products and service in the near future. Please feel free to contact me if you have any questions.

Sincerely,

Trena Simmons

Trena Simmons
Partner Success Specialist, Sales Enablement
Sensus, Xylem Brand

FERGUSON WATERWORKS #1856

Price Quotation

Phone: 828-277-7100

Fax: 828-277-7187

Bid No:

Bid Date:

Quoted By:

B735637

01/03/23

RD

Cust Phone:

Terms:

828-697-3072

NET 10TH PROX

Customer:

Ship To:

CITY OF HENDERSONVILLE
METERS
160 6TH AVE EAST
WATER & SEWER DEPT
HENDERSONVILLE, NC 28792

CITY OF HENDERSONVILLE
METERS
160 6TH AVE EAST
WATER & SEWER DEPT
HENDERSONVILLE, NC 28792

Cust PO#:

Job Name:

OMNI CHAMBER REPLACE

Item	Description	Quantity	Net Price	UM	Total
SC1X9XXBG1R0XXND	1.5 C2 OMNI+ 10G CHMBR RNW 20 TRPLP	300	1094.620	EA	328386.00
SC2X9XXBG1R0XXND	2 C2 OMNI+ 10G CHMBR RNEW 20 TRPLP	90	1116.850	EA	100516.50
SC3X9XXBG1R0XXND	3 C2 OMNI+ 10G CHMBR RNEW 20 TRPLP	27	1599.510	EA	43186.77
SC4X9XXBG2R0XXND	4 C2 OMNI+ 10G CHMBR RNEW 20 TRPLP	10	1621.740	EA	16217.40
SC6X9XXBG2R0XXND	6 C2 OMNI+ 10G CHMBR RNEW 20 TRPLP	10	3111.840	EA	31118.40
Net Total:					\$519425.07
Tax:					\$35061.19
Freight:					\$0.00
Total:					\$554486.26

Quoted prices are based upon receipt of the total quantity for immediate shipment (48 hours). SHIPMENTS BEYOND 48 HOURS SHALL BE AT THE PRICE IN EFFECT AT TIME OF SHIPMENT UNLESS NOTED OTHERWISE. QUOTES FOR PRODUCTS SHIPPED FOR RESALE ARE NOT FIRM UNLESS NOTED OTHERWISE.

CONTACT YOUR SALES REPRESENTATIVE IMMEDIATELY FOR ASSISTANCE WITH DBE/MBE/WBE/SMALL BUSINESS REQUIREMENTS.

Seller not responsible for delays, lack of product or increase of pricing due to causes beyond our control, and/or based upon Local, State and Federal laws governing type of products that can be sold or put into commerce. This Quote is offered contingent upon the Buyer's acceptance of Seller's terms and conditions, which are incorporated by reference and found either following this document, or on the web at <https://www.ferguson.com/content/website-info/terms-of-sale>

Govt Buyers: All items are open market unless noted otherwise.

LEAD LAW WARNING: It is illegal to install products that are not "lead free" in accordance with US Federal or other applicable law in potable water systems anticipated for human consumption. Products with "NP" in the description are NOT lead free and can only be installed in non-potable applications. Buyer is solely responsible for product selection.

COVID-19 ORDER: ANY REFERENCE TO OR INCORPORATION OF EXECUTIVE ORDER 14042 AND/OR THE EO-IMPLEMENTING FEDERAL CLAUSES (FAR 52.223-99 AND/OR DFARS 252.223-7999) IS EXPRESSLY REJECTED BY SELLER AND SHALL NOT APPLY AS SELLER IS A MATERIALS SUPPLIER AND THEREFORE EXEMPT UNDER THE EXECUTIVE ORDER.



HOW ARE WE DOING? WE WANT YOUR FEEDBACK!

Scan the QR code or use the link below to
complete a survey about your bids:

<https://survey.medallia.com/?bidsorder&fc=1635&on=89091>



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

SUBMITTER: Jennifer Harrell **MEETING DATE:** April 12,2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Human Resources

TITLE OF ITEM: Amending and combining the Service Recognition Guidelines and Active Employee Service Awards – *Jennifer Harrell, HR Director*

SUGGESTED MOTION(S):

I move City Council adopt the revision of the City of Hendersonville’s Service Recognition Guidelines as presented.

SUMMARY:


Staff is amending and combining the active employee service awards with the service recognition guidelines for an elected official, employee or volunteer upon retirement, resignation or end of term. Staff also wants to ensure it is understood the time frame is prior to retirement, resignation or end of term when certain elected officials, employees or volunteers receive gifts of appreciation. Service awards for employees working 35 years, 40 years and 45 + years have been added to the active employee service awards. Note: the service awards are in addition to applicable employee longevity defined in the City of Hendersonville Personnel Policy Article III. Section 17.

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 Service Recognition Guidelines.

	CITY OF HENDERSONVILLE		
Policy Name:	City of Hendersonville Service Recognition Guidelines	Date Adopted by Council :	April 12,2023

I. PURPOSE

The City of Hendersonville wishes to appropriately recognize **and acknowledge the faithful service of** elected officials, employees, and volunteers for their service to the City and has adopted the following guidelines ~~in order~~ to accomplish that **just prior to retirement, resignation or end of term.**

The City of Hendersonville also acknowledges the faithful service of active employees through the Service Awards Program. Awards are given after the completion of five years of service and in multiples of five years thereafter. The program is designed to provide positive recognition and reinforcement and show appreciation to employees for their years of service. Service awards are in addition to applicable longevity the City offers.

II. Recognition Guidelines for retirement, resignation or end of term

A. Personalized rocking chair or gift of the same value


- Elected officials with at least 8 years of service
- Managers with at least 20 years of service
- Non-management employees with at least 30 years of service
- Board and commission members with at least 12 years of service

B. Engraved Plaque

- Elected officials with at least 4 years of service
- Managers with at least 10 years of service
- Non-management employees with at least 20 years of service
- Board and commission members with at least 6 years of service

C. Framed certificate of appreciation

- Elected officials with less than 4 years of service
- Managers with less than 10 years of service
- Non-management employees with at least 10 years of service
- Boards and commission members with less than 6 years of service

	CITY OF HENDERSONVILLE		
Policy Name:	City of Hendersonville Service Recognition Guidelines	Date Adopted by Council :	April 12,2023

D. Occasionally, an individual, employee or volunteer who does not fit in one of the above categories is worthy of special recognition. That person should be appropriately recognized on a case by case basis.

III. ACTIVE EMPLOYEE SERVICE AWARDS GUIDELINES

Five year employee

\$50.00 deposited into employees banking account

Ten year employee

\$75.00 deposited into employees banking account

Fifteen year employee

\$100.00 deposited into employees banking account

Twenty year employee

\$150.00 deposited into employees banking account

Twenty five year employee

\$175.00 deposited into employees banking account

Thirty year employee

\$200.00 deposited into employees banking account

Thirty five year employee

\$250.00 deposited into employees banking account

Forty year employee

\$300.00 deposited into employees banking account

Forty five plus year employee

\$350.00 deposited into employees banking account



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Adam Steurer **MEETING DATE:** April 12, 2023

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

TITLE OF ITEM: Engineering Services for the WTF 15-MGD Filter Expansion Project– *Adam Steurer, Utilities Engineer*

SUGGESTED MOTION(S):

I move City Council to adopt the Resolution By the City Council to select Hazen and Sawyer as most qualified to provide engineering services and authorize the City Manager To Enter Into a Contract for Engineering Services for the WTF Filter Expansion Project.

SUMMARY:

The City's Water Treatment Facility (WTF) located at 4139 Haywood Road, Mills River, NC has a current permitted capacity of 12 million gallons per day (MGD). The project generally consists of installation of one additional dual-media filter and associated piping, instrumentation, and appurtenances, which will increase the WTF's capacity to 15 MGD. The engineering services related to the project generally consists of inspection and assessment of existing concrete filter basin; development of design drawings and specification for the new filter installation; permitting; and bidding support.

Staff completed a qualifications-based selection process for Professional Engineering Services and have selected engineering firm Hazen and Sawyer as most qualified to provide the services.

BUDGET IMPACT: \$ 287,000

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

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

ATTACHMENTS:

1. Qualification Statement Evaluation
2. Scope of Services
3. Resolution By the City Council to Authorize the City Manager To Enter Into an Contract for Professional Engineering Services for the WTF 15-MGD Filter Expansion Project

Resolution # - _____

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO ENTER
INTO A CONTRACT FOR ENGINEERING SERVICES FOR THE WTF 15-MGD
FILTER EXPANSION PROJECT**

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

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

WHEREAS, City Staff have performed a qualifications-based selection, determined Hazen and Sawyer, D.P.C. as most qualified, and have received and negotiated a scope of work and fee from Hazen and Sawyer, D.P.C. to provide Engineering Services to support the project.

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

1. Hazen and Sawyer, D.P.C. is most qualified to provide professional engineering services for the project, as recommended by Staff.
2. The scope of engineering services from Hazen and Sawyer, D.P.C is approved in the amount of \$287,000.
3. The City Manager is authorized to execute an agreement with Hazen and Sawyer, D.P.C. consistent with the terms of this Resolution, as approved by the City Attorney.

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

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

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

Engineering Services WTF Filter Expansion Project - QUALIFICATION STATEMENT EVALUATION

Statements Due: October 6, 2022

Firm Name	Location	Reviewer	Team Qualifications (30)	Approach and Management (20)	Similar Projects (35)	Efficiency (15)	MBE/DBE (Y/N)	TOTAL (100)	FINAL SCORE (100)	Reviewer Rank	Average RANK
Hazen and Sawyer	Raleigh, NC	Reviewer 1	29	17	34	15	Y (subconsultant)	95	93.3	1	1
		Reviewer 2	28	16	35	15		94		1	
		Reviewer 3	28	16	33	14		91		2	
		Reviewer 4	28	17	34	14		93		1	
McKim and Creed, Inc	Charlotte, NC	Reviewer 1	27	20	27	14	Y (subconsultant)	88	91.0	2	2
		Reviewer 2	28	19	28	14		89		2	
		Reviewer 3	28	20	33	15		96		1	
		Reviewer 4	28	17	32	14		91		2	

SCHEDULE A

SCOPE OF SERVICES

City of Hendersonville, North Carolina

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

The scope of work provided by Hazen and Sawyer, D.P.C. (hereinafter, the “Engineer”) for the City of Hendersonville, North Carolina (hereinafter, the “Owner”) shall include professional services for the Work Items listed and detailed below. Work Items shall be advanced concurrently unless a particular evaluation must be completed first to inform the effort of another. As Work Items are completed, documentation of these efforts shall be provided to the Owner.

A. Design of New Filter

1. The Engineer shall design one (1) new dual-cell gravity filter with accompanying piping in the existing filter gallery to allow the total plant capacity to be increased by approximately 3 MGD. The previous design effort (circa 2007) will be reviewed thoroughly and modified as required. The previously constructed concrete filter basin cells shall be equipped with anthracite and sand filter media, support gravel, Wheeler style underdrains, and FRP wash troughs, to provide a design that is consistent with the facility’s existing filters.
2. Filter piping for the new filter shall be designed to match the existing facilities. Filter process piping/connections be designed to include, minimally, the following:
 - a. Filter influent
 - b. Filter effluent
 - c. Filter backwash supply
 - d. Backwash drain
 - e. Filter-to-waste/rewash and air gap
 - f. Air scour
3. All filter valves shall be provided with electric actuators with 480/3/60 service.
4. One filter console shall be provided above the filter gallery, to match the existing consoles serving the filter facilities. The following instruments shall be dedicated to each new filter for filter controls:
 - a. Ultrasonic level sensors and transmitters
 - b. Loss-of-head analyzers
 - c. Venturi flow meter
 - d. Turbidimeter
 - e. Free chlorine analyzer
 - f. Particle counter

5. The Engineer shall assess the capacity and reliability of the existing electrical systems to support the new filter as well as future filter facilities. This assessment, including load list development, shall be conducted in accordance with the concurrent Master Plan project. The Engineer shall develop a single-line diagram, power plan, panel schedule, conduit/wire schedule, and riser diagram as required to illustrate the scope of electrical improvements related to the new filter.
6. The Engineer shall design instrumentation for monitoring and control of the system. The Engineer shall develop a process and instrumentation diagram (P&ID) drawing for the new filter, and review existing hardware and identify updates needed to provide I/O. The Engineer shall coordinate SCADA programming updates by a third-party integrator. These activities shall be conducted in accordance with the concurrent Master Plan project.

B. Deliverables

1. Engineer shall prepare Construction Drawings, including, but not limited to, Drawings for all pertinent general, mechanical, structural, electrical, instrumentation and control disciplines and relevant details. All Drawings shall be prepared using 3D CAD (i.e. Revit) software.
 - a. Process mechanical Drawings shall be provided at the 30% design milestone.
 - b. Process mechanical, structural, electrical, and instrumentation/control Drawings shall be provided at the 90% design milestone.
 - c. Bid-ready process mechanical, structural, electrical, and instrumentation/control Drawings shall be provided at the 100% design milestone.
2. Engineer shall prepare Technical Specifications (using 50-Division CSI format) as may be required for bidding. Documents shall include a construction sequence identifying necessary shutdown events and limitations to construction activities to maintain plant operations during construction.
 - a. A Table of Contents and draft Technical Specifications for key design components shall be provided at the 30% design milestone, as requested by the Owner.
 - b. A full set of draft Technical Specifications, including Owner-provided front-end documents, shall be provided at the 90% design milestone.
 - c. A bid-ready full set of Technical Specifications, including Owner-provided front-end documents, shall be provided at the 100% design milestone.
3. Engineer shall prepare opinions of probable construction cost (OPCCs) at the 30% and 90% design milestones.
 - a. The 30% OPCC shall be commensurate with a Class 3 Cost Estimate Level based on the definition provided by the Association for the Advancement of Cost Engineering (AACE) International Recommended Practice No. 18R-97.
 - b. The 90% OPCC shall be commensurate with a Class 1 Cost Estimate Level based on the definition provided by the Association for the Advancement of Cost Engineering (AACE) International Recommended Practice No. 18R-97.

4. Engineer shall Perform QA/QC reviews on designs and concepts at the 30% and 90% design milestones.
5. The Engineer agrees to deliver to the Owner in a timely and proper manner the items set forth above, which shall become the property of the Owner and may be used by the Owner without restriction or limitation and at no additional cost to the Owner. These items shall be delivered to the Owner electronically in PDF format.

C. Condition Assessment

1. In concert with the concurrent Master Plan project, the Engineer shall conduct a site visit for assessment of the facility's existing filter infrastructure. The Engineer shall identify any deficiencies in the structural condition of the existing filter basin cells.
 - a. The structural condition assessment shall include a review of the failing coating product that was previously applied to the interior walls of the existing concrete filter basin. The Engineer shall identify and specify a replacement coating system, leveraging previous project experience and conducting a literature review as required. Technical documentation for the specified coating product(s), including project references, will be provided to the Owner for review and approval prior to finalization of the specification.

D. Meetings

1. The Engineer shall organize and conduct up to four (4) virtual meetings utilizing the Microsoft Teams platform, along with one (1) in-person meeting.
 - a. An initial project kick-off meeting will be held shortly after Notice to Proceed to review project team members and roles, coordination protocol, project scope, and key scheduling items.
 - b. A 30% design review workshop will be conducted to receive City feedback on the conceptual design and discuss maintenance of plant operations (MOPO) during construction.
 - c. A 90% design review workshop will be conducted to receive City feedback on the advanced design, finalize plans for MOPO during construction, and to coordinate with the systems integrator.
 - d. If scoped to conduct filter surveillance, a meeting to review findings and recommendations will be conducted (see Filter Surveillance Services).
 - e. A pre-bid meeting shall be conducted following advertisement of the project (see Bid Phase Services).

2. For each meeting, the Engineer shall provide the presentation materials and prepare minutes to document discussions and decisions made. Draft minutes shall be distributed electronically to the Owner in Microsoft Word for review and comment. Engineer shall then incorporate any edits received and finalize the minutes distributing electronically in PDF format.

E. Permitting Services

1. The Engineer shall provide technical criteria, written descriptions, and design data for use in filing applications for regulatory approvals as may be required for the project and file such applications and supporting documentation required for agency approvals.
2. The Engineer shall assist the Owner in consultations with such authorities and revise the Drawings and Technical Specifications in response to directives from such authorities.
3. This scope of services assumes that up to two (2) permitting submittals will be required. The following permitting submittals are anticipated to be required for this project:
 - a. NCDEQ - Public Water Supply – Authorization to Construction
 - b. Henderson County Permits and Inspections Department – Courtesy Review
4. Application fee costs (based on current fee schedules) are included.

F. Bid Phase Services

1. The Engineer shall coordinate with the Owner to prepare complete Bidding Documents including, but not limited to, notice to bidders, instructions to bidders, bid form, agreement, general and supplementary conditions, etc.
2. The Engineer shall assist the Owner with preparation of an Invitation to Bid for the project. The Owner shall advertise on their web-based service.
3. Contract Documents will be made available electronically upon email or written notification from prospective bidders.
 - a. The Engineer shall maintain a record of prospective bidders and suppliers (i.e., a plan holders list) to whom Contract Documents have been made available for review.
4. The Engineer shall prepare documents for and lead a pre-bid meeting on site.
5. The Engineer shall receive comments and questions from prospective bidders on the project, and prepare addenda as necessary to interpret, clarify, or expand the Contract Documents. Addenda will be distributed electronically to all prospective bidders.

6. The Engineer shall consult and advise the Owner concerning acceptability of substitute materials and equipment proposed by prospective bidders when substitution prior to award of the contract is allowed by the Contract Documents.
7. The Engineer shall assist the Owner in evaluation of received bids. The Engineer shall prepare a tabulation of bids received, review bids for completeness, and evaluate the qualifications of the apparent successful bidder and major subcontractors. The Engineer shall submit a written recommendation to the Owner regarding the award of construction contract.
8. The Engineer shall issue a Notice of Award to the selected contractor, and review and distribute executed construction Contract Documents.
9. The Engineer shall prepare conformed Construction Contract Documents that incorporate and integrate the changes per the Addenda issued during the Bid Phase.

G. Filter Surveillance Services (Optional Additional Service)

1. The Engineer shall conduct on-site filter surveillance for one (1) existing filter (to be selected by the Owner) to assess current condition and performance.
2. The Engineer shall conduct training for Owner's staff on filter surveillance techniques to support efforts to conduct filter surveillance as a routine maintenance and facility optimization procedure. The training session will include classroom type instruction as well as hands-on training as part of conducting surveillance on the selected filter. The Engineer has a two-day training program approved by NC Operator Certification Program for up to 9 hours of continuing education credit.
3. The Engineer shall collect filter core depth samples (before backwash cycle) for filter media analyses and solids retention analyses for determining backwash effectiveness.
4. The Engineer shall observe filter backwash and acquire samples of spent filter backwash water for backwash turbidity profile analysis.
5. The Engineer shall collect filter core depth samples after backwash cycle and process samples to evaluate solids capture of filter media throughout filter depth (before backwash) and effectiveness of filter backwash for cleaning media (after backwash).
6. The Engineer shall ship samples for filter media analyses (sieve analysis, effective size, uniformity coefficient, specific gravity, and acid solubility).
7. The Engineer shall collect data and information regarding current filter backwash sequence (flowrates, durations, filter levels, etc. for each step). The Engineer shall observe the filter

backwash sequence for the selected filter to assess distribution of air and backwash water and test media expansion.

- 8. The Engineer shall evaluate results from filter surveillance, prepare a presentation summarizing the results and review with Owner, and provide recommendations for enhancements to filter operations and/or backwash efficiency.

H. Project Administration

- 1. The Engineer shall manage the efforts of its project team members and subconsultants by assigning manpower, delegating responsibilities, reviewing work progress, monitoring budget and schedule, and directing the progress of the work.
- 2. Engineer shall submit monthly invoices, including amounts invoiced by sub-consultants in a timely manner and in accordance with the Owner’s invoicing procedures.
- 3. The Engineer shall develop a detailed project schedule and provide updates as warranted to reflect schedule changes.
- 4. The Engineer shall develop a quality control plan for the project. Engineer shall assign technical experts to various advisor and/or review roles and ensure that project procedures and deliverables are checked at defined intervals in accordance with the Engineer’s established corporate quality assurance program requirements.

I. Project Schedule

- 1. The Engineer proposes an approximate project duration of eight (8) months from Notice-to-Proceed to delivery of the finalized contract documents.
- 2. The Engineer shall develop an anticipated project schedule for the Owner and update regularly to reflect completed project tasks. Schedule updates shall be provided at the workshops. The preliminary schedule consists of the following tasks and anticipated timeline:

30% Design Submittal	70 days from NTP
90% Design Submittal	140 days from NTP
Final Design Submittal	220 days from NTP
Pre-Bid Meeting	230 days from NTP
Bid Opening	250 days from NTP

J. Rate Schedule and Invoicing

1. The following engineering staff categorial rate schedule shall be utilized over the duration of the project:

<u>Engineering Staff Position</u>	<u>Hourly Rate</u>
Associate Vice President	\$270
Senior Associate	\$245
Associate	\$210
Senior Principal Engineer	\$180
Principal Engineer	\$165
Assistant Engineer	\$140
Principal Designer	\$150

2. The Engineer shall be compensated on a time and materials basis with a not-to-exceed fee of \$287,000 for the baseline scope of services and \$22,000 for the filter surveillance services, unless otherwise authorized by the Owner. Labor costs shall be billed using the categorial rate multiplied by the hours worked. Subconsultants and expenses shall be compensated with no additional markup. Invoices shall be submitted monthly for approval.

SCHEDULE B
ENGINEERING FEE DERIVATION
City of Hendersonville, North Carolina
Engineering Services for the Hendersonville Water Treatment Plant Master Plan

TASK DESCRIPTION	Scope Item	Billing Type	STAFFING HOURS							Subtotal Hours	Labor Costs	Other Direct Costs	Totals						
	BL = Baseline AL = Additional	LS = Lump Sum CC = Cost Ceiling	Employee Classification and Average Hourly Rate										Baseline Services			Additional Services			
			As. Vice President	Sr. Associate	Associate	Sr. Principal Engineer	Principal Engineer	Assist. Engineer	Principal Designer				Lump Sum	Cost Ceiling	Hours	Lump Sum	Cost Ceiling	Hours	
			\$270	\$245	\$210	\$180	\$165	\$140	\$150										
Tasks A & B - Design of New Filter and Associated Deliverables																			
1 General Design - Drawings, Specs, and QA/QC	BL	CC	0	7	0	10	0	4	44	65	\$10,675		\$0	\$10,675	65	\$0	\$0	0	
2 Site / Civil - Drawings, Specs, and QA/QC	BL	CC	10	0	0	16	0	24	32	82	\$13,740		\$0	\$13,740	82	\$0	\$0	0	
3 Process Mechanical - Drawings, Specs, and QA/QC	BL	CC	12	32	0	68	0	176	144	432	\$69,560		\$0	\$69,560	432	\$0	\$0	0	
4 Structural Design - Drawings, Specs, and QA/QC	BL	CC	16	24	0	0	48	0	32	120	\$22,920		\$0	\$22,920	120	\$0	\$0	0	
5 Electrical Design - Drawings, Specs, and QA/QC	BL	CC	16	56	0	56	0	112	112	352	\$60,600		\$0	\$60,600	352	\$0	\$0	0	
6 Instrumentation Design - Drawings, Specs, and QA/QC	BL	CC	16	17	0	56	0	0	0	89	\$18,565		\$0	\$18,565	89	\$0	\$0	0	
7 Cost Estimates - 30% and 90%	BL	CC	12			36		60		108	\$18,120		\$0	\$18,120	108	\$0	\$0	0	
Subtotal			82	136	0	242	48	376	364	1,248	\$214,180	\$0	\$0	\$214,180	1248	\$0	\$0	0	
Task C - Site Visit / Condition Assessment																			
1 Concrete condition assessment	BL	CC		2		2				4	\$850		\$0	\$850	4	\$0	\$0	0	
2 Metals condition assessment	BL	CC		2		2				4	\$850		\$0	\$850	4	\$0	\$0	0	
3 Coating evaluation	BL	CC		6		8				14	\$2,910		\$0	\$2,910	14	\$0	\$0	0	
Subtotal			0	10	0	12	0	0	0	22	\$4,610	\$0	\$0	\$4,610	22	\$0	\$0	0	
Task D - Meetings																			
1 Virtual meetings - four (4) total	BL	CC	8	12		20		48		88	\$15,420		\$0	\$15,420	88	\$0	\$0	0	
Subtotal			8	12	0	20	0	48	0	88	\$15,420	\$0	\$0	\$15,420	88	\$0	\$0	0	
Task E - Permitting Services																			
1 NCDEQ Public Water Supply - Authorization to Construct	BL	CC		4		16		32	8	60	\$9,540	\$150	\$0	\$9,690	60	\$0	\$0	0	
2 Henderson County Permits and Inspections Department – Courtesy Review	BL	CC		4		8		16		28	\$4,660		\$0	\$4,660	28	\$0	\$0	0	
Subtotal			0	8	0	24	0	48	8	88	\$14,200	\$150	\$0	\$14,350	88	\$0	\$0	0	
Task F - Bid Phase Services																			
1 Pre-bid meeting	BL	CC		2		16		16		34	\$5,610	\$800	\$0	\$6,410	34	\$0	\$0	0	
2 Prepare invitation to bid and documents	BL	CC		2		8		8		18	\$3,050		\$0	\$3,050	18	\$0	\$0	0	
3 Prepare addenda	BL	CC		2		20		40		62	\$9,690		\$0	\$9,690	62	\$0	\$0	0	
4 Bid review and bid tab	BL	CC		2		4		8		14	\$2,330		\$0	\$2,330	14	\$0	\$0	0	
5 Prepare conformed set	BL	CC		2		4		8	16	30	\$4,730		\$0	\$5,530	30	\$0	\$0	0	
Subtotal			0	10	0	52	0	80	16	158	\$25,410	\$800	\$0	\$27,010	158	\$0	\$0	0	
Task G - Filter Surveillance																			
1 Filter surveillance preparations	AL	CC	2		8	8				18	\$3,660		\$0	\$0	0	\$0	\$3,660	18	
2 On-site filter surveillance - 1 filter, 2 cells	AL	CC			16	16				32	\$6,240	\$1,400	\$0	\$0	0	\$0	\$7,640	32	
3 Filter surveillance training	AL	CC			8	8				16	\$3,120		\$0	\$0	0	\$0	\$3,120	16	
4 Filter surveillance data analysis	AL	CC	2		8	8				18	\$3,660		\$0	\$0	0	\$0	\$3,660	18	
5 Prepare presentation	AL	CC	2		8	8				18	\$3,660		\$0	\$0	0	\$0	\$3,660	18	
Subtotal			6	0	48	48	0	0	0	102	\$20,340	\$1,400	\$0	\$0	0	\$0	\$21,740	102	
Task H - Project Administration																			
1 Project team coordination	BL	CC		2		18				20	\$3,730		\$0	\$3,730	20	\$0	\$0	0	
2 Invoice preparation	BL	CC		2		8				10	\$1,930		\$0	\$1,930	10	\$0	\$0	0	

SCHEDULE B
ENGINEERING FEE DERIVATION
City of Hendersonville, North Carolina
Engineering Services for the Hendersonville Water Treatment Plant Master Plan

TASK DESCRIPTION	Scope Item	Billing Type	STAFFING HOURS							Subtotal Hours	Labor Costs	Other Direct Costs	Totals					
	BL = Baseline	LS = Lump Sum	Employee Classification and Average Hourly Rate										Baseline Services			Additional Services		
			As. Vice President	Sr. Associate	Associate	Sr. Principal Engineer	Principal Engineer	Assist. Engineer	Principal Designer				Lump Sum	Cost Ceiling	Hours	Lump Sum	Cost Ceiling	Hours
	AL = Additional	CC = Cost Ceiling	\$270	\$245	\$210	\$180	\$165	\$140	\$150									
3 Project schedule updates	BL	CC		2		8				10	\$1,930		\$0	\$1,930	10	\$0	\$0	0
4 Quality control plan/execution	BL	CC		2		16				18	\$3,370		\$0	\$3,370	18	\$0	\$0	0
Subtotal			0	8	0	50	0	0	0	58	\$10,960	\$0	\$0	\$10,960	58	\$0	\$0	0
TOTAL HOURS AND COSTS			STAFFING HOURS							Subtotal Hours	Labor Costs	Other Direct Costs	Baseline Service Totals			Additional Service Totals		
			As. Vice President	Sr. Associate	Associate	Sr. Principal Engineer	Principal Engineer	Assist. Engineer	Principal Designer				Lump Sum	Cost Ceiling	Hours	Lump Sum	Cost Ceiling	Hours
			96	184	48	448	48	552	388				1,764	\$305,120	\$2,350	\$0	\$286,530	1,662

Total Baseline Service Cost =	\$287,000
Total Additional Service Cost =	\$22,000
Total Project Cost =	\$309,000
Total Project Hours =	1,764



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Jamie Carpenter, Downtown
Manager

MEETING DATE: April 12, 2023

AGENDA SECTION: CONSENT

DEPARTMENT:
Community
Development –
Downtown Division

TITLE OF ITEM: 7th Avenue Pup Crawl Special Event Application - *Jamie Carpenter, Downtown Manager*

SUGGESTED MOTION(S): I move to approve the special event application for the 7th Avenue Pup Crawl on June 24, 2023.

SUMMARY:

The Blue Ridge Humane Society have requested a special event permit for Saturday, June 24, 2023 for a vendor fair as a part of the 7th Avenue Pup Carawl. The request is for a one-block closure on Barker Street to bring attendance to the Brandy Bar as an event participant. An estimated 20 vendors will be in attendance. Event hours are 12pm to 5pm with a 10:30am set up time.

This event was approved by the Special Events Committee.

BUDGET IMPACT: N/A

Is this expenditure approved in the current fiscal year budget?

If no, describe how it will be funded.

ATTACHMENTS: None



City of Hendersonville SPECIAL EVENT APPLICATION

An application for a permit to conduct a special event pursuant to Section 28-39, Hendersonville City Code.

Please reference the City's Special Event Policy for additional information about the application process.

Note: The person responsible for the special event, or his/her designee, must be present for the duration of the event.



Submit This Completed Application & All Supporting Material Outlined Below To:

Community Development Department City of Hendersonville, Downtown Division

160 6th Ave E Hendersonville, NC 28792 Phone #: (828) 233-3205

Name of Special Event: Historic 7th Avenue District Pup Crawl

Event Producer: Blue Ridge Humane Society Phone #: 828-692-2639

Producer Address: 1214 Greenville Hwy, Hendersonville, 28792

Authorized Event Coordinator: Laresa Griffin

* this should be the person who is the primary event contact

Cell Phone #: 828-329-8108

Email: lgriffin@blueridgehumane.org

Street Closure Date(s): June 24, 2023

10:30pm - 6:30pm

* Include Dates for Setup

Requested Closure Hours: _____

Event Dates: June 24, 2023

Event Hours: 12pm - 5pm

Estimated Past Attendance: 150

Predicted Attendance: 250

Past Vendor Participation: 32 vendors

Predicated Vendor Participation: 20 vendors

"Hold Harmless Agreement"

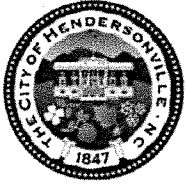
By signing this agreement, the producer will hold harmless the City of Hendersonville, its officers, employees and agents, the Public Works Department and staff free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges professional and attorney's fee or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this event and/or the performance hereof and caused by the negligence of the Sponsor. The Sponsor will take full responsibility. The City of Hendersonville will not be responsible for personal items or property used as part of event.

Signature of Authorized Event Representative:  Date: 2-17-23

APPLICANT CHECKLIST

Please reference the City of Hendersonville's Special Event Policy for additional information about the requirements listed in the checklist below.

- ☒ Event Description, Statement of Public Benefit & Public Services Required (REQUIRED) - Page #2 in application
- ☒ Event Marketing Strategy & Budget (REQUIRED) - Page #3 in application
- ☒ Event Site & Safety Plan (REQUIRED) - Page #4 in application
- ☒ Event Impact Notification (REQUIRED) - Page #5 in application Formal Event Notice (REQUIRED)
- ☒ Vendor Application & Electrical Needs (AS NEEDED) Page #6 in application Event Insurance (REQUIRED)



City of Hendersonville
SPECIAL EVENT APPLICATION
EVENT DESCRIPTION, STATEMENT OF
PUBLIC BENEFIT AND MARKETING STRATEGY

Section 5, Item G.



Please provide a detailed description for each section below. Please reference the City's Special Event Policy for additional information about this application requirement. Feel free to attach your response to this sheet.

Name of Special Event: **Historic 7th Avenue Pup Crawl**

Event Description: This event raises funds and awareness for Blue Ridge Humane Society by encouraging people to purchase a "pupport" (instead of passport) and visit a number of destinations with their dogs in the Historic 7th Avenue District. Each destination hosts an activity for the dogs, like Paw Art, pics with your pet, an

Statement of Public Benefit:

Blue Ridge Humane Society (BRHS) is dedicated to ensuring the highest quality of life for animals in Henderson County and our neighboring communities through adoption, outreach, and education. The Historic 7th Avenue Pup Crawl will not only be fun for the community and boost businesses in the District; it will also help BRHS raise money to fund our impactful programs here in Henderson County.

Potentially bringing 250+ people to the area during the event timeframe, local businesses and the Farmers Market will see an increase in traffic and sales that day. More people will become aware of Event Marketing Strategy and Budget:

The Historic 7th Avenue Pup Crawl is presented by Hunter Subaru and will be cross-promoted heavily between Hunter Subaru and BRHS. A representative from BRHS and Hunter Subaru will be guests on "Local Focus" on WTZQ Radio to talk about the upcoming event. Along with a press release to local media outlets to announce the event, we ' ll advertise on all local calendars (hendoevents.com, Community Foundation of Henderson County, visithendersonvillenc.org, WLOS community calendar, WTZQ Q-munity Events, and more). Our own social media pages (on Facebook and Instagram) will be very active with information about this event and promotion of our sponsors and participating businesses. It will also be advertised in the BRHS e-news, volunteer newsletter, BRHS Thrift Store newsletter, and BRHS printed newsletter this spring. Each of the participating businesses will also help advertise the event online, through social media, and with advertisement cards and flyers in their businesses for 6-8 weeks ahead of the event date.

Our budget for this event is intentionally quite simple, allowing 97% of funds raised to go directly toward our work with animals and pet families.

Revenue from sponsorships – \$15,000 projected
Revenue from pupports - \$3,125 projected
Revenue from vendors - \$2,000 projected
Revenue from participating business donations - \$400
Total revenue: \$20,525

Expenses from advertising: \$350 projected



**City of Hendersonville
SPECIAL EVENT APPLICATION
CITY SERVICES REQUIRED**

Section 5, Item G.



Please review the closure types below and note the type of closure most closely related to your event. If you have different requests that are not represented below, please add to notes.

Note that the Special Events Committee reserves the right to adjust event type based on city services required for production of event.

Event Type: Class D x 1 **# of Days =** \$75

(Note HALF DAYS only if the event requires an evening setup before the event)

Notes (any deviation from event closure): _____

CLASS A - \$700 per day

- Closure of Main Street for the scale of the Apple Festival and Garden Jubilee (Streets, Avenues and partial blocks on avenues).
- Additional resources in cleanup and garbage pickup are required to manage impact for this scale of event.
- When the day of the street closure is for an evening setup, the per day fee is ½.
- All streets and avenues are fully secured with water barricades after setup is complete. Barricades and street closures should be watched by volunteers during breakdown to ensure safe breakdown.
- Vehicles will be towed if parked after designated time

CLASS B - \$450 per day.

- Closure of Main Street is from 6th Avenue to Allen Street with avenues closed.
- Events have less attendance and therefore less impact on garbage pickup and maintenance.
- All streets and avenues are fully secured with water barricades after setup is complete. Barricades and street closures should be watched by volunteers during breakdown to ensure safe breakdown.
 - One entrance/exit may be barricaded with a vehicle closure in lieu of a filled water barricade
- Vehicles will be towed if parked after designated time

CLASS C - \$300 per day.

- Main Street closure from 6th Avenue to Allen Street, with each Avenue open to incentivize opening the cross-streets and have a lower impact on downtown traffic.
- Events have lower attendance therefore safe for cross streets to be open and less impact on trash/cleanup.
- Additional signage for traffic and pedestrians shall be included to make sure there is awareness.
- Event organizer may choose to work around vehicle rather than towing. Under no circumstances can a vehicle leave while the street is closed, and pedestrians are on the street.

CLASS D - Less than 2 block closure - \$75 (1 block) \$150 (2 blocks). This includes the Courthouse Square Block.

CLASS E - Parking Spaces for Courthouse Plaza - \$50 per day

- Parking enforcement for event hours only on the courthouse side of the street.

OTHER

- Events that do not fall within these classes will have fee assessed by need determined by special events committee based on the block closure rate.
- Garbage and recycling cans - \$40
- Use of electricity and/or water
- Off duty officer and EMS rates are applied separately.



City of Hendersonville
SPECIAL EVENT APPLICATION

Section 5, Item G.



What City services are you requesting for this event? Check all that apply.

NOTE: The Special Event Committee for the City of Hendersonville may make some city services required based on the event logistics and safety

- ☒ Road, sidewalk, or parking space closure
- ☐ City Park reservation (park name): _____
- ☒ "No Parking" signs (can specify time frame on sign) Barricades and/or cones barricades on Barker St.
- ☐ Additional Trash/recycling receptacles
- ☐ Off-duty police
- ☐ Off-duty fire/EMS
- ☐ Electricity access
- ☐ Water access
- ☐ Early/Late 5th Avenue public restroom hours
- ☐ Other

Please provide further explanation (i.e., if road closure is requested, what roads and during what time frame?):

We would like to set up our vendor fair on Barker Street from 7th Avenue to E. Pace Street, beginning at 11am so that people visiting and shopping the Farmers Market can also visit the Pup Crawl vendors. We think having the two simultaneously will be advantageous for both groups and will bring even more people to the District. We would request that segment of Barker Street be closed by 10:45am and reopen at 6pm.

Will this event be pet-friendly? Please note that per City Ordinance, leashed pets are allowed within city limits. If event organizers wish to disallow pets at an event, it is up to the organizers to advertise and enforce this rule.

- ☒ Yes, this is event will be pet friendly.
- ☐ No, this event will not allow pets.

City of Hendersonville SPECIAL EVENT APPLICATION

EVENT SITE AND SAFETY PLAN

Please provide a detailed "Event Site Plan" and your notification guarantee. Please reference the City's Special Event Policy - page 5 for additional information about this application requirement. Feel free to attach your site plan to this sheet.

Event Site Plan: Please draw or attach a visualization of your proposed use of public space(s) including important aspects such as road closures, port-o-johns, inflatables, stages, etc.

Please see attached event site plan.

No other streets will be closed in the area for this event besides Barker Street from the intersection with 7th Avenue south to E. Pace Street. We request closure of this section of Barker Street from 10:45am until 6pm. This will be the designated area for the Pup Crawl Vendor Fair.

Event Safety Plan: The Special Events Committee will make recommendations and further work with you on event safety and logistics. Please describe as best as you can:

1. Please describe your vendor load in and load out plan and how traffic will be managed
2. Describe your plan in case of weather event or early cancelation (notifying vendors, managing traffic for load in, load out, etc.

Pup Crawl parking will be in designated parking spaces along the streets in and around the district and also at St. James Episcopal Church. Vendor parking will be close to Barker Street. I have contacted Michael Thompson about the possibility of using his vacant lot for vendor parking.

Load in for the vendor fair will be from 7th Avenue, between 11am and 11:30am. Barricades will remain there to keep Barker Street closed except for Pup Crawl vendors. All vehicles will travel from 7th Avenue, down Barker Street, toward E. Pace Street. Each vehicle will stop at their designated space to drop materials and then move vehicles to the empty lot at the corner of Barker Street and E. Pace Street. At 5pm, vendors will begin bringing their cars from that lot back toward 7th Avenue on Barker Street. Barricades will remain in place on either end of Barker until vendors are cleared out, then Barker Street will reopen at 6:00pm.

In case of a weather event or early cancelation, vendors will be notified by BRHS staff who are already assigned to the vendor area (to answer questions, direct traffic, and monitor vehicles from either end of Maple Street). Vendors will pack up immediately and will follow planned exit procedures by going to get their vehicles at the lot on the corner of Barker Street and E. Pace Street and bringing their cars up Barker Street toward 7th Avenue; loading up, and exiting onto 7th Avenue.

In case of a weather event or early cancelation, attendees visiting the participating businesses will be notified by staff or volunteers who are already assigned to each business (to greet customers and help business staff with their chosen pet activities). Each business will be



**City of Hendersonville
SPECIAL EVENT APPLICATION**

Section 5, Item G.



**EVENT IMPACT NOTIFICATION REQUIREMENT
(FOR COMMERCIAL AREAS)**

Event applicants are required to notify, by a formal notice, all residents, businesses, places of worship and schools that are affected by street and sidewalk impacts related to your event. This notice must be submitted with the event application to the Special Events Committee for review prior to notification delivery, and example format for this notification is included in the City's Special Events Policy appendices.

Once approved by the Special Events Committee the notice must then be mailed or hand delivered to impacted areas at least twenty days prior to your event. Information on the notice should include, but not be limited to; the name of the event, event date(s), time(s) of event and overall impacts (including set-up and tear down), specific location of impacts, type of activity and telephone number where the public can contact your organization about the event.

Failure to comply with the notification requirement can result in the cancellation, postponement or other significant restrictions to your event or future events. The Special Event Committee requires that the Authorized Event Organizer verify that this notification will take place, please see below.

NOTIFICATION GUARANTEE: I hereby certify that all residents, businesses, places of worship and schools affected by any street closures and sidewalk impacts related to this event and outlined in this application's "Event Site Plan" will be notified at least 20 days prior to the event with the attached notice by the Authorized Event Coordinator or designee.

Authorized Event Coordinator's Signature

City of Hendersonville
SPECIAL EVENT APPLICATION

Complete the form below based on the number of vendors and types of electrical connections required for your event. If you have questions about the electrical requirements for your event, please contact the City Public Works Department at (828) 697-3000.

Name of Special Event: Historic 7th Avenue Pup Crawl

Authorized Event Coordinator: Laresa Griffin Phone #: 828-692-2639

Cell Phone #: 828-329-8108 Email: lgriffin@blueridgehumane.org

Please calculate your event vendor fees & electrical usage fees below.

Any adjustments to # of vendors and electrical usage can be made up to 2 weeks prior to event.

Event Type: ^{Class D} x # of Days 1 = \$75

Total # of Single-Day Food Vendors X \$30 = 0

Total # of Multi-Day Food Vendors X \$55 X Total # of days = 0

+ Application fee= \$25

Total Event Closure Fees: \$100.00

Electrical Requirements: Location of electrical needs to be included on Event Site Plan. Any adjustments must be submitted no later than 2 weeks before the event.

((Total # of connections @ 20 Amps or less) x (# of days)) x \$25 = 0

((Total # of connections @ 21 to 50 Amps) x (# of days)) x \$50 = 0

((Total # of connections @ 50 Amps or more) x (# of days)) X \$100 = 0

Total Electrical Usage Fee: 0

Total of All Event Fees: \$100.00

Application Fee is Due at the Special Events Committee Meeting For Approval

½ of all event fees due 2 weeks prior to event

½ of all event fees due within 2 weeks following the event

Checks can be made out to the "City of Hendersonville ATTN: Special Event Fees."

Payment is accepted in person at
 160 Sixth Avenue East
 Hendersonville, NC 28792

Please remit payment along with the final invoice you receive from the Community Development Department.

Amended Pup Crawl supporting documents

Submitted 02/17/2023

Event description: This event raises funds and awareness for Blue Ridge Humane Society by encouraging people to purchase a "pupport" (instead of passport) and visit a number of destinations with their dogs in the Historic 7th Avenue District. Each destination hosts an activity for the dogs, like Paw Art, pics with your pet, an agility course, etc. This year, the event will also feature a vendor fair along Barker Street.

Statement of public benefit: Blue Ridge Humane Society (BRHS) is dedicated to ensuring the highest quality of life for animals in Henderson County and our neighboring communities through adoption, outreach, and education. The Historic 7th Avenue Pup Crawl will not only be fun for the community and boost businesses in the District; it will also help BRHS raise money to fund our impactful programs here in Henderson County. Potentially bringing 250+ people to the area during the event timeframe, local businesses and the Farmers Market will see an increase in traffic and sales that day. More people will become aware of the Historic 7th Avenue District and all it offers. We also hope they will see it as a quick hop over from Main Street and enjoy the full scope of our lovely downtown while they are in the area.

Event marketing strategy and budget: The Historic 7th Avenue Pup Crawl is presented by Hunter Subaru and will be cross-promoted heavily between Hunter Subaru and BRHS. A representative from BRHS and Hunter Subaru will be guests on "Local Focus" on WTZQ Radio to talk about the upcoming event. Along with a press release to local media outlets to announce the event, we'll advertise on all local calendars (hendoevents.com, Community Foundation of Henderson County, visithendersonvillenc.org, WLOS community calendar, WTZQ Q-munity Events, and more). Our own social media pages (on Facebook and Instagram) will be very active with information about this event and promotion of our sponsors and participating businesses. It will also be advertised in the BRHS e-news, volunteer newsletter, BRHS Thrift Store newsletter, and BRHS printed newsletter this spring. Each of the participating businesses will also help advertise the event online, through social media, and with advertisement cards and flyers in their businesses for 6-8 weeks ahead of the event date. Our budget for this event is intentionally quite simple, allowing 97% of funds raised to go directly toward our work with animals and pet families.

Revenue from sponsorships – \$15,000 projected

Revenue from pupports - \$3,125 projected

Revenue from vendors - \$2,000 projected

Revenue from participating business donations - \$400

Total revenue: \$20,525

Expenses from advertising: \$350 projected

Expenses from City fees: \$100 projected

Expenses – incidental: \$150 projected

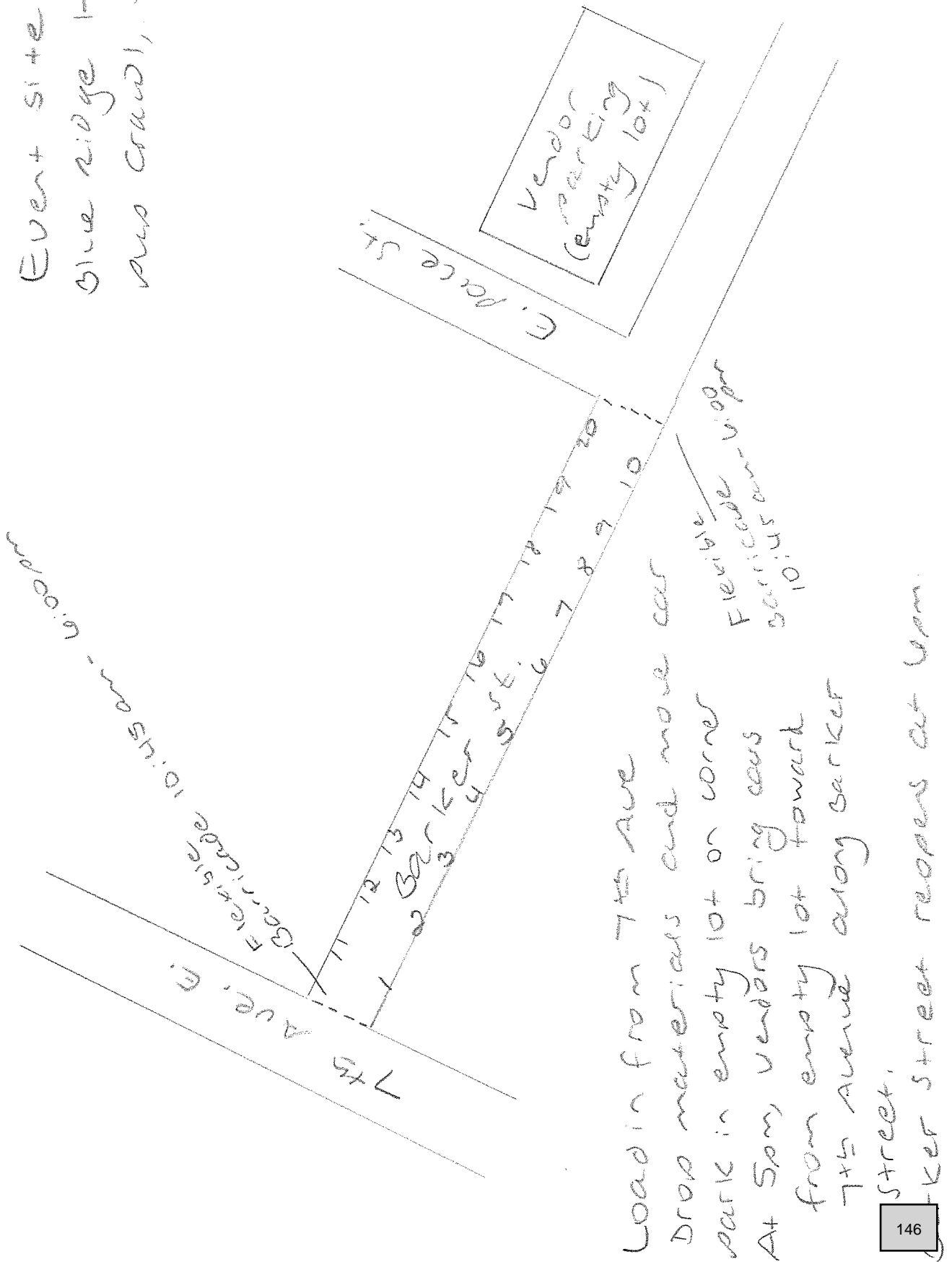
Total expenses: \$600

Net revenue: \$19,925

Most advertising will be free, with the exception of printing of the flyers and cards for 7th Avenue District businesses to help promote. Other expenses will include City fees for closure of Barker Street and event application fees. We'll leave a little wiggle room (\$150) for other unknown expenses.

Event safety plan: Pup Crawl parking will be in designated parking spaces along the streets in and around the district and also at St. James Episcopal Church. Vendor parking will be close to Barker Street. I have contacted Michael Thompson about the possibility of using his vacant lot for vendor parking. Load in for the vendor fair will be from 7th Avenue, between 11am and 11:30am. Barricades will remain there to keep Barker Street closed except for Pup Crawl vendors. All vehicles will travel from 7th Avenue, down Barker Street, toward E. Pace Street. Each vehicle will stop at their designated space to drop materials and then move vehicles to the empty lot at the corner of Barker Street and E. Pace Street. At 5pm, vendors will begin bringing their cars from that lot back toward 7th Avenue on Barker Street. Barricades will remain in place on either end of Barker until vendors are cleared out, then Barker Street will reopen at 6:00pm. In case of a weather event or early cancelation, vendors will be notified by BRHS staff who are already assigned to the vendor area (to answer questions, direct traffic, and monitor vehicles from either end of Maple Street). Vendors will pack up immediately and will follow planned exit procedures by going to get their vehicles at the lot on the corner of Barker Street and E. Pace Street and bringing their cars up Barker Street toward 7th Avenue; loading up, and exiting onto 7th Avenue. In case of a weather event or early cancelation, attendees visiting the participating businesses will be notified by staff or volunteers who are already assigned to each business (to greet customers and help business staff with their chosen pet activities). Each business will be responsible for making their own decisions on closures, but attendees to the Pup Crawl will be notified by BRHS staff of the emergency or situation.

Event Site Plan
Blue Ridge Humane
Ave Grand, June 24,
2023





City of Hendersonville SPECIAL EVENT APPLICATION



An application for a permit to conduct a special event pursuant to Section 28-39, Hendersonville City Code.
Please reference the City's Special Event Policy for additional information about the application process.
Note: The person responsible for the special event, or his/her designee, must be present for the duration of the event.

Submit This Completed Application & All Supporting Material Outlined Below To:

Community Development Department City of Hendersonville, Downtown Division
160 6th Ave E Hendersonville, NC 28792 Phone #: (828) 233-3205

Name of Special Event: Walk to End Alzheimer's - Henderson County

Event Producer: Alzheimer's Assoc Phone #: 828-398-5780

Producer Address: 4600 Park Rd Suite 250 Charlotte NC 28209

Authorized Event Coordinator: Meredith Willis

* this should be the person who is the primary event contact

Cell Phone #: 828-244-8478 Email: mmwillis@alz.org

Street Closure Date(s): 09/30/2023 Requested Closure Hours: 7am - 12pm

* Include Dates for Setup

Event Dates: 09/30/2023 Event Hours: 7am - 12pm

Estimated Past Attendance: 100 Predicted Attendance: 125

Past Vendor Participation: 4 Predicated Vendor Participation: 5

"Hold Harmless Agreement"

By signing this agreement, the producer will hold harmless the City of Hendersonville, its officers, employees and agents, the Public Works Department and staff free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges professional and attorney's fee or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this event and/or the performance hereof and caused by the negligence of the Sponsor. The Sponsor will take full responsibility. The City of Hendersonville will not be responsible for personal items or property used as part of event.

Signature of Authorized Event Representative: Kathleen Schubert Date: 2/27/23

APPLICANT CHECKLIST

Please reference the City of Hendersonville's Special Event Policy for additional information about the requirements listed in the checklist below.

- ☐ Event Description, Statement of Public Benefit & Public Services Required (REQUIRED) - Page #2 in application
- ☐ Event Marketing Strategy & Budget (REQUIRED) - Page #3 in application
- ☐ Event Site & Safety Plan (REQUIRED) - Page #4 in application
- ☐ Event Impact Notification (REQUIRED) - Page #5 in application Formal Event Notice (REQUIRED)
- ☐ Vendor Application & Electrical Needs (AS NEEDED) Page #6 in application Event Insurance (REQUIRED)



**City of Hendersonville
SPECIAL EVENT APPLICATION
EVENT DESCRIPTION, STATEMENT OF
PUBLIC BENEFIT AND MARKETING STRATEGY**



Please provide a detailed description for each section below. Please reference the City's Special Event Policy for additional information about this application requirement. Feel free to attach your response to this sheet.

Name of Special Event: Walk to End Alzheimer's - Henderson County

Event Description: Nationwide Walk to raise awareness and funds for support, care and research of Alzheimer's and other dementias.

Statement of Public Benefit:

Held annually in more than 600 communities nationwide, Walk to End Alzheimer's is the world's largest event to raise awareness and funds for Alzheimer's care, support and research.

Event Marketing Strategy and Budget:

We have a statewide budget that get distributed among 17 Walks.

We have marketing for the Walk that is created through posters, social media and sponsorships. There are sponsor levels that are created and marketing that covers, pre-walk materials, t-shirts, social media, post-walk materials, mobile apps, walk day signage, etc.



**City of Hendersonville
SPECIAL EVENT APPLICATION
CITY SERVICES REQUIRED**



Please review the closure types below and note the type of closure most closely related to your event. If you have different requests that are not represented below, please add to notes.

Note that the Special Events Committee reserves the right to adjust event type based on city services required for production of event.

Event Type: D x **# of Days =** 1

(Note HALF DAYS only if the event requires an evening setup before the event)

Notes (any deviation from event closure): _____

CLASS A - \$700 per day

- Closure of Main Street for the scale of the Apple Festival and Garden Jubilee (Streets, Avenues and partial blocks on avenues).
- Additional resources in cleanup and garbage pickup are required to manage impact for this scale of event.
- When the day of the street closure is for an evening setup, the per day fee is ½.
- All streets and avenues are fully secured with water barricades after setup is complete. Barricades and street closures should be watched by volunteers during breakdown to ensure safe breakdown.
- Vehicles will be towed if parked after designated time

CLASS B - \$450 per day.

- Closure of Main Street is from 6th Avenue to Allen Street with avenues closed.
- Events have less attendance and therefore less impact on garbage pickup and maintenance.
- All streets and avenues are fully secured with water barricades after setup is complete. Barricades and street closures should be watched by volunteers during breakdown to ensure safe breakdown.
 - One entrance/exit may be barricaded with a vehicle closure in lieu of a filled water barricade
- Vehicles will be towed if parked after designated time

CLASS C - \$300 per day.

- Main Street closure from 6th Avenue to Allen Street, with each Avenue open to incentivize opening the cross-streets and have a lower impact on downtown traffic.
- Events have lower attendance therefore safe for cross streets to be open and less impact on trash/cleanup.
- Additional signage for traffic and pedestrians shall be included to make sure there is awareness.
- Event organizer may choose to work around vehicle rather than towing. Under no circumstances can a vehicle leave while the street is closed, and pedestrians are on the street.

CLASS D - Less than 2 block closure - \$75 (1 block) \$150 (2 blocks). This includes the Courthouse Square Block.

CLASS E - Parking Spaces for Courthouse Plaza - \$50 per day

- Parking enforcement for event hours only on the courthouse side of the street.

OTHER

- Events that do not fall within these classes will have fee assessed by need determined by special events committee based on the block closure rate.
- Garbage and recycling cans - \$40
- Use of electricity and/or water
- Off duty officer and EMS rates are applied separately.



City of Hendersonville SPECIAL EVENT APPLICATION



What City services are you requesting for this event? Check all that apply.

NOTE: The Special Event Committee for the City of Hendersonville may make some city services required based on the event logistics and safety

- ☒ Road, sidewalk, or parking space closure
- ☐ City Park reservation (park name): _____
- ☒ "No Parking" signs (can specify time frame on sign) Barricades and/or cones
- ☐ Additional Trash/recycling receptacles
- ☒ Off-duty police
- ☐ Off-duty fire/EMS
- ☒ Electricity access
- ☐ Water access
- ☒ Early/Late 5th Avenue public restroom hours
- ☐ Other

Please provide further explanation (i.e., if road closure is requested, what roads and during what time frame?):

Early opening of restrooms closest to old courthouse on 5th Ave W across from parking garage

Option D of One block closure at the old downtown courthouse

Will this event be pet-friendly? Please note that per City Ordinance, leashed pets are allowed within city limits. If event organizers wish to disallow pets at an event, it is up to the organizers to advertise and enforce this rule.

- ☒ Yes, this event will be pet friendly.
- ☐ No, this event will not allow pets.

City of Hendersonville
SPECIAL EVENT APPLICATION

EVENT SITE AND SAFETY PLAN

Please provide a detailed "Event Site Plan" and your notification guarantee. Please reference the City's Special Event Policy - page 5 for additional information about this application requirement. Feel free to attach your site plan to this sheet.

Event Site Plan: Please draw or attach a visualization of your proposed use of public space(s) including important aspects such as road closures, port-o-johns, inflatables, stages, etc.

Please see attached. Note the red star is the old courthouse and will be where we do our opening ceremony with dj and info

Event Safety Plan: The Special Events Committee will make recommendations and further work with you on event safety and logistics. Please describe as best as you can:

1. Please describe your vendor load in and load out plan and how traffic will be managed
2. Describe your plan in case of weather event or early cancelation (notifying vendors, managing traffic for load in, load out, etc.

This event is rain or shine. In case there is a weather emergency we will ask all participants to return to their vehicle since we do not have a shelter to flee to.

Vendors will load and unload from closest parking area. We are only asking for 1 block to be closed. Participants will park at parking deck or any other parking area available.

We will have a full emergency plan on that day that covers emergencies, weather, missing person, EMT assistance, etc.



**City of Hendersonville
SPECIAL EVENT APPLICATION**



**EVENT IMPACT NOTIFICATION REQUIREMENT
(FOR COMMERCIAL AREAS)**

Event applicants are required to notify, by a formal notice, all residents, businesses, places of worship and schools that are affected by street and sidewalk impacts related to your event. This notice must be submitted with the event application to the Special Events Committee for review prior to notification delivery, and example format for this notification is included in the City's Special Events Policy appendices.

Once approved by the Special Events Committee the notice must then be mailed or hand delivered to impacted areas at least twenty days prior to your event. Information on the notice should include, but not be limited to; the name of the event, event date(s), time(s) of event and overall impacts (including set-up and tear down), specific location of impacts, type of activity and telephone number where the public can contact your organization about the event.

Failure to comply with the notification requirement can result in the cancellation, postponement or other significant restrictions to your event or future events. The Special Event Committee requires that the Authorized Event Organizer verify that this notification will take place, please see below.

NOTIFICATION GUARANTEE: I hereby certify that all residents, businesses, places of worship and schools affected by any street closures and sidewalk impacts related to this event and outlined in this application's "Event Site Plan" will be notified at least 20 days prior to the event with the attached notice by the Authorized Event Coordinator or designee.

Authorized Event Coordinator's Signature

Katherine Lambert

City of Hendersonville SPECIAL EVENT APPLICATION

Complete the form below based on the number of vendors and types of electrical connections required for your event. If you have questions about the electrical requirements for your event, please contact the City Public Works Department at (828) 697-3000.

Name of Special Event: Walk to End Alzheimer's
 Authorized Event Coordinator: Meredith Willis Phone #: 828-398-5780
 Cell Phone #: 828-244-8478 Email: mmwillis@alz.org

Please calculate your event vendor fees & electrical usage fees below.

Any adjustments to # of vendors and electrical usage can be made up to 2 weeks prior to event.

Event Type: D x # of Days 1 = 75

Total # of Single-Day Food Vendors X \$30 =

Total # of Multi-Day Food Vendors X \$55 X Total # of days =

+ Application fee= \$25

Total Event Closure Fees: \$100

Electrical Requirements: Location of electrical needs to be included on Event Site Plan. Any adjustments must be submitted no later than 2 weeks before the event.

((Total # of connections @ 20 Amps or less) x (# of days) x \$25 =

((Total # of connections @ 21 to 50 Amps) x (# of days) x \$50 =

((Total # of connections @ 50 Amps or more) x (# of days) X \$100 =

Total Electrical Usage Fee:

Total of All Event Fees:

Application Fee is Due at the Special Events Committee Meeting For Approval

½ of all event fees due 2 weeks prior to event

½ of all event fees due within 2 weeks following the event

Checks can be made out to the "City of Hendersonville ATTN: Special Event Fees."

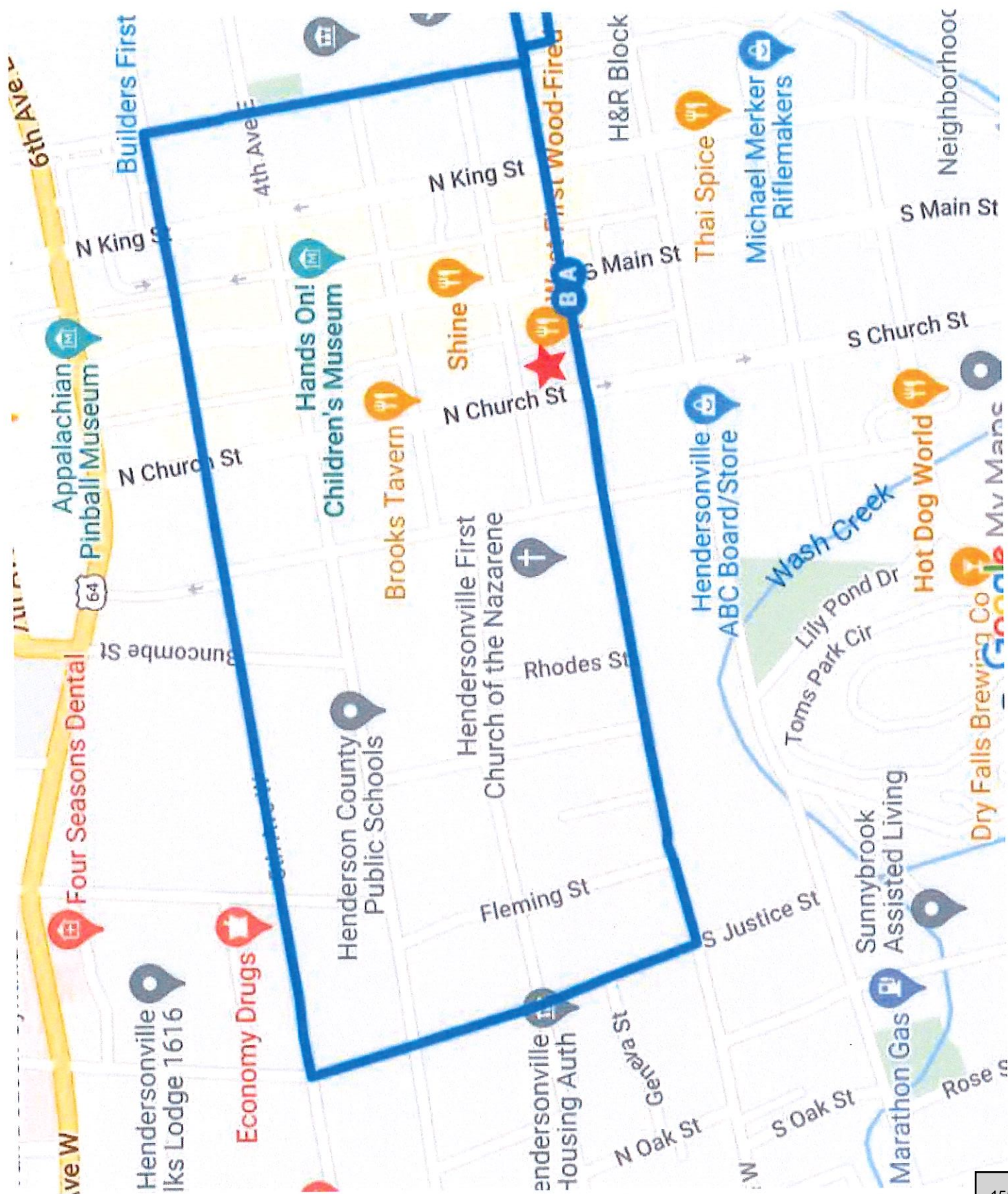
Payment is accepted in person at
 160 Sixth Avenue East
 Hendersonville, NC 28792

Please remit payment along with the final invoice you receive from the Community Development Department.

Walk to End Alzheimer's Henderson County Walk Route

- Starting at the Historic Courthouse and head on 1st Ave toward Grove Street (use sidewalk on left)
- Left on N Grove St
- Left on 5th Ave East (stay on sidewalk) to N Justice St
- Left on N Justice St (follow sidewalk where it is. May need police to help follow sidewalk crossover)
- Left on 1st Ave and follow back to N Main to courthouse yard

We can use volunteers at cross walk intersections. The only issue we may have is where the sidewalk changes sides of the street on N Justice.





CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Jamie Carpenter, Downtown
Manager

MEETING DATE: April 12, 2023

AGENDA SECTION: CONSENT

DEPARTMENT:
Community
Development –
Downtown Division

TITLE OF ITEM: Walk to End Alzheimers Special Event Application - *Jamie Carpenter, Downtown Manager*

SUGGESTED MOTION(S): I move to approve the special event application for the Walk to End Alzheimers on September 30, 2023.

SUMMARY:

This event was held downtown in 2015 but is classified as new due to the amount of time that has passed since the event has been downtown. An estimated 125 participants will be in attendance. Event hours are 8am to 12pm. Set up begins at 7am. The opening ceremony will begin at 8am at the Historic courthouse plaza and the walk will begin at approximately 10:30am. Walk route shown in the application. Volunteers to assist at walk route turns.

Closure: All parking spots in front of the Historic courthouse to be blocked off by sawhorse barricades. This event was approved by the Special Events Committee.

BUDGET IMPACT: N/A

Is this expenditure approved in the current fiscal year budget?

If no, describe how it will be funded.

ATTACHMENTS: None



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Tom Wooten, Director of Public Works **MEETING DATE:** April 12, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Public Works

TITLE OF ITEM: *Resolution Approving Design, Bidding, and Construction Engineering and Inspection for the Repairs to the Exterior of City Hall – Tom Wooten, Director of Public Works*

SUGGESTED MOTION(S):

I move City Council to adopt the Resolution By the City Council to select SKA Consulting Engineers, INC as most qualified to provide design, bidding, and construction engineering and inspection services and authorize the City Manager to negotiate and execute a Contract for the Repairs to the Exterior of City Hall.

SUMMARY: City staff have worked with SKA Consulting Engineers, INC and Western Specialty Contractors to complete the Year 1 repairs to City Hall. Additional repairs are needed so staff issued an RFQ for Design, Bidding, and Construction Engineering and Inspections Services for the remaining repairs. Two firms submitted proposals, those proposals were evaluated and SKA Consulting Engineers, INC was ranked the highest followed by Terracon Consultants, INC. Staff would like to proceed with this process and request approval of the proposed Resolution.

ATTACHMENTS:

Resolution
RFQ for City Hall Exterior Renovation Project – Phase 2
Bid Tab

Resolution #__-____

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SELECT AN
ENGINEERING FIRM TO PROVIDE DESIGN, BIDDING, AND CONSTRUCTION
ENGINEERING AND INSPECTION SERVICES FOR THE REPAIRS TO THE EXTERIOR
OF CITY HALL PROJECT AND DIRECT THE CITY MANAGER TO NEGOTIATE A
CONTRACT WITH THE SELECTED FIRM**

WHEREAS, the City plans to design, bid, and complete repairs to the exterior of City Hall; and

WHEREAS, City Staff performed a qualification based selection, and determined SKA Consulting Engineers, INC as the most qualified; and

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

1. SKA Consulting Engineers, INC is most qualified to provide design, bidding, and construction engineering and inspection services, as recommended by Staff.
2. The City Manager is directed to negotiate a contract for Design, Bidding, and Construction Engineering and Inspection services with SKA Consulting Engineers INC consistent with the terms of this Resolution, as approved by the City Attorney.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 12th day of April, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

**CITY OF HENDERSONVILLE
REQUEST FOR QUALIFICATIONS
FOR THE CITY HALL EXTERIOR
RENOVATION PROJECT – PHASE 2
Bid Number 2200215555001
January 2023**

The City of Hendersonville, North Carolina (City) is requesting written qualifications from professional engineering firms interested in providing design, bidding, and construction engineering & inspection for an exterior renovation project in Hendersonville. Firms responding to this request for qualifications (RFQ) may partner with other firms or subcontractors as a design team; however, qualification information must be provided for all design team firms and subcontractors.

Background Information

Hendersonville City Hall was constructed in the late 1920s and is comprised of cast-in-place concrete floor slabs and columns, mass masonry walls, and limestone cornices and copings on the upper level. The building was designed by Erle G. Stillwell and the drawings are dated March 1927.

In 2003, Calloway Johnson Moore & West PA (CJMW Architecture) developed plans for renovations to Hendersonville City Hall. These renovations included the addition of a lobby on the north elevation, the addition of an elevator tower at the northeast corner of the building, and the addition of a stair tower on the northwest corner of the building. These structures were constructed with concrete masonry unit (CMU) back walls and brick veneer. The existing roofing system is comprised of a heat-welded single-ply membrane.

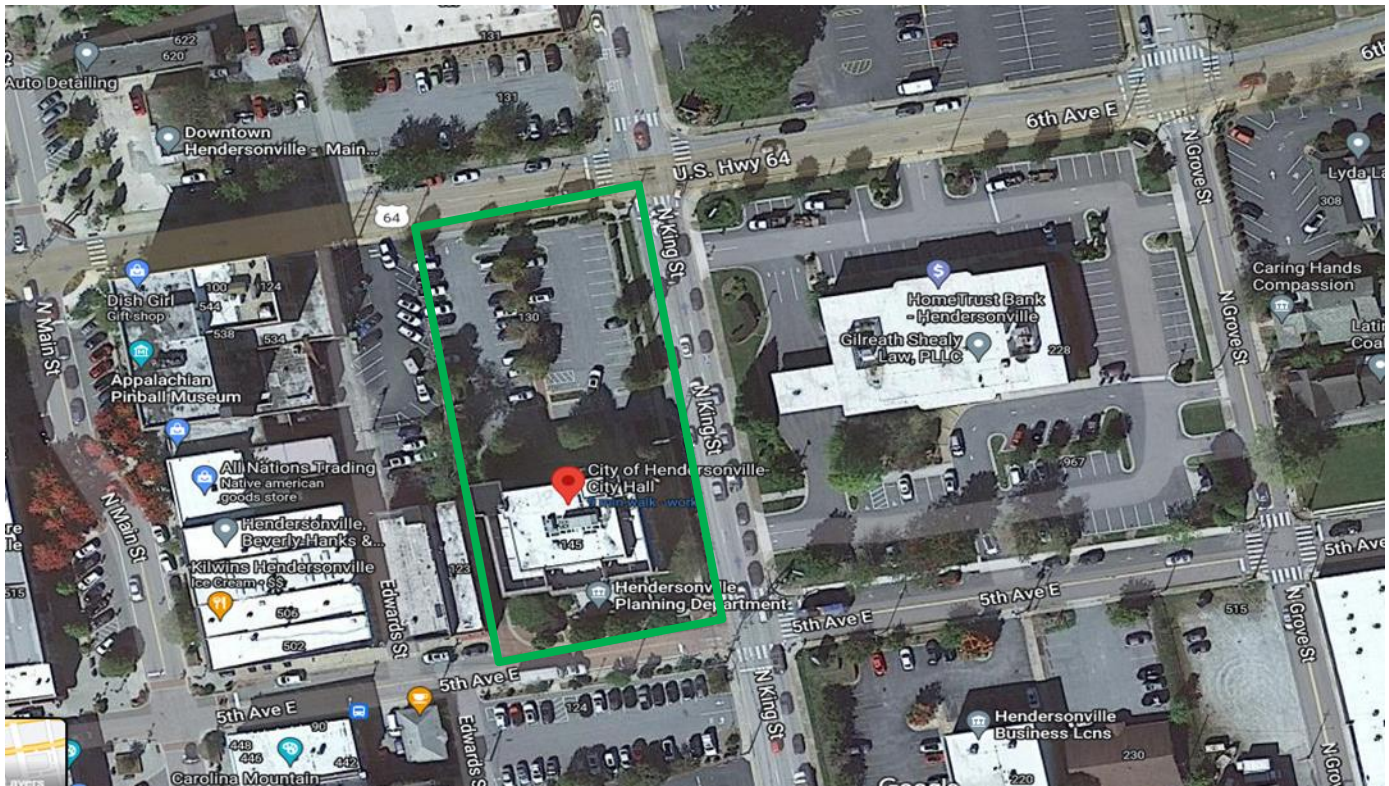
SKA Consulting Engineers, Inc. performed a condition assessment of the building in the summer of 2020 and issued a report titled, “Report for Condition Assessment, Hendersonville City Hall Building Envelope,” dated September 11, 2020. The report included recommendations for some additional investigation and numerous repairs, as well as opinions of construction costs. The city has completed most of the recommended repairs under year 1 including:

1. Visual inspection of limestone; and removal and patching of loose or spalled limestone.
2. Removal and replacement of displaced brick on the east elevation between the window opening and the limestone at the tall parapet; removal of additional brick above the shelf angle; inspection of the shelf angle; and repair or replacement, depending on the level of corrosion; and installation of a new flashing system over the shelf angle.
3. Removal and replacement of displaced brick on the north elevation below the fourth-floor windows; and removal of the existing cast iron pipe from within the masonry.
4. Removal of the existing brick soldier course above all window head lintels; inspection of the lintels; repair or replacement, depending on the level of corrosion; installation of a new flashing system over the lintels; and reinstallation of the brick.
5. Repair of limestone wall panels at grade on the south elevation.
6. Monitoring one of the mass masonry limestone panels on the parapet wall for movement.

Project Location

City Hall is located at 160 6th Avenue East in Hendersonville, NC, hereinafter “Project.” The area

consists of several commercial businesses, an air BNB, and public roads. The physical location of the project is outlined in green below:



Project Summary

The building located at 160 6th Avenue West currently houses the City of Hendersonville Administration, Finance, Human Resources & Safety, and Legal Departments. The building is an approximately 24,000 square foot, four-story structure, constructed in the late 1920's. Services provided by the firm must include, but are not limited to:

1. Provide planning and evaluation services including but not limited to existing facilities field visits, site analysis, construction planning, condition assessment, materials testing, wall saturation testing, pressurized water testing of windows, infrared survey of roof, roof drain calculations and assessment, and permitting.
2. Prepare and submit the necessary design and specifications for the projects to the project team. Projects shall include, but not limited to, all unfinished items with the City Hall Envelop Assessment Report; roof replacement, brick tuck pointing, mass masonry tuck pointing, exterior sealant replacement at control joints, doors, windows, and other penetrations, antenna removal from penthouse, mass masonry investigation on the back side of the parapet walls, parapet wall coating removal, parapet wall brick removal and salvage for reuse, replace new brick above windows with salvaged brick, secure three displaced mass masonry limestone panels on the parapet wall, and clean the entire exterior.
3. Attend and prepare presentation materials for public meetings, if necessary.
4. Perform all necessary coordination with the City, Henderson County, utilities, and any other interested party.

5. Prepare construction drawings, bid documents, specifications, cost estimates, and other documents as required. The design may include structural drawings and specifications.
6. Obtain all necessary permits/approvals required to construct the project.
7. Prepare construction cost estimates throughout the design phase of the project.
8. Provide construction administration/project management services.
9. Issue sealed Construction Documents for contractor permitting.
10. Bid the project and recommend a contractor to complete the work.
11. Assist the Client with preparation and execution of the Contract Document.
12. Conduct a preconstruction meeting onsite with the Contractor and the Client.
13. Review submittals and shop drawings provided by the Contractor.
14. Attend pre-installation conferences with installer and manufacturers' representatives to help ensure proper application of the construction materials specified.
15. Observe construction mockups of the various construction elements, as needed. Meet with Hendersonville Historic Commission and the Client to review mockups, as needed. After approval, these mockups will be utilized as acceptance criteria throughout the duration of the project.
16. Review existing construction conditions that may require modifications to the original Design Documents. Provide supplemental details and estimates for the project, as required.
17. Conduct periodic (bi-weekly) site visits throughout the duration of the project to observe the repairs in order to identify work that does not conform to the requirements of, and to answer questions about, the Design Documents, and to address schedule and possible construction issues encountered during construction.
18. Prepare and issue field observation reports which will outline construction conditions encountered and the field directives provided.
19. Review the Contractor's monthly pay applications for accuracy and completion of work outlined.
20. Conduct a pre-final inspection during which a punch list will be prepared indicating work not yet complete.
21. Perform one final inspection to document completion of punch list items.
22. Prepare record drawings that illustrate modifications to construction. These record drawings or documents will be updated by the restoration contractor during construction and reviewed to verify that approved construction modifications have been properly recorded.
23. Complete project closeout documents and as built drawings, including a final report.

Supporting Documents

The following item(s) have already been obtained by the city for this project:

[08200230 Hendersonville City Hall - Final report 20200911.pdf](#)
[City Hall Parapet Wall Coating Info.pdf](#)

Project Timeline

The city has established the following timeline for the project:

- Written Questions Deadline – February 22, 2023 at 3:00 PM
- Proposal Deadline – March 3, 2023 at 3:00 PM
- Proposal Review – March 6 – March 9, 2023
- Firm Selection – March 10, 2023
- Contract Negotiation – March 13 – March 15, 2023
- City Council Approval – March 22, 2023
- Design Notice to Proceed - March 23, 2023
- Construction Notice to Proceed – TBD
- Final Completion – TBD

Firms interested in performing these services must exhibit relevant experience with this type of work and should emphasize both the experience and capability of the personnel who will perform the work. At a minimum, all interested firms are required to submit a statement of qualifications and experience containing the following information:

Summary:

- A summary should provide a brief but thorough overview of how the firm can provide these services to the city.
- Include an introductory statement and a summary of the firm's experience with the work described above.
- Provide firm name, address, telephone number, email address, and contact person(s).
- Provide the year in which firm was established and any former names under which the firm operated.

Capacity:

- Provide a complete description of project staff in the form of a graphic organizational chart and a staffing summary that addresses individual roles and responsibilities.
- Provide a resume for each staff member involved in this project. A resume of each member of the team is necessary and should detail relevant experience, length of service with the firm and job duties during his/her tenure, educational background, and professional background.
- Identify the Project Manager(s) and key staff proposed for these projects. The Project Manager(s) should have extensive experience in related work to these projects, both in scope and extent.
- The city seeks to negotiate and complete a satisfactory scope of work expeditiously. The qualification statement shall include a statement or chart showing the anticipated schedule. The schedule shall identify the components of the scope of work and any other tasks deemed necessary or preferable.

Experience:

- Provide a list of all projects of comparable size and scope completed by the firm within the past five (5) years. This shall list the following as a minimum:
 - Owner's name and contact information (mailing address, email addresses and phone numbers).
 - Name, location, and detailed description of the project.
 - Design and construction cost of each project and number of change orders, including monetary impact of each.
 - Summary of project actual costs compared to original and revised project budget(s)/estimate(s).
 - Project start and completion dates.
 - Project staff and their role(s).

References:

- Provide at least three (3) references that the city may contact to verify your

qualifications, experience and involvement in the stated engineering activities and projects.

- Job title, telephone numbers, e-mail address and a physical address for each reference listed should be included in your statement of qualifications.

The attached qualification statement evaluation will be used in the selection process. The city intends to award the design to the best qualified firm or team. A clear, well-defined scope of services will be established with the selected firm(s); a proposal including costs will be developed and submitted by the selected firm(s); and the work will proceed upon written authorization by the City.

A price for the work will be negotiated with the most qualified firm (or partnered firms). If these negotiations are unsuccessful, the city will negotiate with the next-most qualified firm (or partnered firms). The city will continue in like manner until negotiations are successful. The successful firm/partnered firms will be required to enter into the city's standard professional services agreement. Notwithstanding the foregoing, the city may elect to terminate the process at any time.

Submissions must be sent on a thumb drive in PDF format and mailed to the City of Hendersonville C/O Tom Wooten 305 Williams Street Hendersonville, NC 28792 by 3:00 PM Eastern Time (EST) on Friday, March 3, 2023. PDF files must contain the signatures of company representatives authorized to execute documents on the firm's behalf. The total length of the qualification statement, excluding cover letter or appendices, shall be no more than thirty (30) pages. Qualification statements received after the deadline will not be considered. The city reserves the right to reject any and all proposals received and to waive minor informalities. Incomplete proposal responses will not be considered. The selected firm(s) will be expected to enter into an agreement with the city as soon as possible following notification.

Any questions regarding this request should be directed to Tom Wooten at twooten@hvlnc.gov. Written requests for clarifications to this RFQ will be accepted until 3:00 PM on Wednesday, February 22, 2023. If necessary, the city will issue a written addendum on the city website to clarify any issues raised.

The City of Hendersonville accepts no responsibility for any expense related to preparation or delivery of qualification statements. All materials and documents submitted by the firm or design team in response to this RFQ or any additional requests for materials and documents made by the city for evaluation pursuant to this RFQ will become the property of the city and will not be returned. The selected firm(s) shall be responsible for all costs incurred during negotiations.

It is the policy of the City of Hendersonville that all original documents, reports, studies, and other data produced as a direct result of the services performed under the contract shall become the property of the City of Hendersonville. Any copyrighting of material produced, and data compiled because of the services performed by the successful firm(s) shall be in the City of Hendersonville's name. Where licensed material is incorporated as an integral component of the services provided the firm shall register the city as a

licensed user and shall provide the city with one complete copy of the licensed material.

Per N.C. General Statute 143-64.31, Selection of a firm shall include the use of good faith efforts by the public entity to notify minority firms of the opportunity to submit qualifications for consideration by the public entity. The city makes a good faith effort to procure proposals by historically underutilized businesses as part of the selection process. The city seeks to provide all persons and businesses a fair and equal opportunity to participate in all aspects of its contracting and procurement programs and to prohibit all discrimination against persons or businesses in pursuit of these opportunities. The City of Hendersonville is an Equal Employment Opportunity Employer.

**CITY OF HENDERSONVILLE
CITY HALL EXTERIOR
RENOVATION PROJECT –
PHASE 2
QUALIFICATION STATEMENT
EVALUATION**

Section 5, Item I.

Name of Firm: _____

Location of Firm: _____

Contact Person: _____

Name of Reviewer: _____

Minimum Content Checklist (failure to include any of the foregoing may render your proposal ineligible for consideration):

Summary:

- Introductory statement ☐
- Summary of work ☐
- Full contact information (name, address, phone/fax numbers, email, contact person) ☐
- Year firm established & any former names ☐

Capacity:

- Roles & responsibilities of each ☐
- Resumes included ☐

Experience:

- Similar projects over last 10 years ☐
- Name of project ☐
- Owner name and contact information ☐
- Project location ☐
- Detailed description ☐
- Start and completion dates ☐
- Design and construction costs, # of change orders ☐
- Project staff and roles ☐

References:

- At least 3 references provided ☐
- Job title ☐
- Phone number ☐
- Email address ☐
- Physical address ☐

Evaluation Criteria	Possible Points	Section 5, Item 1. Given
Understanding of the City's required tasks and needs as demonstrated in the qualifications statement (0-10 points)	10	
Experience with similar projects comparable in type, size, and complexity <ul style="list-style-type: none"> Experience with historic building mass masonry exterior renovation projects (0 projects = 0 points; 1-2 projects = 5 points; 3-5 projects = 7 points; 6+ projects = 10 points) 	10	
Qualifications of the staff assigned to perform the work with this project <ul style="list-style-type: none"> Project Manager with successful track record in design management, plan approval, construction documents, bidding, contractor recommendation, administrative services, and project management. (0 projects = 0 points; 1-2 projects = 5 points; 3-5 projects = 7 points; 6+ projects = 10 points) 	10	
Demonstrated ability of the Consultant to perform high quality work and control costs <ul style="list-style-type: none"> Referrals for firm and design staff for projects cited above (0-10 points) 	10	
POINT TOTAL	40	

SOLICITATION EVALUATION RUBRIC			
REQUEST FOR PROPOSAL # 220021555001			
EVALUATION CRITERIA	Terracon	SKA	
A. EVALUATION CRITERIA #1 (10 possible points) Understanding of the City's required tasks and needs as demonstrated in the qualification statement.	9.666667	9.666667	
B. EVALUATION CRITERIA #2 (10 possible points) Experience with similar projects comparable in type, size, and complexity •Experience with historic building mass masonry exterior renovation projects (0 projects = 0 points; 1-2 projects = 5 points; 3-5 projects = 7 points; 6+ projects = 10 points)	9.666667	10	
C. EVALUATION CRITERIA #3 (10 possible points) Qualifications of the staff assigned to perform the work with this project •Project Manager with successful track record in design management, plan approval, construction documents, bidding, contractor recommendation, administrative services, and project management. (0 projects = 0 points; 1-2 projects = 5 points; 3-5 projects = 7 points; 6+ projects = 10 points)	9.333333	9.666667	
C. EVALUATION CRITERIA #4 (10 possible points) Demonstrated ability of the Consultant to perform high quality work and control costs •Referrals for firm and design staff for projects cited above (0-10 points)	8.666667	9.333333	
FINAL SCORES AND RANKINGS	AVG SCORE	37.33333	38.66667
	RANK	2	1

*Amend criteria and point assignments based on solicitation at hand.

	Terracon	SKA
REVIEWER #1: TOM WOOTEN	A. 10	10
	B. 10	10
	C. 10	10
	D. 9	10
	SUB-TOTAL 39	40
	RANK 2	1
REVIEWER #2: MARK STIERWALT	A. 10	10
	B. 10	10
	C. 10	10
	D. 9	10
	SUB-TOTAL 39	40
	RANK 2	1
REVIEWER #3: ROSS HENDERSON	A. 9	9
	B. 9	10
	C. 8	9
	D. 8	8
	SUB-TOTAL 34	36
	RANK 2	1

INSTRUCTIONS:

Each reviewer should access the rubric on their own device and should assigned a section for their review. They will review each vendor on the criteria and points system provided in the top chart. The totals for each reviewer will automatically populate in the top chart. After all reviewers have completed each review, total average score for each vendor will be displayed as well as the related ranking compared to the other vendor scores.

Vendor Name	Provided Original?	Provided Electronic Copy? Email or Media File?
Vendor 1: Terracon Consultants, Inc.	Yes	Yes- Media File
Vendor 2: SKA Consulting Engineers, Inc.	Yes	Yes- Media File

*Only original and electronic copies received prior to the March 3, 2023 at 3:00 PM EST deadline will be accepted.

Review Committee Names
Reviewer #1: Tom Wooten
Reviewer #2: Mark Stierwalt
Reviewer #3: Ross Henderson



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Angela Beeker, City Attorney **MEETING DATE:** March 2, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Legal Department

TITLE OF ITEM: Memorandum of Understanding (MOU) with Henderson County for Construction Related Activities Along Edwards Park and the VFW Site— *Angela S. Beeker, City Attorney*

SUGGESTED MOTION(S):

I move City Council to adopt *Resolution By The City Of Hendersonville City Council To Approve A Memorandum Of Understanding With Henderson County To Provide For Shared Parking, Construction And Access Easements For Edwards Park And The VFW Site*, As presented.

SUMMARY:

Attached for City Council’s consideration is the Memorandum of Understanding with Henderson County to provide for shared parking, reciprocal construction easements, a sidewalk and access easement, and a stormwater easement, as well as a boundary line modification, to facilitate the construction and development of Edwards Park.

City Council is requested to adopt this resolution as presented.

ATTACHMENTS:

Resolution
Memorandum of Understanding with Exhibits

Resolution #__-____

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL
TO APPROVE A MEMORANDUM OF UNDERSTANDING WITH HENDERSON COUNTY
TO PROVIDE FOR SHARED PARKING, CONSTRUCTION AND ACCESS EASEMENTS
FOR EDWARDS PARK AND THE VFW SITE**

WHEREAS, the City of Hendersonville acquired the property known as Edwards Park for the purpose of developing a new park and putt-putt facility (“Edwards Park Property”); and

WHEREAS, Henderson County acquired the former VFW property (“VFW Property”)located adjacent to the Edwards Park Property; and

WHEREAS, the City and the County have agreed to grant certain permissions, shared parking, and easements to facilitate the development of both properties; and

WHEREAS, a draft Memorandum of Understanding to provide for the permissions, shared parking and easements has been prepared and presented to City Council for its consideration (“MOU”);

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

1. The MOU is approved as presented. .
2. The Assistant City Manager is authorized to execute the MOU with such changes as he deems appropriate to carry out the intent of the MOU, in consultation with the City Attorney.
3. The Mayor, City Clerk, and City Attorney are authorized to take such further actions as may be needed to carry out the terms of the MOU, including the execution of such easements and other documents as may be necessary.

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

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made this _____ day of _____, 2023, by and between the City of Hendersonville, a North Carolina municipal corporation (the “City”) and the County of Henderson, a body corporate and politic of the State of North Carolina (the “County”).

Background

A. The County is the owner of that certain property being the former Hendrick Rhodes post of the Veterans of Foreign War, located on North Main Street, Hendersonville, being that +/- 1.31 acre parcel shown on that plat recorded in Plat Book 2021 at Slide 13621 of the Henderson County Registry, having acquired it in Deed Books 3682 at Page 652 and 3804 at Page 70, both of the Henderson County Registry, reference to which is made and incorporated herein for a more complete description (the “VFW Property”) (the Edwards Park Property and the VFW Property are from time to time herein collectively referred to as the “Subject Properties”).

B. the City is the owner of that certain property known as Edwards Park, said property being shown and identified on that plat recorded in Plat Book 2021 at Plat Slide 13621 of the Henderson County Registry as the “1.47 acre” tract, having acquired it by that deed recorded in Deed Book 3998 at Page 667 of the Henderson County Registry, reference to which is made and incorporated herein for a more complete description (the “Edwards Park Property”) The City intends use of the Edwards Park Property for a park to include a putt-putt golf course.

C. Both the City and the County will be constructing various improvements on their respective properties.

D. The City and County have agreed that a combined and mutual use agreement of certain portions of the VFW Property and the Edwards Park Property as stated herein will be beneficial to their citizens.

Statement of Understanding

1. Parking on VFW Property:

A. The County will grant to the City an access and shared parking easement on the Edwards Park Property to allow persons using the Edwards Park Property for its intended purposes, including reasonable parking access to the VFW Property on a first-come, first-allowed to park basis during the Edwards Park Property’s operating hours. The easement shall be appurtenant to the Edwards Park property.

B. No parking shall be allowed by persons using the Edwards Park Property on the VFW Property after 10:00 p.m. or before 10:00 a.m.

2. Temporary construction activities permitted:

A. The City and its employees and contractors shall be allowed to use the VFW Property up to twenty (20) feet from its boundary with the Edwards Park Property.

B. No use of the VFW Property as a result of this temporary grant of permission by the City or its employees or contractors shall block access to the VFW Property from either Locust Street or North Main Street.

C. The County and its employees and contractors shall be allowed to use the Edwards Park Property up to twenty (20) feet from its boundary with the VFW Property.

D. No use of the Edwards Park Property as a result of this temporary grant of permission by the County or its employees or contractors shall block access to the Edwards Park Property or otherwise interfere with the use and enjoyment of the Edwards Park Property by users of the park when the City's construction has been completed.

E. Both the City and the County shall restore the property of the other within the temporary construction permissions granted herein to the condition previous to their respective construction activities.

3. The County shall grant an easement to the City for the construction and maintenance of a sidewalk providing access from the VFW Property shared parking to the Edwards Park Property. Construction and maintenance of the sidewalk shall be the responsibility of the City. An approximate location of the sidewalk is shown on the attached Exhibit A and labeled as "Sidewalk easement area." Such easement shall also grant a right of access across the sidewalk so constructed to users of the Edwards Park Property. Lastly, such easement shall also grant to the City a general right of access across the VFW Property for the purposes of ongoing maintenance, repair and replacement of the sidewalk constructed within the easement. The easement shall be appurtenant to the Edwards Park property.

4. The County shall grant an easement to the City to permit the City to tie the stormwater management from the Edwards Park Property into the County's stormwater junction boxes, located on the VFW Property. Maintenance of the City's stormwater management system on the VFW Property shall be and remain the responsibility of the City. The easement shall be appurtenant to the Edwards Park property.

5. Upon the completion of the construction for both the VFW Property and the Edwards Park Property, but in any event by no later than December 31, 2027, the parties shall execute a recombination deed relocating the boundary between the VFW Property and the Edwards Park Property to the location shown on the Exhibit B, and will execute the necessary easement documents to grant the easements described herein.

6. With their signatures below, both parties represent that this has been duly approved by both parties' governing bodies.

CITY OF HENDERSONVILLE

HENDERSON COUNTY

BY:_____

BY:_____

DATE:_____

DATE:_____



12 BROAD STREET
SUITE 200
HENDERSONVILLE, NC 28702
PH (828) 254-4562



Edwards Park

904 North Main Street
Hendersonville, NC
28792

100% CONSTRUCTION DOCUMENTS

SITE LAYOUT

DATE: 7-11-2022
PROJECT NO: 21049

REVISIONS

NO.	DATE	DESCRIPTION
1	6/20/22	ADDENDUM #1
2	7/11/2022	ADDENDUM #2
3	10/20/23	W/OUT REVISION

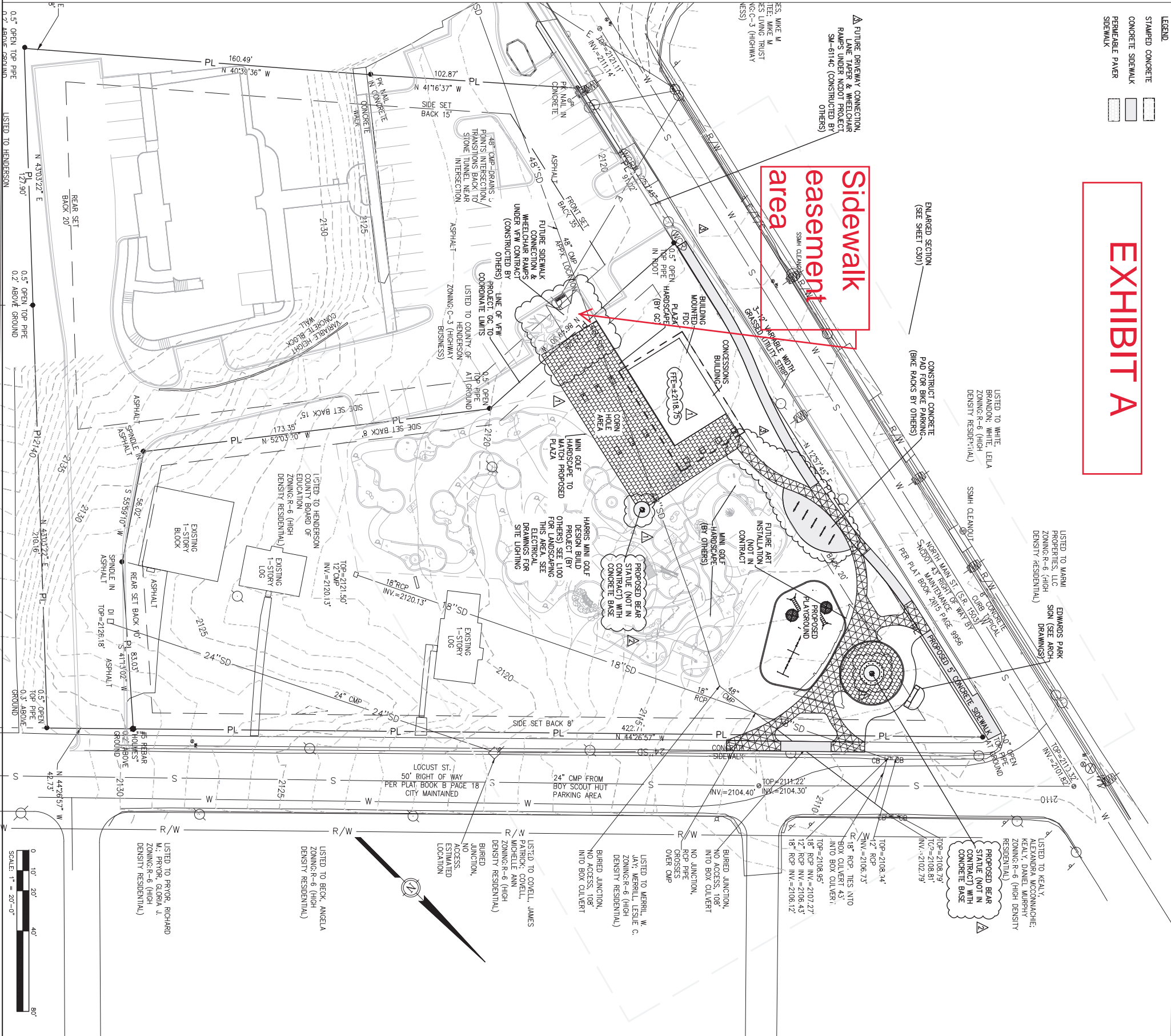
THIS DRAWING IS THE PROPERTY OF ADW ARCHITECTS P.A. AND SHALL NOT BE USED FOR ANY OTHER PROJECT OR GIVEN TO ANY OTHER COMPANY OR AGENCY WITHOUT THE CONSENT OF ADW ARCHITECTS P.A.

C300

EXHIBIT A

LEGEND
STAMPED CONCRETE
CONCRETE SIDEWALK
PERMEABLE PAVEMENT SIDEWALK

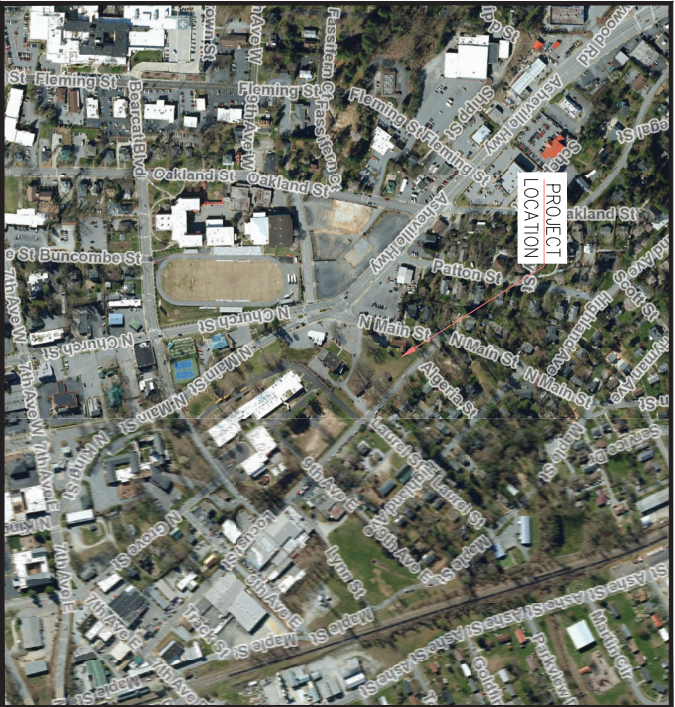
Sidewalk easement area



LEGEND
STAMPED CONCRETE
CONCRETE SIDEWALK
PERMEABLE PAVEMENT SIDEWALK

OWNER/DEVELOPER:	SITE INFORMATION:
CITY OF HENDERSONVILLE	COMMON DEVELOPMENT: 1.47 AC TOTAL
100 SOUTH AVENUE EAST	PK: 9959/05860
HENDERSONVILLE, NC 28792	
(828) 691-5000	
CIVIL ENGINEER:	PRE-DEVELOPMENT IMPROVEMENTS:
BRIAN R. MATTEN, P.E.	PRE-DEVELOPMENT IMPROVEMENTS: 0.28 AC (19.0%)
MATTEN & CRAIG, INC.	PRE-DEVELOPMENT IMPROVEMENTS: 0.20 AC (14.3%)
12 BROAD ST.	PRE-DEVELOPMENT IMPROVEMENTS: 0.17 AC (11.6%)
ASHEVILLE, NC 28801	PRE-DEVELOPMENT IMPROVEMENTS: 0.17 AC (11.6%)
(828) 254-2201	
ARCHITECT:	ARCHITECT:
ADW ARCHITECTS	ADW ARCHITECTS
2815 COLISEUM CENTRE DRIVE, SUITE 600	2815 COLISEUM CENTRE DRIVE, SUITE 600
CHARLOTTE, NC 28217	CHARLOTTE, NC 28217
(704) 379-1939	
PROJECT LOCATION:	PROJECT LOCATION:
EDWARDS PARK	EDWARDS PARK
100 SOUTH AVENUE EAST	100 SOUTH AVENUE EAST
HENDERSONVILLE, NC 28792	HENDERSONVILLE, NC 28792
ZONING:	ZONING:
HIGH DENSITY RESIDENTIAL (R-6)	HIGH DENSITY RESIDENTIAL (R-6)
SETBACKS:	SETBACKS:
FRONT: 20'	FRONT: 20'
REAR: 10'	REAR: 10'
NOTE ON SITE LIGHTING:	NOTE ON SITE LIGHTING:
SECTION 6-13.4	SECTION 6-13.4
REQUIREMENTS THAT LIGHTING SHALL BE AIMED	REQUIREMENTS THAT LIGHTING SHALL BE AIMED
DIRECTED, SHIELDED OR ARRANGED SO THE	DIRECTED, SHIELDED OR ARRANGED SO THE
LIGHT SOURCES FOR SUCH FACILITIES DO NOT	LIGHT SOURCES FOR SUCH FACILITIES DO NOT
CAUSE GLARE SPILL OVER ON NEIGHBORING	CAUSE GLARE SPILL OVER ON NEIGHBORING
PROPERTIES OR INTERFERE WITH THE SAFE	PROPERTIES OR INTERFERE WITH THE SAFE
USE OF PUBLIC RIGHTS-OF-WAY.	USE OF PUBLIC RIGHTS-OF-WAY.

PROPERTY IS OUTSIDE OF THE FLOODPLAIN.
PARCEL IS COMPLETELY WITHIN HENDERSONVILLE CITY LIMITS



VICINITY MAP
1" = 300'

EXHIBIT B

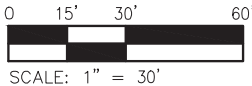
HENDERSONVILLE BOARD OF EDUCATION
DEED BOOK 825 PAGE 670
PLAT BOOK 2021 PAGE 13621
PIN: 9569705860
PER FLOOD MAP 3700956900J
EFFECTIVE DATE 10/02/2008,
PROPERTY IS NOT IN A FLOOD ZONE

PROPOSED NEW PROPERTY LINE

PROPOSED NEW BACK OF CURB LINE

COUNTY OF HENDERSON
DEED BOOK 3804 PAGE 70
PLAT BOOK 2021 PAGE 13621
PIN: 9569705642
PER FLOOD MAP 3700956900J
EFFECTIVE DATE 10/02/2008,
PROPERTY IS NOT IN A FLOOD ZONE

HENDERSON CO BOARD OF PUBLIC SCHOOLS
DEED BOOK 337 PAGE 14
PIN: 9569708204



Revisions	Date

Issue Date: 9/6/2022	Drawn By: MAB	Designed By: BRN	Checked By: BRN
Date: 9/6/2022			

**Mattern & Craig**
ENGINEERS/SURVEYORS
12 BROAD STREET
ASHEVILLE, NORTH CAROLINA 28801
(828) 254-2201
FAX (828) 254-4562

EDWARDS PARK
PROPOSED PROPERTY
LINE ADJUSTMENT
HENDERSONVILLE, NC

Vertical Scale:
N/A

Horizontal Scale:
1"=30'

Commission Number:
4186E

Sheet No.:

EX



CITY OF HENDERSONVILLE PLANNING BOARD AGENDA ITEM SUMMARY

SUBMITTER:	Lew Holloway	MEETING DATE:	April 12, 2023
AGENDA SECTION:	CONSENT	DEPARTMENT:	Community Development
TITLE OF ITEM:	2045 Comprehensive Plan Consultant Contract – <i>Lew Holloway, Community Development Director</i>		

SUGGESTED MOTION(S):

I move the City Council adopt a Resolution directing the City Manager to negotiate a contract with Cole Jenest & Stone|Bolton Menk Inc. to provide Professional Community Planning Services for the 2045 Comprehensive Plan Project, based on their review as most qualified firm to perform the work and authorize the City Manager to negotiate with the next most qualified firm, based on the presented rankings, if the initial negotiations fail.

SUMMARY:

The negotiation with Bolton Menk began following the original authorization of the City Council at their November 2022 meeting. We now have a completed draft contract with full scope of work that puts the final contract price at \$236,400. The Friends of Downtown Hendersonville, via a Tourism Development Authority grant, have committed to supporting the Downtown Master Plan component of the Comprehensive Plan in the amount of \$50,000. The attached resolution authorizes the City Manager to execute this proposed contract.

ATTACHMENTS:

Resolution for the professional Community Planning Services selection of Cole Jenest & Stone|Bolton Menk, Inc.

Resolution #__-____

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SELECT A CONSULTANT TEAM TO PROVIDE PROFESSIONAL COMMUNITY PLANNING SERVICES FOR THE 2045 COMPREHENSIVE PLAN PROJECT AND DIRECT THE CITY MANAGER TO NEGOTIATE A CONTRACT WITH THE SELECTED FIRM

WHEREAS, the City of Hendersonville advertised a request for proposals for community planning services to complete the 2045 Comprehensive Plan for the City of Hendersonville and;

WHEREAS, the City included certain add-alternates to the request for proposals including the following: 1) Preparation of a Downtown Masterplan; 2) Preparation of a Comprehensive Transportation Plan; and 3) Rewrite of the City's Zoning Ordinance; and

WHEREAS, the Bolton Menk/Cole Jenest Stone team was determined, following internal review, to qualify for the interview round and further was the consensus top choice among the interview team; and

WHEREAS, the Planning Board reviewed the proposal review process and affirmed the results of the process recommending that the City Council pursue a contract with the Bolton Menk team for the completion of the 2045 Comprehensive Plan; and

WHEREAS, Staff supports the recommendation, and also recommends that 1) the initial scope of work for the contract include the Preparation of a Downtown Masterplan as part of the Comprehensive Plan scope of work, and 2) the contract includes the possibility of adding the Preparation of a Comprehensive Transportation Plan and Rewrite of the City's Zoning Ordinance to future scopes of work under the contract; and

WHEREAS, The Friends of Downtown Hendersonville have pledged \$50,000 to the City of Hendersonville in support of the Downtown Masterplan add-alternatives;

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 a contract in an amount not to exceed \$236,400 for the 2045 Comprehensive Plan community planning project with Cole Jenest Stone/Bolton and Menk 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 initial scope of work;
 - b. Breaking the scope of work into Phases if appropriate, and
 - c. Including, within the initial scope of work or as an amendment in the future, the add-alternates.
 - d. Amending the contract in the future to amend the scope of work or activate future phases, including the Preparation of a Comprehensive Transportation Plan and the Zoning Ordinance rewrite;

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.
- 2. If negotiations fail, the City Manager is directed to negotiate a contract with the next most qualified firm based on the review and interview recommendations;

Adopted by the City Council of the City of Hendersonville, North Carolina on this 12th day of April, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

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



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

SUBMITTER:

Tom Wooten, Director of Public Works

MEETING DATE:

April 12, 2023

AGENDA SECTION:

CONSENT

DEPARTMENT:

Public Works

TITLE OF ITEM:

Resolution to Remove On-Street Parking Restrictions on North Oak Street between 9th Avenue West and 7th Avenue West - Tom Wooten, Director of Public Works

SUGGESTED MOTION(S):

I move the City of Hendersonville City Council to adopt a resolution to remove the on-street parking restrictions on North Oak Street between 9th Avenue West and 7th Avenue West.

SUMMARY:

City Council received a request to review the on-street parking restrictions on North Oak Street. Staff were directed to evaluate the restrictions then recommend changes, as warranted. Staff reviewed the problem, and we recommend removing the no parking restrictions on North Oak Street between 9th Avenue West and 7th Avenue West. This will allow parking on both sides of the street however we don't feel like there will be an issue since most homes have off street parking. If this creates an issue, staff will return to City Council with additional recommendations.

ATTACHMENTS:

Resolution

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO REMOVE
ON-STREET PARKING RESTRICTIONS ON NORTH OAK STREET**

WHEREAS, on street parking is presently prohibited in certain areas along North Oak Street;
and

WHEREAS, the City Council instructed staff to review these on-street parking restrictions
along North Oak Street following a request by a resident; and,

WHEREAS, after investigating and considering many alternatives, staff recommends
removing the existing parking restrictions on North Oak Street between 7th Avenue West and 9th
Avenue West,

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

1. The existing on-street parking restrictions on North Oak Street between 7th Avenue West and
9th Avenue West are hereby removed.
2. Staff is requested to monitor the impacts of removing these restriction, and if there are
additional issues, to bring other recommendations to City Council for consideration;

Adopted by the City Council of the City of Hendersonville, North Carolina on this 12th day of
April 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: John Buchanan

MEETING DATE: 4/12/23

AGENDA SECTION: Consent Agenda

DEPARTMENT: Finance

TITLE OF ITEM: Approval of Fiscal Year 2023 Annual Audit Contract – *John Buchanan, Finance Director*

SUGGESTED MOTION(S):

I move that City Council approve the resolution to select Mauldin & Jenkins as auditor for the fiscal year 2023 annual audit.

SUMMARY:

In 2021 a Request for Proposals was issued for auditing services and Mauldin & Jenkins was selected. Staff is recommending Mauldin & Jenkins be approved to provide audit services for the fiscal year 2023 audit. The cost for fiscal year 2023 is \$55,000, which includes the Single Audit of one major State and two Federal programs. The cost of a Single Audit for additional major State or Federal programs is \$8,500 to \$10,000

BUDGET IMPACT: \$55,000

Is this expenditure approved in the current fiscal year budget? Interim billing

If no, describe how it will be funded. EnterTextHere

ATTACHMENTS:

LGC – 205 Contract to Audit Accounts

Mauldin & Jenkins Engagement Letter

Resolution #__-____

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO SELECT MAULDIN & JENKINS AS AUDITOR FOR FISCAL YEAR 2023

WHEREAS, according to North Carolina General Statute 159-34, each unit of local government and public authority shall have its accounts audited as soon as possible after the close of each fiscal year by a certified public accountant or by an accountant certified by the Local government Commission as qualified to audit local government accounts and;

WHEREAS, according to North Carolina General Statute 159-34, the auditor should be selected by and shall report directly to the governing board; and

WHEREAS, Staff issued a Request for Proposal from qualified auditors in 2021 and recommended Mauldin & Jenkins be selected as auditor, which was authorized by Council in Resolution 21-27; and

WHEREAS, Mauldin & Jenkins satisfactorily completed the fiscal year 2021 and 2022 annual audit;

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

1. City Council selects Mauldin & Jenkins LLC as auditor for the fiscal year 2023 annual audit
2. City Council directs the Finance Director to submit the completed LGC-205 Contract to Audit Accounts to the Local Government Commission.
3. City Council authorizes the City Manager to sign the Mauldin & Jenkins LLC Engagement Letter.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 12 day of April, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:_____

Angela S. Beeker, City Attorney

The	Governing Board
of	City Council
	Primary Government Unit
	Hendersonville, North Carolina
and	Discretely Presented Component Unit (DPCU) (if applicable)

Primary Government Unit, together with DPCU (if applicable), hereinafter referred to as Governmental Unit(s)

and	Auditor Name
	Mauldin & Jenkins, LLC
	Auditor Address
	4208 Six Forks Road, Suite 1000, Raleigh, North Carolina 27609

Hereinafter referred to as Auditor

for	Fiscal Year Ending	Date Audit Will Be Submitted to LGC
	6/30/2023	10/31/2023

Must be within four months of FYE

hereby agree as follows:

1. The Auditor shall audit all statements and disclosures required by U.S. generally accepted auditing standards (GAAS) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit(s). The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion shall be rendered in relation to (as applicable) the governmental activities, the business- type activities, the aggregate DPCUs, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types). The basic financial statements shall include budgetary comparison information in a budgetary comparison statement, rather than as RSI, for the General Fund and any annually budgeted Special Revenue funds.

2. At a minimum, the Auditor shall conduct the audit and render the report in accordance with GAAS. The Auditor shall perform the audit in accordance with *Government Auditing Standards (GAGAS)* if the Governmental Unit expended \$100,000 or more in combined Federal and State financial assistance during the reporting period. The auditor shall perform a Single Audit if required by Title 2 US Code of Federal Regulations Part 200 *Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart F* (Uniform Guidance) or the State Single Audit Implementation Act. This audit and all associated audit documentation may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the Local Government Commission (LGC). If the audit requires a federal single audit in accordance with the Uniform Guidance (§200.501), it is recommended that the Auditor and Governmental Unit(s) jointly agree, in advance of the execution of this contract, which party is responsible for submission of the audit and the accompanying data collection form to the Federal Audit Clearinghouse as required under the Uniform Guidance (§200.512).

Effective for audits of fiscal years beginning after June 30, 2023, the LGC will allow auditors to consider whether a unit qualifies as a State low-risk auditee based upon federal criteria in the Uniform Guidance §200.520(a), and (b) through (e) as it applies to State awards. In addition to the federal criteria in the Uniform Guidance, audits must have been submitted timely to the LGC. If in the reporting year, or in either of the two previous years, the unit reported a Financial Performance Indicator of Concern that the audit was late, then

the report was not submitted timely for State low-risk auditee status. Please refer to "Discussion of Single Audits in North Carolina" on the LGC's website for more information.

If the audit and Auditor communication are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners (NC State Board).

3. If an entity is determined to be a component of another government as defined by the group audit standards, the entity's auditor shall make a good faith effort to comply in a timely manner with the requests of the group auditor in accordance with AU-6 §600.41 - §600.42.

4. This contract contemplates an unmodified opinion being rendered. If during the process of conducting the audit, the Auditor determines that it will not be possible to render an unmodified opinion on the financial statements of the unit, the Auditor shall contact the LGC Staff to discuss the circumstances leading to that conclusion as soon as is practical and before the final report is issued. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract.

5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, 2018 revision, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he/she has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of the most recent peer review report to the Governmental Unit(s) and the Secretary of the LGC prior to the execution of an audit contract. Subsequent submissions of the report are required only upon report expiration or upon auditor's receipt of an updated peer review report. If the audit firm received a peer review rating other than pass, the Auditor shall not contract with the Governmental Unit(s) without first contacting the Secretary of the LGC for a peer review analysis that may result in additional contractual requirements.

If the audit engagement is not subject to *Government Auditing Standards* or if financial statements are not prepared in accordance with U.S. generally accepted accounting principles (GAAP) and fail to include all disclosures required by GAAP, the Auditor shall provide an explanation as to why in an attachment to this contract or in an amendment.

6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to LGC Staff within four months of fiscal year end. If it becomes necessary to amend the audit fee or the date that the audit report will be submitted to the LGC, an amended contract along with a written explanation of the change shall be submitted to the Secretary of the LGC for approval.

7. It is agreed that GAAS include a review of the Governmental Unit's (Units') systems of internal control and accounting as same relate to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor shall make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his/her findings, together with his recommendations for improvement. That written report shall include all matters defined as "significant deficiencies and material weaknesses" in AU-C 265 of the *AICPA Professional Standards (Clarified)*. The Auditor shall file a copy of that report with the Secretary of the LGC.

For GAAS or *Government Auditing Standards* audits, if an auditor issues an AU-C §260 report, commonly referred to as "Governance Letter," LGC staff does not require the report to be submitted unless the auditor cites significant findings or issues from the audit, as defined in AU-C §260.12 - .14. This would include issues such as difficulties encountered during the audit, significant or unusual transactions, uncorrected misstatements, matters that are difficult or contentious reviewed with those charged with governance, and other significant matters.

8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the LGC. This includes annual or special audits, agreed upon procedures related to internal controls, bookkeeping or other assistance necessary to prepare the Governmental Unit's records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. Approval is also required for the Alternative Compliance Examination Engagement for auditing the Coronavirus State and Local Fiscal Recovery Funds expenditures as allowed by US Treasury. Approval is not required on audit contracts and invoices for system improvements and similar services of a non-auditing nature.
9. Invoices for services rendered under these contracts shall not be paid by the Governmental Unit(s) until the invoice has been approved by the Secretary of the LGC. This also includes any progress billings [G.S. 159-34 and 115C-447]. All invoices for audit work shall be submitted in PDF format to the Secretary of the LGC for approval. The invoice marked 'approved' with approval date shall be returned to the Auditor to present to the Governmental Unit(s) for payment. This paragraph is not applicable to contracts for audits of hospitals.
10. In consideration of the satisfactory performance of the provisions of this contract, the Governmental Unit(s) shall pay to the Auditor, upon approval by the Secretary of the LGC if required, the fee, which includes any costs the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (federal and state grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts. This does not include fees for any pre-issuance reviews that may be required by the NC Association of CPAs (NCACPA) Peer Review Committee or NC State Board of CPA Examiners (see Item 13).
11. If the Governmental Unit(s) has/have outstanding revenue bonds, the Auditor shall submit to LGC Staff, either in the notes to the audited financial statements or as a separate report, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the Auditor shall submit to LGC Staff simultaneously with the Governmental Unit's (Units') audited financial statements any other bond compliance statements or additional reports required by the authorizing bond documents, unless otherwise specified in the bond documents.
12. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include, but not be limited to, the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the Governmental Unit(s) and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the Governmental Unit(s) or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board upon completion.
13. If the audit firm is required by the NC State Board, the NCACPA Peer Review Committee, or the Secretary of the LGC to have a pre-issuance review of its audit work, there shall be a statement in the engagement letter indicating the pre-issuance review requirement. There also shall be a statement that the Governmental Unit(s) shall not be billed for the pre-issuance review. The pre-issuance review shall be performed prior to the completed audit being submitted to LGC Staff. The pre-issuance review report shall accompany the audit report upon submission to LGC Staff.

14. The Auditor shall submit the report of audit in PDF format to LGC Staff. For audits of units other than hospitals, the audit report should be submitted when (or prior to) submitting the final invoice for services rendered. The report of audit, as filed with the Secretary of the LGC, becomes a matter of public record for inspection, review and copy in the offices of the LGC by any interested parties. Any subsequent revisions to these reports shall be sent to the Secretary of the LGC. These audited financial statements, excluding the Auditors' opinion, may be used in the preparation of official statements for debt offerings by municipal bond rating services to fulfill secondary market disclosure requirements of the Securities and Exchange Commission and for other lawful purposes of the Governmental Unit(s) without requiring consent of the Auditor. If the LGC Staff determines that corrections need to be made to the Governmental Unit's (Units') financial statements and/or the compliance section, those corrections shall be provided within three business days of notification unless another deadline is agreed to by LGC Staff.

15. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the Secretary of the LGC, this contract may be modified or amended to include the increased time, compensation, or both as may be agreed upon by the Governing Board and the Auditor.

16. If an approved contract needs to be modified or amended for any reason, the change shall be made in writing and pre-audited if the change includes a change in audit fee (pre-audit requirement does not apply to hospitals). This amended contract shall be completed in full, including a written explanation of the change, signed and dated by all original parties to the contract. It shall then be submitted to the Secretary of the LGC for approval. No change to the audit contract shall be effective unless approved by the Secretary of the LGC, the Governing Board, and the Auditor.

17. A copy of the engagement letter, issued by the Auditor and signed by both the Auditor and the Governmental Unit(s), shall be attached to this contract, and except for fees, work, and terms not related to audit services, shall be incorporated by reference as if fully set forth herein as part of this contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract shall take precedence. Engagement letter terms that conflict with the contract are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 30 of this contract. Engagement letters containing indemnification clauses shall not be accepted by LGC Staff.

18. Special provisions should be limited. Please list any special provisions in an attachment.

19. A separate contract should not be made for each division to be audited or report to be submitted. If a DPCU is subject to the audit requirements detailed in the Local Government Budget and Fiscal Control Act and a separate audit report is issued, a separate audit contract is required. If a separate report is not to be issued and the DPCU is included in the primary government audit, the DPCU shall be named along with the primary government on this audit contract. DPCU Board approval date, signatures from the DPCU Board chairman and finance officer also shall be included on this contract.

20. The contract shall be executed, pre-audited (pre-audit requirement does not apply to hospitals), and physically signed by all parties including Governmental Unit(s) and the Auditor, then submitted in PDF format to the Secretary of the LGC.

21. The contract is not valid until it is approved by the Secretary of the LGC. The staff of the LGC shall notify the Governmental Unit and Auditor of contract approval by email. The audit should not be started before the contract is approved.

22. Retention of Client Records: Auditors are subject to the NC State Board of CPA Examiners' Retention of Client Records Rule 21 NCAC 08N .0305 as it relates to the provision of audit and other attest services, as well as non-attest services. Clients and former clients should be familiar with the requirements of this rule prior to requesting the return of records.

23. This contract may be terminated at any time by mutual consent and agreement of the Governmental Unit(s) and the Auditor, provided that (a) the consent to terminate is in writing and signed by both parties, (b) the parties have agreed on the fee amount which shall be paid to the Auditor (if applicable), and (c) no termination shall be effective until approved in writing by the Secretary of the LGC.

24. The Governmental Unit's (Units') failure or forbearance to enforce, or waiver of, any right or an event of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.

25. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the LGC.

26. E-Verify. Auditor shall comply with the requirements of NCGS Chapter 64 Article 2. Further, if Auditor utilizes any subcontractor(s), Auditor shall require such subcontractor(s) to comply with the requirements of NCGS Chapter 64, Article 2.

27. **Applicable to audits with fiscal year ends of June 30, 2020 and later.** For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct and *Government Auditing Standards, 2018 Revision* (as applicable). Financial statement preparation assistance shall be deemed a "significant threat" requiring the Auditor to apply safeguards sufficient to reduce the threat to an acceptable level. If the Auditor cannot reduce the threats to an acceptable level, the Auditor cannot complete the audit. If the Auditor is able to reduce the threats to an acceptable level, the documentation of this determination, including the safeguards applied, must be included in the audit workpapers.

All non-attest service(s) being performed by the Auditor that are necessary to perform the audit must be identified and included in this contract. The Governmental Unit shall designate an individual with the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the services and accept responsibility for the results of the services performed. If the Auditor is able to identify an individual with the appropriate SKE, s/he must document and include in the audit workpapers how he/she reached that conclusion. If the Auditor determines that an individual with the appropriate SKE cannot be identified, the Auditor cannot perform both the non-attest service(s) and the audit. See "Fees for Audit Services" page of this contract to disclose the person identified as having the appropriate SKE for the Governmental Unit.

28. **Applicable to audits with fiscal year ends of June 30, 2021 and later.** The auditor shall present the audited financial statements including any compliance reports to the government unit's governing body or audit committee in an official meeting in open session as soon as the audited financial statements are available but not later than 45 days after the submission of the audit report to the Secretary. The auditor's presentation to the government unit's governing body or audit committee shall include:

- a) the description of each finding, including all material weaknesses and significant deficiencies, as found by the auditor, and any other issues related to the internal controls or fiscal health of the government unit as disclosed in the management letter, the Single Audit or Yellow Book reports, or any other communications from the auditor regarding internal controls as required by current auditing standards set by the Accounting Standards Board or its successor;
- b) the status of the prior year audit findings;
- c) the values of Financial Performance Indicators based on information presented in the audited financial statements; and
- d) notification to the governing body that the governing body shall develop a "Response to the Auditor's Findings, Recommendations, and Fiscal Matters," if required under 20 NCAC 03 .0508.

29. Information based on the audited financial statements shall be submitted to the Secretary for the purpose of identifying Financial Performance Indicators and Financial Performance Indicators of Concern. See 20 NCAC 03 .0502(c)(6).

30. All of the above paragraphs are understood and shall apply to this contract, except the following numbered paragraphs shall be deleted (See Item 17 for clarification).

31. The process for submitting contracts, audit reports and invoices is subject to change. Auditors and units should use the submission process and instructions in effect at the time of submission. Refer to the N.C. Department of State Treasurer website at <https://www.nctreasurer.com/state-and-local-government-finance-division/local-government-commission/submitting-your-audit>

32. All communications regarding audit contract requests for modification or official approvals will be sent to the email addresses provided on the signature pages that follow.

33. Modifications to the language and terms contained in this contract form (LGC-205) are not allowed.

FEES FOR AUDIT SERVICES

1. For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct (as applicable) and *Government Auditing Standards, 2018 Revision*. Refer to Item 27 of this contract for specific requirements. The following information must be provided by the Auditor; contracts presented to the LGC without this information will not be approved.

Financial statements were prepared by: ☒ Auditor ☐ Governmental Unit ☐ Third Party

If applicable: Individual at Governmental Unit designated to have the suitable skills, knowledge, and/or experience (SKE) necessary to oversee the non-attest services and accept responsibility for the results of these services:

Name:**Title and Unit / Company:****Email Address:**

John Buchanan, Finance Director

City of Hendersonville

jbuchanan@hvlnc.gov

OR Not Applicable ☐ (Identification of SKE Individual on the LGC-205 Contract is not applicable for GAAS-only audits or audits with FYEs prior to June 30, 2020.)

2. Fees may not be included in this contract for work performed on Annual Financial Information Reports (AFIRs), Form 990s, or other services not associated with audit fees and costs. Such fees may be included in the engagement letter but may not be included in this contract or in any invoices requiring approval of the LGC. See Items 8 and 13 for details on other allowable and excluded fees.

3. The audit fee information included in the table below for both the Primary Government Fees and the DPCU Fees (if applicable) should be reported as a specific dollar amount of audit fees for the year under this contract. If any language other than an amount is included here, the contract will be returned to the audit form for correction.

4. Prior to the submission of the completed audited financial report and applicable compliance reports subject to this contract, or to an amendment to this contract (if required) the Auditor may submit interim invoices for approval for services rendered under this contract to the Secretary of the LGC, not to exceed 75% of the billings for the unit's last annual audit that was submitted to the Secretary of the LGC. All invoices for services rendered in an audit engagement as defined in 20 NCAC .0503 shall be submitted to the Commission for approval before any payment is made. Payment before approval is a violation of law. (This paragraph not applicable to contracts and invoices associated with audits of hospitals).

PRIMARY GOVERNMENT FEES

Primary Government Unit	Hendersonville, North Carolina
Audit Fee	\$ 55,000.00
Additional Fees Not Included in Audit Fee:	
Fee per Major Program	\$
Writing Financial Statements	\$
All Other Non-Attest Services	\$

DPCU FEES (if applicable)

Discretely Presented Component Unit	
Audit Fee	\$
Additional Fees Not Included in Audit Fee:	
Fee per Major Program	\$
Writing Financial Statements	\$
All Other Non-Attest Services	\$

SIGNATURE PAGE

AUDIT FIRM

Audit Firm*	
Mauldin & Jenkins, LLC	
Authorized Firm Representative (typed or printed)*	Signature*
Timothy M. Lyons	<i>Timothy M. Lyons</i>
Date*	Email Address*
3/24/2023	tlyons@mjcpa.com

GOVERNMENTAL UNIT

Governmental Unit*	
Hendersonville, North Carolina	
Date Primary Government Unit Governing Board Approved Audit Contract* (G.S.159-34(a) or G.S.115C-447(a))	4/12/2023
Mayor/Chairperson (typed or printed)*	Signature*
Barbara G. Volk	
Date	Email Address
	bvolk@hvlnc.gov

Chair of Audit Committee (typed or printed, or "NA")	Signature
Date	Email Address

GOVERNMENTAL UNIT – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).
Not applicable to hospital contracts.

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

Primary Governmental Unit Finance Officer* (typed or printed)	Signature*
John Buchanan	
Date of Pre-Audit Certificate*	Email Address*
	jbuchanan@hvlnc.gov

SIGNATURE PAGE – DPCU
(complete only if applicable)

DISCRETELY PRESENTED COMPONENT UNIT

DPCU*	
Date DPCU Governing Board Approved Audit Contract* (Ref: G.S. 159-34(a) or G.S. 115C-447(a))	
DPCU Chairperson (typed or printed)*	Signature*
Date*	Email Address*

Chair of Audit Committee (typed or printed, or "NA")	Signature
Date	Email Address

DPCU – PRE-AUDIT CERTIFICATE

Required by G.S. 159-28(a1) or G.S. 115C-441(a1).
 Not applicable to hospital contracts.

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

DPCU Finance Officer (typed or printed)*	Signature*
Date of Pre-Audit Certificate*	Email Address*

Remember to print this form, and obtain all
 required signatures prior to submission.

PRINT



March 24, 2023

Honorable Mayor and Members of the
City Council
City of Hendersonville, North Carolina
160 Sixth Avenue E
Hendersonville, North Carolina 28792

Attn: John Buchanan, Finance Director and John Connet, City Manager

We are pleased to confirm our understanding of the services we are to provide the City of Hendersonville, North Carolina (the City) for the year ended June 30, 2022.

Audit Scope and Objectives

We will audit the financial statements of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information, including the disclosures, which collectively comprise the basic financial statements, of the City of Hendersonville, North Carolina as of and for the year then ended. These statements will include the budgetary comparison information for the General Fund. We will obtain and place reliance on the report of other auditors for the Hendersonville Board of Alcoholic Control (“ABC Board”), a discretely presented component unit of the City. Accounting standards generally accepted in the United States of America (GAAP) provide for certain required supplementary information (RSI), such as management’s discussion and analysis (MD&A), to supplement the City’s basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the City’s RSI in accordance with auditing standards generally accepted in the United States of America (GAAS). These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by GAAP and will be subjected to certain limited procedures, but will not be audited:

1. Management’s Discussion and Analysis (MD&A).

2. Schedule of Changes in the Total Pension Liability for the Law Enforcement Officers' Special Separation Allowance (LEOSSA).
3. Schedule of Total Pension Liability as a Percentage of Covered Payroll (LEOSSA).
4. Schedule of the City's Proportionate Share of the Net Pension Liability (Asset) for the Local Governmental Employees' Retirement System (LGERS).
5. Schedule of City Contributions (LGERS).
6. Schedule of Changes in the City's Total Other Postemployment Benefit (OPEB) Liability and Related Ratios.

We have also been engaged to report on supplementary information other than RSI that accompanies the City's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with GAAS and will provide an opinion on it in relation to the financial statements as a whole:

1. Schedule of expenditures of federal and state awards.
2. Combining and individual fund statements and schedules, including non-GAAP budgetary comparison schedules required by the State of North Carolina.
3. Schedule of ad valorem taxes receivable and analysis of current tax levy (General Fund, Main Street Tax District, and Seventh Avenue Tax District).

In connection with our audit of the basic financial statements, we will read the following other information and consider whether a material inconsistency exists between the other information and the basic financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report:

1. Introductory section.
2. Statistical section.

The objectives of our audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and issue an auditor's report that includes our opinions about whether your financial statements are fairly presented, in all material respects, in conformity with GAAP, and report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statements. The objectives also include reporting on -

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) and the State of North Carolina Single Audit Implementation Act (State Single Audit Act).

Auditor's Responsibilities for the Audit of the Financial Statements and Single Audit

We will conduct our audit in accordance with GAAS; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance and the State Single Audit Act, and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance and State Single Audit Act, and other procedures we consider necessary to enable us to express such opinions. As part of an audit in accordance with GAAS and *Government Auditing Standards*, we will exercise professional judgment and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of waste and abuse is subjective, *Government Auditing Standards* do not expect auditors to perform specific procedures to detect waste or abuse in financial audits nor do they expect auditors to provide reasonable assurance of detecting waste or abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is an unavoidable risk that some material misstatements or noncompliance may not be detected by us, even though the audit is properly planned and performed in accordance with GAAS and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or on major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. We will include such matters in the reports required for a Single

Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the government's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry.

We plan to obtain and place reliance on the report of other auditors for the Hendersonville ABC Board, a discretely presented component unit of the City, assuming that our communications with the other auditors and review of their audit report and the financial statements of the Hendersonville ABC Board provide sufficient and appropriate audit evidence on which to base our overall opinion on the aggregate discretely presented component units.

We have identified the following significant risk(s) of material misstatement as part of our audit planning:

1. Management's override of internal controls.

Audit Procedures—Internal Control

We will obtain an understanding of the government and its environment, including internal control relevant to the audit, sufficient to identify and assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinions. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentation, or the override of internal control. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance and State Single Audit Act, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance and State Single Audit Act.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City of Hendersonville, North Carolina's compliance with provisions of applicable laws, regulations, contracts and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

The Uniform Guidance and State Single Audit Act requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* and the *Audit Manual for Governmental Auditors in North Carolina* for the types of compliance requirements that could have a direct and material effect on each of the City's major programs. For federal and/or state programs that are included in the Federal or State Compliance Supplements, our compliance and internal control procedures will relate to the compliance requirements that the Federal or State Compliance Supplement identifies as being subject to audit. The purpose of these procedures will be to express an opinion on the City's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance and State Single Audit Act.

Other Services

We will also assist in preparing the financial statements, schedule of expenditures of federal and state awards, and related notes of the City in conformity with U.S. generally accepted accounting principles and the Uniform Guidance and State Single Audit Act based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform these services in accordance with applicable professional standards. The other services are limited to the financial statements, schedule of expenditures of federal and state awards, and related notes services previously defined. We, in our sole professional judgement, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Responsibilities of Management for the Financial Statements and Single Audit

Our audit will be conducted on the basis that you acknowledge and understand your responsibility for (1) designing, implementing, establishing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including internal controls over federal awards, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance

requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal and state awards, and all accompanying information in conformity with accounting principles generally accepted in the United States of America; and for compliance with applicable laws and regulations (including federal statutes) and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

You are also responsible for making drafts of financial statements, schedule of expenditures of federal and state awards, all financial records and related information available to us and for the accuracy and completeness of that information (including information from outside of the general and subsidiary ledgers). You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence. You are also responsible for coordinating our access to information relevant to the preparation and fair presentation of the financial statements of component units which may include discussions with component unit management and their auditors. At the conclusion of our audit, we will require certain written representations from you about the financial statements; schedule of expenditures of federal and state awards; federal award programs; state award programs; compliance with laws, regulations, contracts, and grant agreements; and related matters.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements of each opinion unit taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants. You are also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements that we report. Additionally, as required by the Uniform Guidance and State Single Audit Act, it is management's responsibility

to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal and state awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and to prepare a summary schedule of prior audit findings and a separate corrective action plan. The summary schedule of prior audit findings should be available for our review subsequent to the start of fieldwork.

With regard to an exempt offering document with which Mauldin & Jenkins is not involved, you agree to clearly indicate in the exempt offering document that Mauldin & Jenkins is not involved with the contents of such offering document. In the event that Mauldin & Jenkins is requested to be involved with an exempt offering document, you agree that the aforementioned auditor's report or reference to Mauldin & Jenkins will not be included without our prior permission or consent. Furthermore, any agreement to perform work in connection with an exempt offering document, including an agreement to provide permission or consent, will be a separate engagement.

You are responsible for identifying all federal and state awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal and state awards (including notes and noncash assistance received, and COVID-19 related concepts, such as lost revenues, if applicable) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal and state awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal and state awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal and state awards that includes our report thereon or make the audited financial statements readily available to intended users of the schedule of expenditures of federal and state awards no later than the date the schedule of expenditures of federal and state awards is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal and state awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal and state awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal and state awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon or make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such

changes): and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits or other studies related to the objectives discussed in the Audit Scope and Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

You agree to assume all management responsibilities relating to the financial statements, schedule of expenditures of federal and state awards, related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, schedule of expenditures of federal and state awards, and related notes and that you have reviewed and approved the financial statements, schedule of expenditures of federal and state awards, and related notes prior to their issuance and have accepted responsibility for them. You agree to oversee the nonaudit services by designating an individual, preferably from senior management, who possesses suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

You acknowledge the City of Hendersonville will not utilize Mauldin & Jenkins, LLC to store documents, data, or records on behalf of the City in accordance with the "Hosting Services" (see ET section 1.295.143) interpretation of the AICPA Code of Professional Conduct. The City is solely responsible for maintaining its own data and records. In that regard, SuraLink is used solely as a method of transferring data to Mauldin & Jenkins, LLC and is not intended for the storage of the City's information. All information you will provide through SuraLink is a copy and you will maintain original documents and data as part of your records.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal and state awards, summary schedule of prior audit findings, auditors' reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data

Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditors' reports or nine months after the end of the audit period.

We will provide copies of our reports to the City of Hendersonville, North Carolina; however, management is responsible for distribution of the reports and financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Mauldin & Jenkins and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the North Carolina Local Government Commission or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Mauldin & Jenkins personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by a regulatory body. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party (ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit on approximately May 1, 2023 and to issue our reports no later than October 31, 2023. Timothy M. Lyons is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. Our fee for these services will be \$55,000 for the year ended June 30, 2023. As it relates to the Single Audit, this fee includes consideration for performance (and required reporting thereon) for three (3) major federal and/or State of North Carolina programs. If additional programs are required to be tested as major, our fee will be \$8,500 to \$10,000 for each additional program. Our hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered as work progresses and are payable upon presentation. The above fees are based on anticipated cooperation from your personnel (including complete and timely receipt by us of the information on the respective client participation listings) and the assumption that unexpected circumstances (including scope changes) will not be encountered during the audit. If significant additional time is necessary, we will discuss it with management and arrive at a new fee estimate before we incur the additional costs.

As a result of our prior or future services to you, we might be requested or required to provide information or documents to you or a third party in a legal, administrative, arbitration, or similar proceeding in which we are not a party. If this occurs, our efforts in complying with such requests will be deemed billable to you as a separate engagement. We shall be entitled to compensation for our time and reasonable reimbursement for our expenses (including legal fees) in complying with

the request. For all requests we will observe the confidentiality requirements of our profession and will notify you promptly of the request.

Reporting

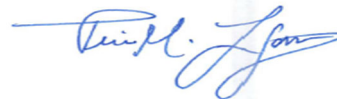
We will issue written reports upon completion of our Single Audit. Our reports will be addressed to the Members of the City Council for the City of Hendersonville, North Carolina. We will make reference to other auditor's report on the Hendersonville ABC Board in our report on your financial statements. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs to our auditor's report, or if necessary, withdraw from this engagement. If our opinions on the financial statements or the Single Audit compliance opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue reports, or may withdraw from this engagement.

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will state (1) that the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will state that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

We appreciate the opportunity to be of service to the City of Hendersonville, North Carolina and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign below and return it to us.

Sincerely,

MAULDIN & JENKINS, LLC



Timothy M. Lyons

RESPONSE:

This letter correctly sets forth the understanding of the City of Hendersonville, North Carolina.

By: _____

Title: City Manager



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Buchanan

MEETING DATE: 4/12/23

AGENDA SECTION: CONSENT

DEPARTMENT: Finance

TITLE OF ITEM: Approval of Capitalization Threshold for Leases and Subscription-based Information Technology Agreements - *John Buchanan, Finance Director*

SUGGESTED MOTION(S):

I move that City Council approve the \$100,000 capitalization threshold for leases and subscription-based information technology agreements.

SUMMARY:

General Accounting Standards Board (“GASB”) Statements 87 and 96 provides guidance on the accounting and financial reporting for leases and subscription-based information technology arrangements (“SBITAs”). A lease, per the standard, is defined as a contract that conveys control of the right to use another entity’s nonfinancial asset (the underlying asset) as specified in the contract for a period of time in an exchange or exchange-like transaction. A SBITA is defined as a contract that conveys control of the right to use another party’s information technology software, alone or in combination with a tangible capital asset, as specified in the contract for a defined period of time.

For certain leases and SBITAs, present value of future payments will be immaterial to the total value of the assets and liabilities. Capitalization policies are used in preparing financial statements in accordance with generally accepted accounting principles and help to save costs and focus efforts on items that may be materially impacted. Staff is recommending a capitalization threshold of \$100,000 for liabilities and right-of-use assets for GASB 87 leases and GASB 96 SBITAs.

BUDGET IMPACT: N/A

Is this expenditure approved in the current fiscal year budget?

If no, describe how it will be funded.

ATTACHMENTS:

Resolution #__-____

RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL APPROVING A CAPITALIZATION THRESHOLD POLICY FOR LEASES AND SUBSCRIPTION-BASED INFORMATION TECHNOLOGY ARRANGEMENTS

WHEREAS, the Governmental Accounting Standards Board (GASB) issued Statement 87 requiring lease agreements to be recognized in the City’s financial statements and Statement 96 requiring subscription-based informational technology arrangements (SBITA) to be recognized in the City’s financial statements;

WHEREAS, setting a reasonable capitalization threshold below which liabilities and right-of-use assets for leases and SBITAs are not recorded can reduce the time and cost of applying the guidance while not materially affecting financial reporting; and

WHEREAS, staff has reviewed guidance and analyzed relevant data and believes that a threshold of \$100,000 with respect to compliance with GASB Statements 87 & 96 is reasonable when applied to the present value of a payments for leases and SBITAs

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that: the City of Hendersonville does hereby adopt \$100,000 as the capitalization threshold for leases and subscription-based information technology agreements in compliance with GASB Statement 87 and GASB Statement 96.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 12 day of April, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:_____

Angela S. Beeker, City Attorney

Ordinance # _____

**CAPITAL PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF
BLYTHE ST SIDEWALK DESIGN AND CONSTRUCTION**

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 Blythe Street Sidewalk Design project.

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

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
410	1014	550102	21042	Capital Outlay- Fees and Service	\$24,000
Total Project Appropriation					\$24,000

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	21042	Transfer In (From 010)	\$24,000
Total Project Appropriation					\$24,000

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 grant project 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 12^h day of April 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

Resolution # _____

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

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

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

Expenditures to be Incurred. The Issuer anticipates incurring expenditures (the "Expenditures") for EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE GROVE ST SIDEWALK DESIGN (PROJECT #21043), ORDINANCE #_____ (the "Projects").

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

Maximum Principal Amount of Debt to be Issued. The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is \$31,000.

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

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this 12th day of April 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

Ordinance # _____

**GRANT PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE
STORMWATER MASTER PLAN PROJECT, #G2216**

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 grant project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the Stormwater Master Plan Project, #G2216.

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

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
301	7555	519200	G2216	Contracted Services	\$400,000
Total Project Appropriation					\$400,000

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

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
301	0000	420050	G2216	Grant Revenue (NCDWI)	(\$400,000)
Total Project Appropriation					(\$400,000)

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

Section 5: Funds may be advanced from the Stormwater Fund and 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 grant project 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 12th day of April 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

Ordinance # _____

**CAPITAL PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF
GROVE ST SIDEWALK DESIGN**

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 Grove Street Sidewalk Design Project.

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

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
410	1014	550102	21043	Capital Outlay- Fees and Service	\$31,000

Total Project Appropriation \$31,000

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	410001	21043	Transfer In	\$31,000

Total Project Appropriation \$31,000

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 grant project 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 12th day of April 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

Resolution # _____

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

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

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

Expenditures to be Incurred. The Issuer anticipates incurring expenditures (the "Expenditures") for EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE STORMWATER MASTER PLAN PROJECT (#G2216), ORDINANCE # _____ (the "Projects").

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

Maximum Principal Amount of Debt to be Issued. The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is \$400,000.

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

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this 12th day of April 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

Resolution # _____

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

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

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

Expenditures to be Incurred. The Issuer anticipates incurring expenditures (the "Expenditures") for EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE BLYTHE ST SIDEWALK DESIGN (PROJECT #21042), ORDINANCE #_____ (the "Projects").

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

Maximum Principal Amount of Debt to be Issued. The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is \$24,000.

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

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this 12th day of April 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

Resolution # _____

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

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

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

Expenditures to be Incurred. The Issuer anticipates incurring expenditures (the "Expenditures") for EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE SULLIVAN PARK STORMWATER PROJECT (#G2129), ORDINANCE #_____ (the "Projects").

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

Maximum Principal Amount of Debt to be Issued. The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is \$310,000.

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

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this 12th day of April 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

Ordinance # _____

**GRANT PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE
SULLIVAN PARK STREAMBANK RESTORATION PROJECT, #G2129**

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 grant project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the Sullivan Park Streambank Restoration Project, #G2129.

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

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
467	7555	550103	G2129	Capital Outlay - CIP	\$428,000

Total Project Appropriation \$428,000

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

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
467	0000	470100	G2129	Transfer in (from 067, FY23)	(\$65,000)
467	0000	470100	G2129	Transfer in (from 067, FY24)	(\$53,000)
467	0000	420050	G2129	Grant Revenue (WRDG)	(\$70,000)
467	0000	420050	G2129	Grant Revenue (NC319)	(\$240,000)

Total Project Appropriation (\$428,000)

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

Section 5: Funds may be advanced from the Stormwater Fund and 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 grant project 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 12th day of April 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

Resolution # _____

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

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

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

Expenditures to be Incurred. The Issuer anticipates incurring expenditures (the "Expenditures") for EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE LOWER MUD CREEK STORMWATER PROJECT (#G2306), ORDINANCE # _____ (the "Projects").

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

Maximum Principal Amount of Debt to be Issued. The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Project is \$3,018,165.

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

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this 12th day of April 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

Ordinance # _____

**GRANT PROJECT ORDINANCE FOR
THE EXECUTION, ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE
LOWER MUD CREEK STORMWATER PROJECT, #G2306**

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 grant project ordinance is hereby adopted:

Section 1: The project authorized is a City project described as the Lower Mud Creek Stormwater Project, #G2306.

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

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
467	7555	551000	G2306	Capital Outlay – Land/Easement	\$609,000
467	7555	550103	G2306	Capital Outlay – CIP	\$2,518,465
Total Project Appropriation					\$3,127,465

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

Account Codes				Account Name	Total Budget
Fund	Dept.	Account	Project		
467	0000	470100	G2306	Transfer in (from 067, FY24)	(\$109,300)
467	0000	420050	G2306	Grant Revenue (NCLWF)	(\$1,120,929)
467	0000	420050	G2306	Grant Revenue (NCDWI)	(\$1,897,236)
Total Project Appropriation					(\$3,127,465)

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

Section 5: Funds may be advanced from the Stormwater Fund and 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 grant project 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 12th day of April 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: Adam Murr **MEETING DATE:** 04/12/2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Administration

TITLE OF ITEM: April 2023 Budget Amendments – *Adam Murr, Budget Manager*

SUGGESTED MOTION(S):

I move City Council adopt the budget amendments 04122023-01, 04122023-02, 04122023-03, 04122023-04, 04122023-05, 04122023-06, 04122023-07, 04122023-08 and 04122023-09 as presented.

SUMMARY:

- **04122023-01:** An amendment reflecting the adoption of a grant project ordinance for the Sullivan Park Streambank Restoration (Stormwater) Project, #G2129; project budget \$428,000.
- **04122023-02:** An amendment reflecting the adoption of a grant project ordinance for the Lower Mud Creek Floodplain (Stormwater) Project, #G2306; project budget \$3,127,465.
- **04122023-03:** An amendment reflecting the adoption of a grant project ordinance for the Stormwater Master Plan Project, #G2216; project budget \$400,000.
- **04122023-04:** Health & Wellness Fund (080) amendment reflecting the use of grant proceeds from prior years to fund wellness incentives for \$2,000 in FY23.
- **04122023-05:** An amendment reflecting a \$24,000 transfer in to the Blythe St. Sidewalk Project, #21042 for an NCDOT match.
- **04122023-06:** An amendment reflecting a \$31,000 transfer in to the Grove St. Sidewalk Project, #21043 for an NCDOT match.
- **04122023-07:** A \$5,255 increase to the General Fund following the receipt of an insurance reimbursement.
- **04122023-08:** A \$93,450 appropriation of General Fund – Fund Balance to transfer out to the Fire Station 1 Project.
- **04122023-09:** A transfer of Council approved ARP funding for non-profits to the Governmental Special Revenue fund (\$2,000,000).

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:

1. Budget Amendments 041222023-01 through 041222023-09

TO MAYOR & COUNCIL - April 12, 2023

FISCAL YEAR 2023
Form Number - 04122023-01**BUDGET AMENDMENT**

FUND 067 | 467

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
067-7555-519200	Contracted Services	223,700	-	25,000	198,700
067-7555-553000	Capital Outlay - Land Improvements	140,000	-	40,000	100,000
067-0000-470900	Fund Balance Appropriated	192,186	-	-	192,186
067-0000-598901	Transfer Out (FY23 to 467)	-	65,000	-	65,000
FUND 067	TOTAL REVENUES	-	-	-	-
	TOTAL EXPENDITURES	-	65,000	65,000	-
467-0000-470100-G2129	Transfer In (FY23 from 067)	-	65,000	-	65,000
467-0000-470100-G2129	Transfer In (FY24 from 067)	-	53,000	-	53,000
467-0000-420050-G2129	Grant Revenue (Water Resource Dev. Grant)	-	70,000	-	70,000
467-0000-420050-G2129	Grant Revenue (NC319 Grant)	-	240,000	-	240,000
467-7555-550103-G2129	Capital Outlay - CIP	-	428,000	-	428,000
FUND 467	TOTAL REVENUES	-	428,000	-	-
	TOTAL EXPENDITURES	-	428,000	-	-
An FY23 budget amendment transferring \$65,000 stormwater operating funds to a grant project ordinance to match a \$70,000 Water Resource Development Grant and a \$240,000 NC319 Grant for the Sullivan Park Streambank Restoration Project - #G2129. An additional \$53,000 transfer will occur on July 1, 2023 (FY24). The FY23 project appropriation is \$375,000. Following the FY24 transfer, the project appropriation will be \$428,000.					

City Manager_____
Date_____
City Clerk

Approved:

Date

4/12/2023

TO MAYOR & COUNCIL - April 12, 2023

FISCAL YEAR 2023
Form Number - 04122023-02**BUDGET AMENDMENT**

FUND 467

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
467-0000-470100-G2306	Transfer In (FY24 from 067)	-	109,300	-	109,300
467-0000-420050-G2306	Grant Revenue (NC Land & Water Fund)	-	1,120,929	-	1,120,929
467-0000-420050-G2306	Grant Revenue (NCDWI)	-	1,897,236	-	1,897,236
467-7555-550103-G2306	Capital Outlay - Land Acquisition	-	609,000	-	609,000
467-7555-550103-G2306	Capital Outlay - CIP	-	2,518,465	-	2,518,465
FUND 467	TOTAL REVENUES	-	3,127,465	-	-
	TOTAL EXPENDITURES	-	3,127,465	-	-

An FY24 budget amendment reflecting the adoption of a grant project ordinance for the Lower Mud Creek Floodplain Restoration project (#G2306). The project has been awarded \$3,018,165 from the NC Land & Water Fund (\$1,120,929) and the NC Division of Water Infrastructure (\$1,897,236). The City will match the two State grants using \$109,300 via transfer from the Stormwater Operating Fund (067) in FY24. The project involves land acquisition, and floodplain restoration in the lower mud creek area.

City Manager_____
Date_____
City Clerk

Approved:

Date

4/12/2023

TO MAYOR & COUNCIL - April 12, 2023

FISCAL YEAR 2023
Form Number - 04122023-03**BUDGET AMENDMENT**

FUND 301

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
301-0000-420050-G2216	Grant Revenue (NCDWI)	-	400,000	-	400,000
301-7555-550102-G2216	Capital Outlay - Services and Fees	-	400,000	-	400,000
FUND 301	TOTAL REVENUES	-	400,000	-	-
	TOTAL EXPENDITURES	-	400,000	-	-
An FY23 budget amendment reflecting the creation of a grant project ordinance (GPO) for the Stormwater Master Plan Project, #G2216. The project will be funded by \$400,000 in grant revenue from the NC Department of Water Infrastructure to complete a stormwater master plan.					

City Manager_____
Date_____
City Clerk

Approved:

Date

4/12/2023

TO MAYOR & COUNCIL - April 12, 2023

FISCAL YEAR 2023
Form Number - 04122023-04**BUDGET AMENDMENT**

FUND 080

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
080-0000-470900	Fund Balance Appropriation	-	2,000	-	2,000
080-3101-532100	Grant Expense	-	2,000	-	2,000
FUND 080	TOTAL REVENUES	-	2,000	-	-
	TOTAL EXPENDITURES	-	2,000	-	-
An amendment increasing Fund Balance Appropriation for the Health and Wellness Fund, also increasing Grant Expense for use on wellness initiatives.					

City Manager_____
Date_____
City Clerk

Approved:

Date

4/12/2023

TO MAYOR & COUNCIL - April 12, 2023

FISCAL YEAR 2023
Form Number - 04122023-05**BUDGET AMENDMENT**

FUND 010 | 410

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-410001	Local Sales & Use Tax	5,408,691	24,000	-	5,432,691
010-0000-598901	Transfer Out (to 410, #21042)	954,800	24,000	-	978,800
FUND 010	TOTAL REVENUES	-	24,000	-	5,432,691
	TOTAL EXPENDITURES	-	24,000	-	978,800
410-0000-470100-21042	Transfer In (from 010, FY23)	-	24,000	-	24,000
410-1014-550102-21042	Capital Outlay- Fees and Services	-	24,000	-	24,000
FUND 410	TOTAL REVENUES	-	24,000	-	24,000
	TOTAL EXPENDITURES	-	24,000	-	24,000
An amendment that includes a Transfer In and Increase in Capital Outlay- Fees and Services to cover DOT Match for Blythe St. sidewalk design in FY23, project #21042.					

City Manager_____
Date_____
City Clerk

Date

Approved: 4/12/2023

TO MAYOR & COUNCIL - April 12, 2023

FISCAL YEAR 2023
Form Number - 04122023-06**BUDGET AMENDMENT**

FUND 010 | 410

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-410001	Local Sales & Use Tax	5,432,691	31,000	-	5,463,691
010-0000-598901	Transfer Out (to 410, #21043)	978,800	31,000	-	1,009,800
FUND 010	TOTAL REVENUES	-	31,000	-	5,463,691
	TOTAL EXPENDITURES	-	31,000	-	1,009,800
410-0000-470100-21043	Transfer In (from 010, FY23)	-	31,000	-	31,000
410-1014-550102-21043	Capital Outlay- Fees and Services	-	31,000	-	31,000
FUND 410	TOTAL REVENUES	-	31,000	-	31,000
	TOTAL EXPENDITURES	-	31,000	-	31,000
An amendment that includes a Transfer In and Increase in Capital Outlay- Fees and Services to cover DOT Match for Grove St. sidewalk design in FY23, project #21043.					

City Manager_____
Date_____
City Clerk

Date

Approved: 4/12/2023

TO MAYOR & COUNCIL - April 12, 2023

FISCAL YEAR 2023
Form Number - 04122023-07**BUDGET AMENDMENT**

FUND 010

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-470030	Insurance Proceeds	27,150	5,255	-	32,405
010-1560-521001	Supplies and Materials	54,385	5,255	-	59,640
FUND 010	TOTAL REVENUES	-	5,255	-	-
	TOTAL EXPENDITURES	-	5,255	-	-
An amendment reflecting the receipt of an insurance reimbursement check. Funds are to be used to increase public works supply budget.					

City Manager_____
Date_____
City Clerk

Approved:

Date

4/12/2023

TO MAYOR & COUNCIL - April 12, 2023

FISCAL YEAR 2023
Form Number - 04122023-08**BUDGET AMENDMENT****FUND 010 | 410**

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-470900	Fund Balance Appropriation	1,959,090	265,529	-	2,224,619
010-0000-598901	Transfer Out	954,800	265,529	-	1,220,329
FUND 10	TOTAL REVENUES	1,959,090	265,529	-	2,224,619
(Fire Station #1)	TOTAL EXPENDITURES	954,800	265,529	-	1,220,329
410-0000-470100-19019	Transfer In (from 010)	172,079	93,450	-	265,529
410-0000-420050-19019	Grant Revenue (Stormwater)	70,000	-	-	70,000
410-0000-470010-19019	Bond Proceeds (2022 Installment Financing)	13,723,443	-	31,500	13,691,943
410-1002-550102-19019	Capital Outlay - Services and Fees	-	-	-	-
410-1002-550103-19019	Capital Outlay - CIP	13,965,522	93,450	31,500	14,027,472
FUND 410	TOTAL REVENUES	13,965,522	93,450	31,500	14,027,472
(Fire Station #1)	TOTAL EXPENDITURES	13,965,522	93,450	31,500	14,027,472
410-0000-470010-19019	Bond Proceeds (2022 Installment Financing)	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 Installment Financing)	2,126,353	31,500	-	2,157,853
410-1002-550103-21019	Capital Outlay - CIP	2,243,853	31,500	-	2,275,353
FUND 410	TOTAL REVENUES	2,243,853	31,500	-	2,275,353
(Edwards Park)	TOTAL EXPENDITURES	2,243,853	31,500	-	2,275,353
410-0000-470010-19021	Bond Proceeds (2022 Installment Financing)	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 Installment Financing)	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					453,029
Total Project Revenues (19019, 19020, 19021, and 21019)					19,255,029
Total Project Appropriation (19019, 19020, 19021, and 21019)					19,255,029

A budget amendment reflecting a poriton of construction materials testing, demolition, and site preparation work being completed at Edwards Park to better fit the agreed upon contracts for the projects.

City Manager

Date

City Clerk

Date

Approved:

4/12/2023

TO MAYOR & COUNCIL - April 12, 2023

FISCAL YEAR 2023
Form Number - 04122023-09**BUDGET AMENDMENT**

FUND 010 | 199

ACCOUNT NUMBER	DESCRIPTION OF ACCOUNT	EXISTING BUDGET	INCREASE	DECREASE	REVISED BUDGET
010-0000-470100	Transfer In (from 301)	1,250,000	3,261,800	-	4,511,800
010-0000-470900	Fund Balance Appropriated	1,959,090	-	1,261,800	697,290
010-0000-598901	Transfer Out (to 199)	75,000	2,000,000	-	2,075,000
FUND 010	TOTAL REVENUES		3,261,800	1,261,800	
	TOTAL EXPENDITURES		2,000,000	-	
199-0000-470100-00100	Transfer In (from 010)	-	2,000,000	-	2,000,000
199-1001-540001-00100	Special Appropriations (ARP)	-	2,000,000	-	2,000,000
FUND 199	TOTAL REVENUES		2,000,000	-	
	TOTAL EXPENDITURES		2,000,000	-	
A budget amendment reflecting a transfer to the Governmental Special Revenue Fund for \$2,000,000 for Council's appropriation of ARP funds. The \$2,000,000 funding will be used to assist the City's partners with financial resources for transformative community projects.					

City Manager_____
Date_____
City Clerk_____
Date

Approved:

4/12/2023



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Brent Detwiler

MEETING DATE: April 12, 2023

AGENDA SECTION: CONSENT

DEPARTMENT: Engineering

TITLE OF ITEM: NCDOT EB-5860 (Blythe St Multi-Use Path) Design Agreement Approval, City Project #21042 – *Brent Detwiler, City Engineer*

SUGGESTED MOTION(S):

I resolve to approve the NCDOT Agreement for design of the Blythe Street Multi-Use Path (EB-5860); and to authorize the City Manager to execute the finalized agreement for said work; as presented and recommended by staff.

SUMMARY:

NCDOT has agreed to have the Blythe Street Multi-Use Path (EB-5860) designed and constructed for the City. There is a 20% match requirement for design, right-of-way/easement acquisition, and construction. We have attached a draft copy of the design agreement and ask that you allow the City Manager to execute the final version. Subsequent agreements will be provided for the acquisition and construction work and the required matched of each. Please let us know if you have any questions.

BUDGET IMPACT: \$24,000

Is this expenditure approved in the current fiscal year budget? It is included as a budget amendment on the April 12, 2023 City Council meeting agenda.

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

ATTACHMENTS:

Draft Agreement

Resolution

Resolution #__-____

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

WHEREAS, the City Council of the City of Hendersonville considers bicycle and pedestrian transportation to be of utmost importance to the region by providing Western North Carolina with recreation and transportation opportunities as well as the possibilities of economic and community development; and

WHEREAS, a project has been identified as part of the North Carolina Department of Transportation's State Transportation Improvement Program called EB-5860 Blythe Street Multi-Use Path; and

WHEREAS, the North Carolina Department of Transportation has agreed to design and construct the Blythe Street Multi-Use Path project with a required match provided by the City of Hendersonville; and

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

1. The City Manager is authorized to enter into an agreement with the North Carolina Department of Transportation for design of the Blythe Street Multi-Use Path (EB-5860), as presented.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 12th day of April, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Becker, City Attorney

ACCOUNTS RECEIVABLE AGREEMENTS

PAYMENT TERMS AND METHODS



Please refer to your Agreement's Payment Terms to correctly remit any payment due to the Department.

<u>PAYMENT TERMS:</u>	<u>PAYMENT TIMING:</u>
PAYMENT UPON AGREEMENT EXECUTION	Please submit the amount of agreed upon payment via one of the below methods once you have received notice of execution of the Agreement.
PAYMENT PRIOR TO LETTING (OR START OF PHASE)	You will be notified by the Project Manager when payment will be due. Please remit payment within 60 days of notification.
PAYMENT UPON BILLING	The Department will bill at the completion of the Project (or when defined in the Agreement). All payments are due within 60 days of invoicing.

NOTE: You may pre-pay any portion of an estimated cost, prior to Departmental Billing. The Department will adjust final billing to account for any pre-payments made.

LATE PAYMENTS AND INTEREST RATES:

For payments not received within 60 days, the Department must charge a statutory interest rate of prime plus one percent (1%) on all Utility Relocation Agreements. For any other Receivable Agreement, the Department may charge a late fee and/or interest.

PAYMENT METHODS

1. **SEND PAYMENT BY CHECK** OR

MAIL TO:

NCDOT – Accounts Receivable
1514 Mail Service Center
Raleigh, NC 27699-1514

INCLUDE:

- Agreement ID (10000xxxxx)
- WBS Element

2. **SEND PAYMENT VIA ACH (Automated Clearinghouse)**

Initiate ACH through your bank* and send an e-mail to:

- ✓ Judith Dever - jadever@ncdot.gov
- ✓ Kay Lee - klee@ncdot.gov

INCLUDE:

- Agreement ID# (10000xxxxx)
- WBS Element
- Amount of Payment

**If you need NCDOT's Account information, contact Tammy Court at tlcourt@ncdot.gov*

Failure to follow the above steps and remit payment per the terms in the Agreement may result in delays to project delivery. Please contact your Division Project Manager for questions regarding payment terms.

AGREEMENT OVERVIEW

NORTH CAROLINA
HENDERSON COUNTY

DATE: 10/28/2021

PARTIES TO THE AGREEMENT:

PROJECT NUMBERS

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

TIP NUMBER: EB-5960

AND

WBS ELEMENTS: 47316.1.1

CITY OF HENDERSONVILLE

FUNDING WBS:

The purpose of this Agreement is to identify the participation in project costs, project delivery and/or maintenance, by the other party to this Agreement, as further defined in this Agreement.

SCOPE OF PROJECT

Design of a sidewalk on Blythe Street from US 64 (Brevard Road) to NC 191 (Haywood Road). The Department shall perform the design and produce the environmental document. Future phases will be addressed in a separate agreement.

COSTS TO OTHER PARTY: \$24,000.00

ESTIMATED COST OF THE PROJECT: \$120,000.00

PAYMENT TERMS:

City of Henderson provides check upon execution of agreement.

MAINTENANCE: None

EFFECTIVE DATES OF AGREEMENT:

START: Upon Full Execution of this Agreement

END: When work is complete and all terms are met.

The parties to this Agreement, listed above, intend that this Agreement, together with all attachments, schedules, exhibits, and other documents that both are referenced in this Agreement and refer to this Agreement, represents the entire understanding between the parties with respect to its subject matter and supersedes any previous communication or agreements that may exist.

This **AGREEMENT** is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the **DEPARTMENT** and the City of Hendersonville, hereinafter referred to as the **Municipality**.

WHEREAS STATEMENTS

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly under General Statutes of North Carolina (NCGS), particularly Chapter 136; and,

WHEREAS, the **Department** and the **Municipality** have agreed that the jurisdictional limits of the Parties, as of the date of entering agreement for the above-mentioned project, are to be used in determining the duties, responsibilities, rights and legal obligations of the Parties hereto for the purposes of this Agreement; and,

WHEREAS, the **Municipality** has requested that the **Department** perform work or provide services; and,

WHEREAS, the Parties hereto wish to enter into an agreement for scoped work to be performed or provided by the **Department** (including reviews, goods or services) with reimbursement for the costs thereof by the **Municipality** as hereinafter set out; and,

NOW, THEREFORE, this Agreement states the promises and undertakings of each party as herein provided, and the parties do hereby covenant and agree, each with the other, as follows:

RESPONSIBILITIES

- I. The **Department** and/or the **Municipality** shall be responsible for all phases of project delivery to include planning, design, right of way acquisition, utility relocation, and/or maintenance as shown in the **PROJECT DELIVERY** Provision.
- II. The **Municipality** shall be responsible for payment as shown in the **COSTS AND FUNDING** Provision.

COSTS AND FUNDING

The estimated cost of the Design phase is \$120,000. The **Department** will utilize Transportation Alternative Programs (TAP) funds for 80% of the project costs. The **Municipality** shall provide the remaining 20% and all costs that exceed the total available funding of \$120,000.

Based on the estimated cost of \$120,000, the **Municipality** shall submit a check for \$ 24,000 to the Department's Fiscal Section upon execution of this Agreement. Both parties understand that this as an estimated cost and is subject to change.

Upon completion of this phase of work, if actual costs exceed the amount of payment, the **Municipality** shall reimburse the **Department** any underpayment within sixty (60) days of invoicing by the **Department**. The **Department** will charge a late payment penalty and interest on any unpaid balance due in accordance with G. S. 147-86.23. If the actual cost of the work is less than \$120,000, the **Department** will reimburse the **Municipality** any overpayment, or remaining funds may be put towards a future phase of the Project.

The expenditure of Federal TAP funds on the PE phase imposes a requirement to proceed to future phases of the project, and ultimately a completed, constructed project. If the **Municipality** is unable to procure funding for future phases or the non-federal match, the **Municipality** is subject to repayment of all costs incurred by the **Department**.

PROJECT DELIVERY REQUIREMENTS

PLANNING and DESIGN

The **Department** will be responsible for preparing the environmental and/or planning document, obtaining any environmental permits and preparing the project plans and specifications. All work shall be done in accordance with the **Department's** standards, specifications, policies and procedures.

RIGHT OF WAY, UTILITY RELOCATION, AND CONSTRUCTION

This Agreement is only for the planning and design phase. When the Project advances to the Right of Way, Utility Relocation and Construction phases, a new agreement will be prepared to address the responsibilities of the **Department** to deliver these phases, and the cost responsibilities of the **Municipality**.

STANDARD PROVISIONS

Agreement Modifications

Any modification to scope, funding, responsibilities, or time frame will be agreed upon by all parties by means of a written Supplemental Agreement.

Assignment of Responsibilities

The **Department** must approve any assignment or transfer of the responsibilities of the **Municipality** set forth in this Agreement to other parties or entities.

Agreement for Identified Parties Only

This Agreement is solely for the benefit of the identified parties to the Agreement and is not intended to give any rights, claims, or benefits to third parties or to the public at large.

Other Agreements

The Entity is solely responsible for all agreements, contracts, and work orders entered into or issued by the Entity to meet the terms of this Agreement. The **Department** is not responsible for any expenses or obligations incurred for the terms of this Agreement except those specifically eligible for the funds and obligations as approved by the Department under the terms of this Agreement.

Authorization to Execute

The parties hereby acknowledge that the individual executing this Agreement has read this Agreement, conferred with legal counsel, fully understands its contents, and is authorized to execute this Agreement and to bind the respective parties to the terms contained herein.

Debarment Policy

It is the policy of the **Department** not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, the Entity certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Agency or **Department** and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

Indemnification

To the extent authorized by state and federal claims statutes, the Entity shall be responsible for its actions under the terms of this agreement and save harmless the FHWA (if applicable), the **Department**, and the State of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns to the extent allowed by law, from and against any and all claim for payment, damages and/or liabilities of any nature, asserted against the **Department** in connection with this Agreement. The **Department** shall not be liable and shall be held harmless from any and all third-party claims that might arise on account of the Entity's negligence and/or responsibilities under the terms of this agreement.

Availability of Funds

All terms and conditions of this Agreement are dependent upon, and, subject to the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

Gift Ban

By Executive Order 24, issued by Governor Perdue, and NCGS 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e. Administration, Commerce, Environmental Quality, Health and Human Services, Information Technology, Military and Veterans Affairs, Natural and Cultural resources, Public Safety, Revenue, Transportation, and the Office of the Governor).

SIGNATURE PAGE

IN WITNESS WHEREOF, this Agreement has been executed the day of year heretofore set out, on the part of the DEPARTMENT and the MUNICIPALITY by authority duly given.

FED TAX ID NO: _____

REMITTANCE ADDRESS:

AUTHORIZED SIGNER _____

PRINT NAME: _____

TITLE: _____

DATE SIGNED: _____

If applicable, this Agreement has been pre-audited in the manner required by the Local Government and Budget and Fiscal Control Act.

FINANCE OFFICER: _____

SIGN HERE: _____

DATE: _____

DEPARTMENT OF TRANSPORTATION

BY: _____
(CHIEF ENGINEER)

DATE SIGNED: _____

PRESENTED TO BOARD OF TRANSPORTATION ITEM O: 12/8/21 _____ (Date)



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Brent Detwiler **MEETING DATE:** April 12, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Engineering

TITLE OF ITEM: NCDOT EB-5963 (S Grove St Sidewalk) Design Agreement Approval, City Project #21043 - *Brent Detwiler, City Engineer*

SUGGESTED MOTION(S):

I resolve to approve the NCDOT Agreement for design of the S Grove St Sidewalk (EB-5963); and to authorize the City Manager to execute the finalized agreement for said work; as presented and recommended by staff.

SUMMARY:

NCDOT has agreed to have the S Grove St Sidewalk (EB-5963) designed and constructed for the City. There is a 20% match requirement for design, right-of-way/easement acquisition, and construction. We have attached a draft copy of the design agreement and ask that you allow the City Manager to execute the final version. Subsequent agreements will be provided for the acquisition and construction work and the required matched of each. Please let us know if you have any questions.

BUDGET IMPACT: \$31,000

Is this expenditure approved in the current fiscal year budget? It is included as a budget amendment on the April 12, 2023 City Council meeting agenda.

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

ATTACHMENTS:

Draft Agreement

Resolution

ACCOUNTS RECEIVABLE AGREEMENTS

PAYMENT TERMS AND METHODS



Please refer to your Agreement's Payment Terms to correctly remit any payment due to the Department.

<u>PAYMENT TERMS:</u>	<u>PAYMENT TIMING:</u>
PAYMENT UPON AGREEMENT EXECUTION	Please submit the amount of agreed upon payment via one of the below methods once you have received notice of execution of the Agreement.
PAYMENT PRIOR TO LETTING (OR START OF PHASE)	You will be notified by the Project Manager when payment will be due. Please remit payment within 60 days of notification.
PAYMENT UPON BILLING	The Department will bill at the completion of the Project (or when defined in the Agreement). All payments are due within 60 days of invoicing.

NOTE: You may pre-pay any portion of an estimated cost, prior to Departmental Billing. The Department will adjust final billing to account for any pre-payments made.

LATE PAYMENTS AND INTEREST RATES:

For payments not received within 60 days, the Department must charge a statutory interest rate of prime plus one percent (1%) on all Utility Relocation Agreements. For any other Receivable Agreement, the Department may charge a late fee and/or interest.

PAYMENT METHODS

1. **SEND PAYMENT BY CHECK** OR

MAIL TO:

NCDOT – Accounts Receivable
1514 Mail Service Center
Raleigh, NC 27699-1514

INCLUDE:

- Agreement ID (10000xxxxx)
- WBS Element

2. **SEND PAYMENT VIA ACH (Automated Clearinghouse)**

Initiate ACH through your bank* and send an e-mail to:

- ✓ Judith Dever - jadever@ncdot.gov
- ✓ Kay Lee - klee@ncdot.gov

INCLUDE:

- Agreement ID# (10000xxxxx)
- WBS Element
- Amount of Payment

**If you need NCDOT's Account information, contact Tammy Court at tlcourt@ncdot.gov*

Failure to follow the above steps and remit payment per the terms in the Agreement may result in delays to project delivery. Please contact your Division Project Manager for questions regarding payment terms.

AGREEMENT OVERVIEW

NORTH CAROLINA
HENDERSON COUNTY

DATE: 10/28/2021

PARTIES TO THE AGREEMENT:

PROJECT NUMBERS

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

TIP NUMBER: EB-5963

AND

WBS ELEMENTS: 48506.1.1

CITY OF HENDERSONVILLE

FUNDING WBS:

The purpose of this Agreement is to identify the participation in project costs, project delivery and/or maintenance, by the other party to this Agreement, as further defined in this Agreement.

SCOPE OF PROJECT

Design and construct a sidewalk from Asheville Highway to US 176. Future phases will be addressed in a separate agreement.

COSTS TO OTHER PARTY: \$31,000

ESTIMATED COST OF THE PROJECT: \$155,000

PAYMENT TERMS:

City of Henderson provides check upon execution of agreement.

MAINTENANCE: None

EFFECTIVE DATES OF AGREEMENT:

START: Upon Full Execution of this Agreement

END: When work is complete and all terms are met.

The parties to this Agreement, listed above, intend that this Agreement, together with all attachments, schedules, exhibits, and other documents that both are referenced in this Agreement and refer to this Agreement, represents the entire understanding between the parties with respect to its subject matter and supersedes any previous communication or agreements that may exist.

This **AGREEMENT** is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the **DEPARTMENT** and the City of Hendersonville, hereinafter referred to as the **Municipality**.

WHEREAS STATEMENTS

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly under General Statutes of North Carolina (NCGS), particularly Chapter 136; and,

WHEREAS, the **Department** and the **Municipality** have agreed that the jurisdictional limits of the Parties, as of the date of entering agreement for the above-mentioned project, are to be used in determining the duties, responsibilities, rights and legal obligations of the Parties hereto for the purposes of this Agreement; and,

WHEREAS, the **Municipality** has requested that the **Department** perform work or provide services; and,

WHEREAS, the Parties hereto wish to enter into an agreement for scoped work to be performed or provided by the **Department** (including reviews, goods or services) with reimbursement for the costs thereof by the **Municipality** as hereinafter set out; and,

NOW, THEREFORE, this Agreement states the promises and undertakings of each party as herein provided, and the parties do hereby covenant and agree, each with the other, as follows:

RESPONSIBILITIES

- I. The **Department** and/or the **Municipality** shall be responsible for all phases of project delivery to include planning, design, right of way acquisition, utility relocation, and/or maintenance as shown in the **PROJECT DELIVERY** Provision.
- II. The **Municipality** shall be responsible for payment as shown in the **COSTS AND FUNDING** Provision.

COSTS AND FUNDING

The estimated cost of the Design phase is \$155,000. The **Department** will utilize Transportation Alternative Programs (TAP) funds for 80% of the project costs. The **Municipality** shall provide the remaining 20% and all costs that exceed the total available funding of \$155,000.

Based on the estimated cost of \$155,000, the **Municipality** shall submit a check for \$31,000 to the Department's Fiscal Section upon execution of this Agreement. Both parties understand that this as an estimated cost and is subject to change.

Upon completion of this phase of work, if actual costs exceed the amount of payment, the **Municipality** shall reimburse the **Department** any underpayment within sixty (60) days of invoicing by the **Department**. The **Department** will charge a late payment penalty and interest on any unpaid balance due in accordance with G. S. 147-86.23. If the actual cost of the work is less than \$155,000, the **Department** will reimburse the **Municipality** any overpayment, or remaining funds may be put towards a future phase of the Project.

The expenditure of Federal TAP funds on the PE phase imposes a requirement to proceed to future phases of the project, and ultimately a completed, constructed project. If the **Municipality** is unable to procure funding for future phases or the non-federal match, the **Municipality** is subject to repayment of all costs incurred by the **Department**.

PROJECT DELIVERY REQUIREMENTS

PLANNING and DESIGN

The **Department** will be responsible for preparing the environmental and/or planning document, obtaining any environmental permits and preparing the project plans and specifications. All work shall be done in accordance with the **Department's** standards, specifications, policies and procedures.

RIGHT OF WAY, UTILITY RELOCATION, AND CONSTRUCTION

This Agreement is only for the planning and design phase. When the Project advances to the Right of Way, Utility Relocation and Construction phases, a new agreement will be prepared to address the responsibilities of the **Department** to deliver these phases, and the cost responsibilities of the **Municipality**.

STANDARD PROVISIONS

Agreement Modifications

Any modification to scope, funding, responsibilities, or time frame will be agreed upon by all parties by means of a written Supplemental Agreement.

Assignment of Responsibilities

The **Department** must approve any assignment or transfer of the responsibilities of the **Municipality** set forth in this Agreement to other parties or entities.

Agreement for Identified Parties Only

This Agreement is solely for the benefit of the identified parties to the Agreement and is not intended to give any rights, claims, or benefits to third parties or to the public at large.

Other Agreements

The Entity is solely responsible for all agreements, contracts, and work orders entered into or issued by the Entity to meet the terms of this Agreement. The **Department** is not responsible for any expenses or obligations incurred for the terms of this Agreement except those specifically eligible for the funds and obligations as approved by the Department under the terms of this Agreement.

Authorization to Execute

The parties hereby acknowledge that the individual executing this Agreement has read this Agreement, conferred with legal counsel, fully understands its contents, and is authorized to execute this Agreement and to bind the respective parties to the terms contained herein.

Debarment Policy

It is the policy of the **Department** not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, the Entity certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Agency or **Department** and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

Indemnification

To the extent authorized by state and federal claims statutes, the Entity shall be responsible for its actions under the terms of this agreement and save harmless the FHWA (if applicable), the **Department**, and the State of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns to the extent allowed by law, from and against any and all claim for payment, damages and/or liabilities of any nature, asserted against the **Department** in connection with this Agreement. The **Department** shall not be liable and shall be held harmless from any and all third-party claims that might arise on account of the Entity's negligence and/or responsibilities under the terms of this agreement.

Availability of Funds

All terms and conditions of this Agreement are dependent upon, and, subject to the allocation of funds for the purpose set forth in the Agreement and the Agreement shall automatically terminate if funds cease to be available.

Gift Ban

By Executive Order 24, issued by Governor Perdue, and NCGS 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e. Administration, Commerce, Environmental Quality, Health and Human Services, Information Technology, Military and Veterans Affairs, Natural and Cultural resources, Public Safety, Revenue, Transportation, and the Office of the Governor).

SIGNATURE PAGE

IN WITNESS WHEREOF, this Agreement has been executed the day of year heretofore set out, on the part of the DEPARTMENT and the MUNICIPALITY by authority duly given.

FED TAX ID NO: _____

REMITTANCE ADDRESS:

AUTHORIZED SIGNER _____

PRINT NAME: _____

TITLE: _____

DATE SIGNED: _____

If applicable, this Agreement has been pre-audited in the manner required by the Local Government and Budget and Fiscal Control Act.

FINANCE OFFICER: _____

SIGN HERE: _____

DATE: _____

DEPARTMENT OF TRANSPORTATION

BY: _____
(CHIEF ENGINEER)

DATE SIGNED: _____

PRESENTED TO BOARD OF TRANSPORTATION ITEM O: 12/9/2021 (Date)

CITY COUNCIL:
BARBARA G. VOLK
Mayor
JERRY A. SMITH, JR.
Mayor Pro Tem
JEFF MILLER
DR. JENNIFER HENSLEY
LYNDEY SIMPSON

CITY OF HENDERSONVILLE

The City of Four Seasons

ENGINEERING DEPARTMENT
Brent G. Detwiler, PE
City Engineer

Section 5, Item R.

JOHN F. CONNET
City Manager
ANGELA S. BEEKER
City Attorney
ANGELA REECE
City Clerk

October 4, 2021

Ms. Wanda Austin, PE
NCDOT
Division 14 Engineer
253 Webster Road
Sylva, NC 28779

Re: EB-5963 Grove Street Sidewalks (Barnwell Street to US 176)
Request for NCDOT to Design and Manage Project

Dear Ms. Austin,

The City of Hendersonville appreciates the continued support and prioritization of pedestrian improvements throughout our community. The EB-5963 Grove Street Sidewalk project is an important one for our City, as it was identified as a necessary project in our 2007 Pedestrian Plan. In order to have the most cost effective and efficient project, the City asks that NCDOT provide design, bidding and construction management for the EB-5963 project. We thank you very much and please let us know if you have any questions.

Sincerely,
CITY OF HENDERSONVILLE



Brent G. Detwiler, PE
City Engineer

T:\Projects\NCDOT\EB-5963 Grove Street Sidewalk\20211004_EB5963_Design_Constr_Request_Letter.docx

Resolution #__-____

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

WHEREAS, the City Council of the City of Hendersonville considers bicycle and pedestrian transportation to be of utmost importance to the region by providing Western North Carolina with recreation and transportation opportunities as well as the possibilities of economic and community development; and

WHEREAS, a project has been identified as part of the North Carolina Department of Transportation's State Transportation Improvement Program called EB-5963 South Grove Street Sidewalks; and

WHEREAS, the North Carolina Department of Transportation has agreed to design and construct the South Grove Street Sidewalks project with a required match provided by the City of Hendersonville; and

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

1. The City Manager is authorized to enter into an agreement with the North Carolina Department of Transportation for design of the South Grove Street Sidewalks (EB-5963), as presented.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 12th day of April, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Becker, City Attorney



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Tom Wooten, Director of Public Works **MEETING DATE:** April 12, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Public Works

TITLE OF ITEM: *Resolution Approving Parks Master Plan and Greenway Master Plan Consultant – Tom Wooten, Director of Public Works*

SUGGESTED MOTION(S):

I move City Council to adopt the Resolution By the City of Hendersonville City Council to select Design Workshop as most qualified to provide the Park Master Plan and Greenway Master Plan and authorize the City Manager to negotiate and execute a Contract.

SUMMARY: City Council has identified parks as a high priority in their recent retreat. To assist with park development and future goals, staff has issued an RFQ for a Park Master Plan and Greenway Master Plan. Eight firms submitted proposals. Staff evaluated those proposals then interviewed the top two highest ranked firms. Design Workshop was identified as the most qualified firm followed by Equinox. Staff would like to proceed with this process and request approval of the proposed Resolution.

ATTACHMENTS:

Resolution

RFQ # 230011502001 Park and Greenway Master Plan

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO NEGOTIATE AND EXECUTE AGREEMENT
WITH DESIGN WORKSHOP FOR PARKS AND GREENWAY MASTERPLAN**

WHEREAS, the City Council has identified parks as a high priority and budgeted funds for the Parks and Greenway Master Plan as part of the 2024 fiscal year budget; and,

WHEREAS, the Public Works Department has solicited proposals in an effort to hire a reputable and responsible Vendor to complete the master plan. Eight proposals were submitted and evaluated. The two highest ranked firms, Design Workshop and Equinox were interviewed, and Design Workshop was selected as the vendor submitting the best proposal representing the best value for the city, that is most advantageous to the city and best meets the needs of the city considering proposed methodology and process, and other factors deemed relevant by the city; and,

WHEREAS, Staff are recommending that the Master Plan be awarded to Design Workshop;
and

WHEREAS, the Public Works Department requested that the City Manager be authorized to negotiate and enter into a contract with Design Workshop;

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

1. Development of the Parks and Greenway Masterplan is hereby awarded to Design Workshop.
2. The City Manager is authorized to negotiate and enter into an agreement with Design Workshop on behalf of the City in such form and with such provisions as he may deem appropriate for the preparation of a Parks and Greenway Master Plan, after consultation with the City Attorney, in an amount not to exceed \$125,000. Such authority includes, but is not limited to dividing the Plan development into phases that will occur over more than one fiscal year. Provided however that any future phases that would cause the contract amount to exceed \$125,000 shall be contingent upon additional funding for the Plan development being approved by City Council through the adoption of, or an amendment to, the annual budget ordinance or a project ordinance.
3. The City Manager, City Attorney, and City Staff are authorized to take such other actions as may be necessary to carry out the terms and provisions of the agreement as entered and signed by the City Manager.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 12th day of April 2023.

Barbara G. Volk, Mayor, City of Hendersonville

Attest:

Jill Murray, City Clerk

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



City of Hendersonville

Request for Proposals # 230011502001

City of Hendersonville Parks and Greenspace Master Plan Update



Date Issued: January 6, 2022

Bid Opening Date: February 6, 2022

Direct all inquiries concerning this RFP to:

Mark Stierwalt

Superintendent of Properties, Buildings and Cemetery

mstierwalt@hvlnc.gov

(828) 230-6508



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I. Purpose and Background

The purpose of this Request for Proposals (RFP) is to contract with one qualified firm to provide a Parks and Greenspace Master Plan as a freestanding document and addendum to the 2045 City of Hendersonville Comprehensive Plan. The Scope of Services is reviewed in detail in Section IV, but will consist of a series of steps, including research and review of existing city planning documents, a robust public engagement process, plan development and content creation and plan adoption. The plan may also include a greenway component. The project timeline is expected to target between 6-9 months between project kick-off and plan presentation and adoption.

The City's current Parks and Greenspace Master Plan was adopted in 2011 and has been partially completed. The City of Hendersonville is seeking proposals from qualified, experienced professional consultants who will assist the city in updating and rebuilding the current Master Plan.

One targeted goal of the revision of the 2011 Master Plan will be to document and revisit unaccomplished goals and strategies to determine which of those are still relevant and which are no longer relevant. The expectation is that this will also reveal additional Goals, Strategies and Actions addressed by the 2011 Parks and Greenspace Master Plan and suggest additional categories and changes for inclusion within the new document.

The primary outcome of this effort will be renewing the City's collective commitment to recreation policy and goals established within the 2030 & 2045 Comprehensive Plans and their relationship with and influence on City Ordinances. The consultant(s) awarded this contract will have the primary responsibility of developing the Parks and Greenspace Master plan document, to include facilitating and supporting public engagement. The city may elect to add a greenway trail component to the contract which may be included in the master plan. The consultant will work most closely with the Parks and Greenspace Master Plan advisory taskforce and the Public Works Department, but will also be interacting with stakeholder groups, City Council and others as the process requires.

Our expectation is that the Parks and Greenspace Master Plan will relate to and meld with the 2045 Comprehensive Plan effort. We are relying on the proposing firm's experience to drive creative solutions to how this will be accomplished." Creative approaches to these projects and their relationship with the 2045 Comprehensive Plan are encouraged.

The contract will be awarded to the vendor deemed to have submitted the best overall proposal on the basis of the factors included in this RFP. This service is intended for use by the city's Public Works Department for the previously described purpose above. The city may cancel this RFP or reject proposals at any time prior to an award and is not required to furnish a statement of the reason why a particular proposal was not deemed to be the most advantageous. The



award document will be a contract incorporating by reference all the requirements, items, and conditions of the RFP. **The City of Hendersonville reserves the right to reject any and all submissions.**

Mark Stierwalt will serve as the point of contact for implementation.

II. Procurement Process

2.A Timeline/Schedule

- Release of RFP: January 6, 2022
- Deadline for Vendor Questions: January 15, 2022
- RFP Due Date: February 6, 2022
- Anticipated Award Date: February 22, 2023 (City Council Meeting)

2.B Interpretations and Clarifications

Requests for information or clarification of this RFP must be at the email address listed below. RFP Number, Page Number (if applicable), and Topic of Question should be addressed.

Mark Stierwalt
Public Works Department
E-mail: mstierwalt@hvlnc.gov

Per Section 2.A, all questions must be received by 4:00 pm EST (Eastern Time) on January 15th, 2023. The answers to questions submitted that require a response will be available to all vendors in the form of an addendum posted on the COH website RFP page. There will be no last date of addendum for this solicitation.

2.C Submission of RFP

One (1) original bound and three (3) paper copies, and (1) one pdf file on a thumb drive submitted with the proposal. The proposal shall be submitted by 2:00 pm on February 6, 2022, to:

Mark Stierwalt
Public Works Department
305 Williams Street
Hendersonville, NC 28792
E-mail: mstierwalt@hvlnc.gov

Vendor Name:

- Proposals should be clearly marked “RFP for COH Parks Master Plan.”
- When received, all proposals and supporting materials, as well as correspondence relating to the RFP, shall become the property of the City of Hendersonville. Proposals sent by fax will not be accepted.
- Proposals will not be made available to inspect or copy until the contract has been awarded.
- In submitting a proposal, it is understood by the vendor that the City of Hendersonville reserves the right to accept any proposal IN WHOLE OR IN PART, to reject any and all proposals as non-responsive, and to waive any irregularities or informalities in proposals when to do so is in the best interest of the city.
- Any proposal may be withdrawn or modified by written request of the vendor, provided such request is received by the city at the designated address prior to the date and time set for receipt of proposals.
- If a proposal includes any propriety data or information, such data or information must be specifically identified as such on every page on which it is found. Data or information so identified will remain confidential to the extent allowed by North Carolina law pursuant to GS 132-1.2 and will be used by city personnel solely for the purposes of evaluating proposals and conducting contract negotiations. The practice of labeling unqualified pages as confidential, including the bid form, may result in a proposal being dismissed from evaluation.
- All proposing firms or individuals shall comply with all conditions, requirements, and specifications contained herein, with any departure constituting sufficient cause for rejection of the proposal. However, the city reserves the right to change the conditions, requirements, and specifications as it deems necessary.
- No proposals will be accepted from any person or organization that is in arrears for any obligation to the city, or that otherwise may be deemed irresponsible or unresponsive by city staff or the City of Hendersonville City Council.
- The cost of preparing a response to the RFP will not be reimbursed by the city.
- All proposals must include all necessary brochures of proposed service, platform, and related software.
- No agreements with any selected vendor shall be binding until a contract is signed and executed by City Council or City Manager and authorized representatives of the vendor.



2.D Proposal Content

Proposals should also contain the following information:

- Cover letter presenting the vendor's understanding of the project and a summary of the approach to be undertaken to provide the product/services. It must be signed by an individual authorized to execute binding legal documents on behalf of the vendor and include the name, address, telephone number and fax number of the vendor along with the name, title, address, telephone, and fax numbers of the executive that has the authority to contract.
- Identification of the dedicated Company Point of Contact that will serve the city.
- An executive summary, which shall, at a minimum, include an identification of the proposed project team, responsibilities of the project team, and a summary of the proposed services. The summary should also highlight aspects of the proposal which make it superior or unique in addressing the needs of the city.
- The vendor shall provide a concise description of the company, including origin, state of incorporation, background, and current size. Include information concerning experience with similar projects. In addition, vendors shall describe why their products/services, from a technical and functional perspective, are the best fit for the City.
- Describe how your organization will fulfill the city's requirements for a program designed to meet the current and future needs as described in this document. The following may be used as a template for this description.
 - Describe the services being proposed.
 - Describe how these services fit within the parameters established by this document.
- Describe your company's ability to adapt and respond to changes in the scope of services provided that may arise as the process proceeds, from both an administrative and operational standpoint.
- Please describe how you would meet each of the requirements specified in Section IV below (and numbered 1-6 on the Qualification Sheet). Please also include specific examples of past work to illustrate your firm's ability to successfully meet each specification. Finally, please provide enough detail for the city to be able to evaluate the level of service the city would receive for each service.
- Section V (Administrative Requirements) The successful vendor will be required to meet the requirements stated in Section V. Documentation referenced in Section V should NOT be submitted with the RFP response but will be required prior to execution of the contract.
- Section VI (Bid Response Sheet) This must be completed in its entirety.



II. Selection Process

3.A Purpose

- The purpose of the RFP is to select a vendor to provide a revision to our Parks Master Plan and associated planning documents for the City of Hendersonville, NC.
- Upon review of proposals, the city will select a single vendor to provide the services sought within the content of this RFP. If awarded, the city will award a contract to the vendor that submits the best overall proposal, as determined by the city. Negotiations will be undertaken with the vendor whose proposal is the best overall and whose understanding, qualifications, experience, technical approach show them to be qualified, responsible, and capable of providing the services.
- The contract awarded as a result of this RFP will be selected based on the most advantageous to the city and best meeting the needs of the city.

3.B Selection Criteria

A weighted analysis of the evaluation criteria will be utilized to determine the vendor that represents the best solution for the city.

In the evaluation and score/ranking of vendors, the city will consider the information submitted in the proposal as well as the meetings with respect to the evaluation criteria set forth in the RFP.

The initial evaluation criteria/factors and relative weights listed below will be used to recommend selection of the proposed vendor or for the purpose of selecting Short-Listed Vendors. The city may choose to award without engaging in interview discussion.

Proposals will be evaluated and scored by a committee consisting of city staff and possibly members of the master plan committee based on the following criteria in combination with a scoring matrix.

Evaluation Criteria	Weight
Reputation, Quality and Experience of the Firm	15%
Experience of Proposed Team	15%
Public Outreach Approach	30%
Creative Integration and Visual Representation	20%
Bid Estimates	15%
Proximity to and knowledge of Hendersonville	5%
TOTAL	100%



The scoring will be used as a guide to assist the city in determining which proposal represents the best proposal for the city, is most advantageous to the city and best meets the needs of the city considering proposed methodology and process, and other factors deemed relevant by the city. Therefore, firms are put on notice that the scoring rubric may not be determinative as to the outcome of the evaluation process. The city will make a final selection based on the evaluation committee's recommendation and such other factors as the city deems to be in its best interest, and which factors shall be recorded.

3.C Award Procedures

The city reserves the right to make an award without further discussion of the proposals received. Therefore, it is important that the proposal be submitted initially on the most favorable terms. It is understood that any proposal submitted will become part of the public record once opened by the city at the specified date and time.

A proposal may be rejected if it is incomplete. The city may reject any or all proposals and may waive any immaterial deviation in a proposal.

The city may accept that proposal that best serves its needs, as determined by City Officials in their sole discretion.

More than one proposal from an individual, firm, partnership, corporation, or association under the same or different names will not be considered.

At the city's discretion, it will initiate negotiations with the vendor determined to be the preferred vendor based on the factors indicated stated in this document. If the city is unable to execute a contract with the preferred vendor, negotiations with the preferred vendor may be terminated, and provided that such negotiation are terminated in writing, the city may proceed to negotiate with the next-most preferred vendor. The city will continue in accordance with this procedure until a contract agreement is reached or the selection process is terminated. Negotiations are at the city's sole discretion.

The award document will be a Contract, in form and substance acceptable to the city, incorporating, the terms and conditions of the city's solicitation and the vendor's proposal (or portions thereof) as negotiated.



IV. Preferred Specifications/Requirements

4.A General Information

The minimum service specifications in this(these) section(s) are broken down into the areas in which they relate. Responding vendors must review the "Requirements" portion of each section and select "Yes" or "No" in the fields to the right as an indication of whether the vendor's proposed response meets the requirement. While all specifications are preferred, exceptions may be made in some cases in situations where the intended purpose for a given requirement is met via an alternately acceptable and equally effective vendor proposal. Further details regarding exceptions should be thoroughly detailed in Section 4.C.

4.B General Requirements – Scope of Services

4.B.1 – Internal Project Status Meetings: The consultant is expected to meet regularly with staff. When appropriate, these meetings may be via telephone or video conference.

4.B.2 – Public Body Project Status Meetings: The consultant is expected to update the Planning Board and City Council on a quarterly basis over the duration of their engagement with the city. These may be conducted via videoconference; however, it is expected that the consultant will attend in-person, in cases where significant elements of the Comprehensive Plan are discussed and at the point of adoption of the Comprehensive Plan update.



4.B.3 – Public Engagement Process: The robust engagement of our community is an essential component of this effort. Envisioned as a key component of the buy-in process, public engagement will need to be creative and educational, while also providing a strong conduit for the community to identify their vision for the city’s future. We envision a process which includes both an initial phase of engagement before updates are developed and follow-up engagement as the policy recommendations of the plan are developed.

- The consultant’s public participation approach must include methods for reaching geographically, economically, and culturally diverse city residents including minority populations.
- The consultant’s public participation approach must include an intercept survey.
- Experience with ArcGIS Story Maps and other online engagement platforms are preferred.
- Consultants should propose creative ways to engage the public virtually as well as in-person, including working with staff to host neighborhood meetings.
- Consultants will have 4-6 meetings with staff and a steering committee of appointed representatives to receive feedback and provide input to shape the plan.
- City staff will be available to assist in a variety of ways with the planning, logistics and implementation of the public engagement effort, but it is expected that the consultant will play the lead role in meeting facilitation.

4.B.4 – 2023 Plan Development & Content: The consultant will serve as the primary drafter of the plan document and shall perform the necessary research, develop the text formatting and mapping materials for the Master Plan. The Master Plan will include assembling and analyzing data regarding existing conditions within the parks, greenspaces and possibly greenways (both city and county) and utilizing that data to develop policies, strategies, and an implementation action to guide future development and decision making over a 15-year timeframe. This should include recommended strategic timeframes for revisiting the plan and a framework for doing so.



It is anticipated that the plan will include the following elements:

- A baseline review of existing plan and relevant information, including plans and documents, demographic and census data, and other information relevant to the required plan elements, including an overview of relationship between the 2011 Parks and Greenspace Master plan and the 2023 Parks and Greenspace Master Plan and 2045 Comprehensive Plan update.
- Develop an inventory of Parks and greenspaces and provide a detailed assessment of issues and opportunities based on work with staff, stakeholders, and the public participation process.
- Develop strategic goals with milestones which relate to vision for the parks and greenspaces for the City of Hendersonville's future based on an inventory and assessment of facilities and opportunities revealed during the engagement process.
- Develop guidance in the form of strategies and action items, milestones, policy, and strategy decisions. Importantly we would envision this including recommendations for the Parks Master Plan to implement the vision into the Comprehensive Plan.
- Make recommendations for future land purchases for additional parks and greenspaces.
- Locate and make recommendations of new downtown parks with proposed layout, amenities, approximate costs, and funding strategies. In particular, the Dogwood Parking Lot, South Main Street, and the Ecusta Greenway Trailhead.
- Take into account the Henderson County Parks and Rec department Master Plan and facilities.
- Conduct an analysis and determine if each park in our inventory meets the desired goals and objectives of the citizens and develop a master plan for each park in the system.
- Evaluate the Parks Department human resources for current and future needs and make recommendations.
- Develop a new brand the for the Parks System and develop new signage templates.
- Draft the Parks and Greenspace Master Plan and playbook with a schedule, recommended funding amounts and strategies for City Council adoption.



- Provide digital, editable, working, and printable copies of all final documents including reports, maps, and final plan.

4.B.5 Greenway Master Plan - Add on

Please provide a line item for additional review and update of existing Greenway Master Plan with updated maps and schedule.

Number	Requirement	Yes	No
1	Internal Project Status Meetings		
2	Public Body Project Status Meetings		
3	Public Engagement Process		
4	2023 Parks Master Plan Development & Content		
5	Future Community and Development Needs Chapter		

4.C List of Vendor Exceptions and Related Proposals

Exception Number from 1 thru 5	Provide a thorough, clear explanation regarding why your company will be unable to meet this requirement. Additionally, provide an alternative proposal for how your company can effectively meet this requirement via different means.
1	
2	
3	
4	
5	



4.D Other Information

Interested firms or consultant(s) are encouraged to submit a proposal covering all areas listed in the scope of work section of this RFP. However, the City of Hendersonville will consider proposals from vendors for separate segments of the project scope. It is the responsibility of each vendor to clearly state if their proposal is for the full scope or segments (list each) of the scope.

Although there are not currently plans to do so, the city reserves the right to award a contract to more than one firm or consultant.

V. Additional City Requirements

5.A Insurances

Vendor shall maintain insurance from companies licensed to write business in North Carolina, with an A.M. Best rating of "A" or higher, and acceptable to city, of the kinds and minimum amounts specified below.

The vendor awarded this contract shall maintain all required insurances listed below the entire contract time.

- Workman's Compensation Insurance
 - The successful vendor shall maintain during the life of the contract all Workmen's compensation insurance as is or may be required by Laws of North Carolina.
- Automobile Liability Insurance
 - Insurance for all vehicles used in the performance of this contract must be in place at minimum in amounts of at least \$300,000.00 per person and \$500,000.00 per occurrence for personal injury and wrongful death; and at least \$100,000 for property damage; and medical payment coverage of at least \$5,000.00 per occurrence.
- Professional Insurance
 - Vendors shall also maintain professional liability insurance with minimum limits of \$1,000,000.00 per occurrence, combined single limit for bodily injury and property damage coverage, and shall include premises and operations, independent contractors, products and completed operations, contractual liability, and broad form property damage. The city shall be named as an additional insured on each of said insurance policies. Vendors shall furnish



copies of all such policies and all renewals, terminations, and alterations to the city on a current basis.

5.B Certificates and Notice of Cancellation

Before commencing work under this contract, vendors shall furnish city with certificates of all insurance required below. Certificates shall indicate the type, amount, class of operations covered, effective date and expiration date of all policies, and shall contain the following statement:

“The insurance covered by this certificate must have a notice endorsement providing that insurance will not be cancelled or materially altered, **except after thirty (30) days written notice** has been received by city”.

5.C Indemnify the City

Vendor agrees to protect, defend, indemnify and hold the city, and its officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, recoveries, costs, charges, and other expenses or liability of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this agreement and or the performance hereof. Vendor further agrees to investigate, handle, respond to and provide defense for any such claim at his sole expense.

5.D Termination of the Contract

The city reserves the right to cancel the contract for convenience by giving a sixty-day written notice. This is in addition to a fiscal year end cancellation caused by lack of funding. Any cancellation as described herein will not be considered a breach of contract and will not be subject to penalty payments other than removal charges.



Vendor Name: _____

5.E Administrative Requirements

Vendors must provide a single designated account manager to work with the city as a point of contact who will have full authority over the contract, equipment and personnel who will be assigned to the city. This individual should have experience with municipal contracts, project management, public engagement and presentations, master plan creation and approval, mapping software, at a minimum. Also, include the number of additional personnel and their responsibilities who will be assigned to the city.

Designated Account Point of Contact:

- Name: _____
- Phone: _____
- Email: _____

The vendor must provide one invoice emailed to the appointed City Contact. The City prefers to be billed quarterly for all transaction costs and related fees. The invoice shall at minimum include the following info:

1. Invoice number
2. Bill date
3. Department Name and Location

VI. Reference List

References for which you have done business in the last (3) three years. Preferred consideration will be made for City/City entities).

Name of Contact Project	Company Name	Phone #	Email Address	Title of
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____



Vendor Name: _____

VII. Bid Response Sheet

City of Hendersonville Parks and Greenspace Master Plan Update

City of Hendersonville, North Carolina

Bid furnished by: _____

Address: _____

Telephone #: _____ Fax# _____

Tax ID# _____

I (we) have carefully examined the Bid Information, reviewed the Bid Specifications, and all Addenda and therefore furnished the bid proposal as shown below.

BID PROPOSAL:

Include List of Services Provided Below and Proposed Price for providing each service listed below as you have described it in your response to this RFP. Please note that you are not required to bid on each proposed service; however not bidding on a service may result in a bidder receiving an overall lower evaluation as compared to bidders submitting a bid for all services. If you are not bidding on a particular service, please state "No Bid" in the proposed price column.

Service	Proposed Price
1. Internal Project Status Meetings	
3. Public Engagement Process	
4. Plan Development & Content	
5. Neighborhood Identification & Targeted Consideration for new parks and specific areas to acquire land	
TOTAL (before alternates)	
Additional - Updated Greenway Master Plan with updated maps	

Attach additional sheets as necessary to provide the information requested.



Vendor Name: _____

The City will not award this contract based on the location of the vendor; however, every effort will be made to encourage qualified local vendors and suppliers to compete for City business.

Name of Point of Contact dedicated to the City of Hendersonville:

_____	_____	_____	_____
Name	Phone Number	Email Address	Title

Additional personnel and responsibilities who will be dedicated to the City:

_____	_____	_____	_____
Name	Phone Number	Email Address	Responsibility

Date of Bid Proposal: _____

By: _____
Authorized signature

Printed Name: _____

Title: _____

Address: _____

Phone: _____

Fax: _____

E-mail: _____

The following signatures acknowledge vendor receipt of all RFP addenda. Failure to sign this portion of the bid will result in an unresponsive bid proposal.

By: _____
Authorized signature

Date of Signature: _____



VIII. Qualification Sheet

Firm Name:

City of Hendersonville Parks Master Plan Revision
Proposal Review

Scoring Sheet 1

Evaluation Criteria	Scoring Weight	Your Score	Notes
1) Reputation, Quality and Experience of the Firm - What work experience, if any, do they have on similar projects? - Was their role in past project comparable to the proposed role for this project? - Does the scale of past experience compare to the scale of this project? - How does their experience compare to others?	15%	(Score 1-15)	Criteria 1 - Does the consultant provide a sufficient and detailed explanation of their approach to accomplishing the tasks? Did references give a report.
2) Experience of Proposed Team - Are there multiple firms working together to fulfill the scope of the project? - What education and certifications does the firm have? - How does the experience of this firm compare to others?	15%	(Score 1-15)	Criteria 2 - Has the firm displayed sufficient and creative approaches to engaging the public and incorporating public feedback into final products?
3) Public Outreach Approach - Has the firm displayed sufficient and creative approaches to engaging the public and incorporating public feedback into final products?	30%	(Score 1-30)	Criteria 3 - Various indepth forms of engagement?
4) Creative Integration and visual presentation - Has the firm provided a sufficient and creative approach to other facets of the RFP? - How does their project understanding compare to others?	20%	(Score 1-20)	Criteria 4 - How do other project compare?
5) Pricing - Has the firm quoted a price that fairly represents the project approach, firm experience and scope of project?	15%	(Score 1-15)	Criteria 5 - Fair and competitive pricing?
6) Does the firm display an understanding of the uniqueness of Hendersonville? Firm's Proximity to Hendersonville? - Has the firm demonstrated they understand the approach City Council has chosen and the demands the community is placing on the Parks Department?	5%	(Score 1-5)	Criteria 6 - Does firm truly represent Hendersonville and its community's needs? Is firm close by and available for meetings and questions on short notice?
Total	100%		

Qualification Summary Sheet

Mark Stierwalt

Tom Wooten

Kevin Rhodes

Brent Detwiler

Brenden Shanahan

						AVG
B&C	88	88	88	63	72	79.80
Equinox	97	93	92	81	71	86.80
Design Workshop	94	91	93	84	73	87.00
Kimley Horn	90	90	89	89	75	86.60
Maypop Collective	74	63	78	50	65	66.00
Mc Adams	91	88	90	74	65	81.60
Matterson and Craig	88	88	86	69	68	79.80
McGill	86	78	91	86	73	82.80

The top two firms were interviewed by a group of staff members and the group recommended Design Workshop as the best option for the City's Park Master Plan.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Jamie Carpenter, Downtown Manager **MEETING DATE:** April 12, 2023

AGENDA SECTION: CONSENT **DEPARTMENT:** Community Development

TITLE OF ITEM: Downtown Office Lease Agreement - *Jamie Carpenter, Downtown Manager*

SUGGESTED MOTION(S):

I move that the City Council approve the Resolution of Intent to enter into a lease agreement with Firestarter Media Group, LLC to lease office unit spaces at 125 5th Avenue W and provide common office area as a business incubator space.

SUMMARY:

The Downtown Division staff will be moving back into City Hall this year in preparation for the entire Community Development Department to be located in one area. Staff propose a lease agreement with Firestarter Media, LLC (dba Ringo Fire) to lease two individual units to open Campfire HVL, a small business marketing firm, within the space to be leased at market rate which will offset debt service on the building. The common space is proposed to be used for the Downtown Business Investment Initiative participants as an incubator and meeting space for startups, business space and meeting space.

General Statute 160A-272 authorizes Cities to lease City owned real property upon determination that the property will not be needed by the City for the term of the lease. Approval of a lease for more than one year requires 30 days public notice. Staff will submit a proposed lease for City Council approval at the June 1, 2023 meeting.

BUDGET IMPACT: \$1000 per month revenue to offset debt services on downtown public restrooms.

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

If no, describe how it will be funded.

ATTACHMENTS:

Resolution of Intent

Draft Lease

**RESOLUTION OF INTENT BY THE CITY OF HENDERSONVILLE
CITY COUNCIL TO LEASE CITY OWNED REAL PROPERTY AT 125
5TH AVE WEST**

WHEREAS, the City of Hendersonville owns property located at 125 5th Avenue West described in deed of record in Deed Book 3225, Page 388, Henderson County Registry; and

WHEREAS, the City of Hendersonville purchased the property at 125 5th Ave West in 2018 for \$475,000 for the purposes of building public restrooms on the ground floor and office space on the second floor; and

WHEREAS, the City's Downtown Division will be relocated to City Hall and the City does not have another current need for the second-floor offices at 125 5th Ave West; and

WHEREAS, North Carolina General Statute § 160A-272 authorizes the City Council to lease City owned real property the City Council determines will not be needed by the City for the term of the lease; and

WHEREAS, North Carolina General Statute § 160A-272 requires public notice at least 30 days before approving the execution of a lease in excess of one year; and

WHEREAS, the City of Hendersonville intends to lease the individual office spaces for market rate which will pay towards the building's debt service.

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

1. The City intends to authorize a lease for the second floor offices and shared use of common spaces located at 125 5th Ave West.
2. The annual rent shall be \$12,000, paid monthly, for an initial three-year term, with an option to renew for two additional one year terms;
3. The City Council hereby declares its intent to authorize a lease at the regular meeting of June 1, 2023 upon the terms stated herein.

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

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF HENDERSON

THIS LEASE made and entered into this the first day of _____, by and between the City of Hendersonville, one of the municipalities of the State of North Carolina, (herein referred to as "Landlord") and Fire Starter Media Group, LLC, a South Carolina Limited Liability Company, (hereinafter referred to as "Tenant").

WHEREAS, the Landlord is the owner of that certain improved real property located at 125 5th Ave W and described in that Deed recorded in Deed Book 3225 at page 388, Henderson County registry, hereinafter "Landlord's Property."

NOW, THEREFORE, the Landlord and the Tenant, in consideration of the mutual promises hereinafter contained, hereby mutually agree as follows:

Leased Premises: The Landlord hereby leases to the Tenant two office units (office unit A and office unit B) within buildings located upon the Landlord's Property (hereinafter the "Leased Premises"), in addition to nonexclusive access to shared common space (hereinafter the "Common Space"), pursuant to the terms and conditions contained herein. The Leased Premised and the Common Space are more particularly described on Exhibit A attached hereto and incorporated herein by reference.

Condition of Property: The Landlord has not made any representations with respect to the suitability of the Leased Premises or the Common Space for the intended purpose or otherwise as to the leased property except as expressly set forth herein and no rights, easements, or licenses are acquired by the Tenant by implication or otherwise except as expressly set forth in the provisions of this Lease or in a separate instrument recorded in the office of the Register of Deeds for Henderson County, North Carolina. The taking of possession of the Leased Premises by the Tenant shall be conclusive evidence that the Tenant accepts the same "as is," and that the Leased Premises, Common Space, and other improvements of which the same form a part were in good and sufficient condition at the time possession was taken.

Term of Lease: The initial term of this lease shall be thirty-six (36) months, commencing on _____, 2023, and ending on _____, 2026, both dates inclusive unless sooner terminated as herein provided.

Option to Renew: The Tenant shall have the right to renew the Lease with a total of two (2) renewal periods with each term being twelve (12) months. Annual Rent increases shall be calculated by multiplying the base rent by the annual change in the Consumer Price Index (CPI) published by the Bureau of Labor Statistics by the most recent publication to the option period start date.

Rent: The Tenant shall pay to the Landlord the monthly rent of One Thousand Dollars (\$1,000.00) in lawful money of the United States, payable in advance, on the first day of each month throughout the term of this Lease. The rent shall be payable at the office of the Landlord or at such other place as the Landlord may designate in writing.

Restrictions on Use: The Tenant may use and occupy the Leased Premises for office purposes related to Tenant's business as a marketing, advertising, and product development firm. The Tenant may use the Common Space for office purposes related to Tenant's business as a marketing, advertising, and product development firm, except that Tenant may not exclude Landlord or any of the Landlord's employees, lessees, licensees, or invitees from the Common Space, and the Tenant may not store any property or post advertisements in the Common Space without the Landlord's express written consent.

The Tenant shall not use or occupy, nor permit the Leased Premises, the Common Space or any part thereof, to be used or occupied for any unlawful business, use, or purpose, nor for any business, use, or purpose deemed a nuisance, disreputable or extra-hazardous, nor for any purpose or in any manner which is in violation of any present or future governmental laws or regulations. The Tenant shall indemnify the Landlord against all costs, expenses, liabilities, losses, damages, injunctions, suits, fines, penalties, claims, and demands, including reasonable counsel fees, arising out of any violation of or default in these covenants.

Covenants of Quiet Enjoyment: The Tenant, upon paying the rent as herein provided, and performing all the other terms of this Lease, shall quietly have and enjoy the Leased Premises during the term of this Lease without hindrance or molestation by anyone claiming by or through the Landlord, subject however, to the reservations and conditions of this Lease.

Landlord's Right of Entry: Landlord shall, at all reasonable times, have the right to enter the Leased Premises or any part of it for the purpose of inspection and for use of the Common Space.

Landlord's Rights to Common Space: Landlord shall retain access to the Common Space for all purposes including but not limited to providing access to small business incubator clients in the Common Space.

Repair and Maintenance: The Tenant shall, at its own expense, maintain and make all necessary repairs and replacements to the interior of the Leased Premises, including the interior finishes, floor, windows, doors and plumbing.

The Landlord shall, at its own expense, maintain and make all necessary repairs and replacements to the roof, structural components and exterior of the Leased Premises,

In the event of a necessary repair or replacement which may affect areas to be repaired by both Tenant and Landlord, the parties shall exercise good faith in reaching an agreement as to allocation of the costs of such repair or replacement.

Compliance with Law: The Tenant shall throughout the term of this Lease, at its sole expense, promptly comply with all laws and regulations of all federal, state, and municipal governments and appropriate departments, commissions, boards and officers thereof, and the orders and regulations of the National Board of Fire Underwriters, or any other body now or hereafter exercising similar functions, which may be applicable to the Premises, the fixtures and equipment therein. The Tenant shall comply with the requirements of all policies of liability, fire, and all other types of insurance at any time in force with respect to the building and other improvements on the Premises.

Surrender Upon Termination: The Tenant shall on the expiration or the sooner termination of the Lease term surrender to the Landlord the Leased Premises. Any personal property belonging to the Tenant, if not removed at such termination and if the Landlord shall so elect, shall be deemed abandoned and become the property of the Landlord without any payment or offset therefor.

Tenant's Right to Alter and Improve: No alteration, addition, or improvement to the Leased Premises may be made by the Tenant without the written consent of the Landlord, and the Landlord must approve the location and aesthetic appearance of such additions or improvements. Notwithstanding anything contained herein to the contrary, Landlord's consent to any proposed addition or improvement shall not be unreasonably withheld. Any alteration, addition, or improvement made by the Tenant after such consent shall have been given and any fixtures installed as part thereof, shall be at the sole expense of the Tenant and shall, at the Landlord's option, become the property of the Landlord upon the expiration or other sooner termination of this Lease.

Utilities and Other Services: The Landlord shall provide utilities and services including: electricity, water, fiber internet, and key fob access for Common Space. Landlord shall not be liable in damages or otherwise for any failure or interruption of any utility service or other service furnished under this Lease to Tenant, the Leased Premises, or the Common Space, and no such failure or interruption shall entitle Tenant to rent abatement or to terminate this Lease..

Termination for convenience:

By Tenant: Tenant may terminate this Agreement without cause upon 90 days prior written notice of such termination date to City. All outstanding amounts due for Rent, and any other fees and charges due from Tenant, if any, through the date of termination shall be due and payable to the City on or before the date of termination.

By Landlord: Landlord may terminate this Agreement without cause upon 90 days prior written notice of such termination date to Tenant. All outstanding amounts due for Rent, and any other fees and charges due from Tenant, if any, through the date of termination shall be due and payable to the Landlord on or before the date of termination.

Landlord's Rights: Tenant's Default: If the Leased Premises shall be deserted or vacated at any time after the commencement of the Lease term or if there shall be default in the performance of any other covenant, agreement, condition, rule, or regulation herein contained or hereafter established on the part of the Tenant for more than twenty (20) days after written notice of such default by the Landlord, this Lease (if the Landlord so elects) shall thereupon become null and void, and the Landlord shall have the right to re-enter or repossess the Leased Premises, either by force, summary proceedings, surrender, or otherwise, and dispossess and remove therefrom the Tenant, or other occupants thereof, and their effects, without being liable to any prosecution therefor. Upon the expiration of this Lease pursuant to paragraph, the Tenant shall peacefully surrender the Leased Premises to the Landlord

No such expiration or termination of this Lease, including termination following Tenant's default or termination for convenience shall relieve the Tenant of its liability and obligations under this Lease.

Fire or Other Casualty Losses: No destruction or damage to any building or improvement on the Landlord's Property by fire, windstorm, or any other casualty shall entitle the Tenant to surrender possession of the Premises, to terminate this Lease, to violate any of its provisions, or to cause any rebate or abatement in rent then due or thereafter becoming due under the terms hereof.

Insurance:

A. The Tenant shall keep the Leased Premises insured throughout the term of this Lease against the following:

1. Loss or damage by fire and such other risks as may be included in the broadest form of extended coverage insurance from time to time available in amounts sufficient to prevent the Landlord or the Tenant from becoming a coinsurer within the terms of the applicable policies, and in any event, in an amount not less than 80% of the then full insurable value.

2. War risks in the amount of the then full insurance value, when such insurance is required by the holder of any mortgage or deed of trust to which this Lease is subordinate.

3. Claims for personal injury or property damage, under a policy of general liability insurance, with such limits as may reasonably be requested by the Landlord from time to time, but not less than [REDACTED] in respect of bodily injury, and [REDACTED] for property damage.

The Landlord shall keep the building containing the Leased Premises insured against loss or damage by fire with extended coverage endorsement in an amount sufficient to prevent the Landlord from becoming a coinsurer under the terms of the applicable policies, but in any event, in an amount not less than 80% of the full insurable value as determined from time to time. The term "full insurable value" shall mean actual replacement cost (exclusive of the cost of excavation, foundations, and footings below the basement floor) without deduction for physical depreciation. Such insurance shall be issued by financially responsible insurers duly authorized to do business in this state.

Rights to Assign and Sublease: The Tenant shall not assign, mortgage, or encumber this Lease, nor sublet or permit the Leased Premises or any part thereof to be used by others without the prior written consent of the Landlord in each instance.

Landlord's Exoneration - Exception for Negligence: The Landlord shall not be liable for injury or damage to person or property occurring within the Leased Premises or the Common Space during the term of this Lease, unless caused by or resulting from the active negligence of the Landlord or any of the Landlord's agents, servants, or employees in the operation or maintenance of the Leased Premises, the Common Space or the building containing the same.

Indemnification of Landlord: The Tenant shall indemnify the Landlord against all liabilities, expenses, and losses arising during the term of this Lease and incurred by the Landlord as a result of:

A. failure by the Tenant to perform any covenant required to be performed by the Tenant hereunder;

B. any accident, injury, or damage which shall happen in or about the Premises or appurtenances, or on, or under the adjoining streets, sidewalks, curbs, or vaults, or resulting from the condition, maintenance, or operation of the Premises or of the adjoining streets, sidewalks, curbs, or vaults;

C. failure to comply with any requirements or any governmental authority; and

D. any mechanic's lien, or security agreement, filed against the Landlord's Property or any portion thereof, any equipment therein, or any materials used in the construction or alteration of any building or improvement thereon.

Notices and Certificates: Any notice under this Lease must be in writing and must be sent by _____ to the last address of the party to whom the notice is to be given, as designated by such party in

writing. The Landlord hereby designates its address is 160 6th Ave E, Hendersonville, NC 28792. The Tenant hereby designates its address as _____.

Miscellaneous:

A. This Lease shall be governed by, construed, and enforced in accordance with the laws of the State of North Carolina.

B. In construing this Lease, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be substituted for singular and singular for plural in any place in which the context so requires.

C. The covenants, terms, conditions, provisions, and undertakings in this Lease, or in any renewals thereof, shall extend to and be binding upon the heirs, executors, administrators, successors, and assigns of the respective parties hereto, as if they were in every case named and expressed, and shall be construed as covenants running with the land; and wherever reference is made to either of the parties hereto, it shall be held to include and apply also to the heirs, executors, administrators, successors, and assigns of such party, as if in each and every case so expressed.

D. The parties agree to execute and deliver any instruments in writing necessary to carry out any agreement, term, condition, or assurance in this Lease whenever occasion shall arise and request for such instruments shall be made.

E. The specified remedies to which the Landlord may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which the Landlord may be lawfully entitled in case of any breach or threatened breach by the Tenant of any provision or provisions of this Lease.

F. The parties hereto state that they have not created and do not intend to create by this Lease a joint venture or partnership relation between them, it being understood that the provisions of this Lease with regard to the payment by the Tenant and the acceptance by the Landlord of a sum equal to the percentage of gross sales is a reservation of rent.

G. This Lease contains the entire agreement between the parties and cannot be changed or terminated orally.

Counterparts: This Lease may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Lease.

FIRESTARTER MEDIA GROUP, LLC
Tenant

CITY OF HENDERSONVILLE
Landlord

By: _____ (SEAL) By: _____ (SEAL)



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Connet, City Manager **MEETING DATE:** April 12, 2023

AGENDA SECTION: PRESENTATION **DEPARTMENT:** Administration

TITLE OF ITEM: Earth Day Proclamation – *Barbara Volk, Mayor*

SUGGESTED MOTION(S):

None

SUMMARY:

The Mayor will present the Earth Day Proclamation to members of the Environmental Sustainability Board.

BUDGET IMPACT: \$ NA

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

If no, describe how it will be funded. EnterTextHere

ATTACHMENTS:

Proposed Proclamation

Proclamation

Earth Day 2023

WHEREAS, the global community faces challenges such as health issues, food and water shortages, and economic struggles; and

WHEREAS, all people, regardless of race, gender, income, or geography, have a right to a healthy, sustainable environment with economic growth and opportunity; and

WHEREAS, we are all caretakers of our planet and have an obligation to combat climate change and environmental degradation to preserve the Earth's beauty and resources; and

WHEREAS, the City of Hendersonville has implemented many environmental sustainability programs including Fix a Leak Week, Rain Barrels and Stormwater Stroll; and

WHEREAS, in a partnership with MountainTrue, the City of Hendersonville implemented the Working to be Plastic Free program last year, encouraging our business community to take steps towards eliminating single use plastics; and

WHEREAS, the City of Hendersonville honors pollinators such as birds and insects, including the Monarch butterfly, and their importance in our environment and food supply chain by partnering with Bullington Gardens to continue our Bee City accreditation and by signing the National Wildlife Federation's Mayor's Monarch Pledge; and

WHEREAS, the City of Hendersonville's Environmental Sustainability Board, in association with many of our local area organizations & environmental champions, will host the first ever Hendo Earth Fest on Saturday, April 22, 2023 in Downtown Hendersonville to educate, entertain and raise awareness of our need to protect our planet for future generations; and

WHEREAS, April 22, 2023 marks the 53rd anniversary of the Earth Day movement, let it be known that the City of Hendersonville, North Carolina, encourages all businesses, institutions, and individuals to celebrate the Earth and commit to caring for the planet and its resources.

NOW, THEREFORE, I, Barbara Volk, Mayor of the City of Hendersonville, do hereby proclaim April 22, 2023 to be:

“Earth Day”

in the City of Hendersonville and encourage all our citizens and businesses to combat climate change and environmental degradation, support green economy initiatives, and to encourage others to undertake similar actions.

PROCLAIMED this 12th day of April, 2023.

Seal

Barbara G. Volk, Mayor
City of Hendersonville

Attest:

Jill Murray, City Clerk



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Jamie Carpenter, Downtown
Manager

MEETING DATE: April 12, 2023

AGENDA SECTION: PRESENTATIONS

DEPARTMENT:
Community
Development –
Downtown Division

TITLE OF ITEM: Recognition of the North Carolina Apple Festival Board as Hendersonville's
North Carolina Main Street Champions - *Jamie Carpenter, Downtown
Manager*

SUGGESTED MOTION(S):

SUMMARY:

The North Carolina Apple Festival Board was recognized as Hendersonville's Main Street Champion at the North Carolina Main Street Conference in March. We would like to recognize and thank the committee for their dedication to Downtown and Hendersonville as volunteers in the community.

BUDGET IMPACT: N/A

Is this expenditure approved in the current fiscal year budget?

If no, describe how it will be funded.

ATTACHMENTS: None



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Connet, City Manager **MEETING DATE:** April 12, 2023

AGENDA SECTION: PRESENTATION **DEPARTMENT:** Administration

TITLE OF ITEM: ESB Sustainability Hero Award – *Environmental Sustainability Board*

SUGGESTED MOTION(S):

NA

SUMMARY:

The Environmental Sustainability Board will present their Sustainability Hero Award to a very deserving recipient.

BUDGET IMPACT: \$

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

If no, describe how it will be funded. EnterTextHere

ATTACHMENTS:

None



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Brian Pahle, Assistant City Manager
MEETING DATE: 04/12/2023
AGENDA SECTION: Presentation
DEPARTMENT: Administration
TITLE OF ITEM: ISO Presentation – *Brian Pahle, Assistant City Manager*

SUGGESTED MOTION(S):

N/A

SUMMARY:

A presentation on the Hendersonville Fire Department latest ISO rating.

BUDGET IMPACT: N/A

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

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

ATTACHMENTS:

2023 WINTER CITY OF HENDERSONVILLE ACADEMY SESSIONS

- February 6 – State & Local government/ City organization – John Connet
- February 13 – Departments – Multiple speakers
- February 20 – Human Resources Night - Deborah Rapetsky (Empower), Jennifer Harrell & Deanna VanWyk
- February 27 – Local Growth / City History – Brittany Brady & Lu Ann Welter
- March 6 – Budget – Brian Pahle
- March 13 – Leadership / Recap / participants choice (Brian Pahle & John Connet)

PARTICIPANTS

Tyler Morrow	Community Development
Faith Lee	Finance
Katie Sanborn	Finance Customer Service
Justin Ward	Fire
Jill Murray	Administration
Deborah Sholl	Engineering
Jennifer Case	Public Works Administration
Gary Davis	Public Works Property Maintenance



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Jennifer Harrell **MEETING DATE:** April 12, 2023

AGENDA SECTION: PRESENTATION **DEPARTMENT:** Human Resources

TITLE OF ITEM: North Carolina International Public Management Association- HR Award –
Jennifer Harrell, HR Director

SUGGESTED MOTION(S):

N/A

SUMMARY:

The City of Hendersonville and the Human Resources Department were recently recognized for their wellness program by the North Carolina International Public Management Association- Human Resources. The award was presented for excelling in Organizational Development and Leadership by introducing innovative and creative programs and achieving high standards in select categories.

The City's wellness mission is to encourage and support a culture of wellness that engages our workforce and improves the health and well-being of our employees. The program is designed to get employees active by encouraging fitness, preventive measures, education and volunteer opportunities.

BUDGET IMPACT: \$0.00

Is this expenditure approved in the current fiscal year budget?

If no, describe how it will be funded.

ATTACHMENTS: N/A



State Procurement Conference

March 8 - 9, 2023

The Gold Star Agency Award is awarded to an agency that excels in public procurement practices by demonstrating strong customer service, teamwork, innovation, and/or efficiency in one or more procurement-related categories. Nomination categories include strategic sourcing, contract management, compliance, business systems, and procurement education.

To nominate your agency for the 2023 Gold Star Agency Award, select the nomination category and submit a narrative description of 350 words or less that describes ways your agency excels in the selected category. Use specific examples or anecdotes in your narrative.

Submit the nomination form below to doa.pc.education@doa.nc.gov by February 21, 2023 by 5:00 p.m. You may submit multiple nominations in any or all categories. Use a separate form for each nomination. Winners will be announced at the NC PEAK conference at the McKimmon Conference and Training Center in Raleigh on March 8-9.

Agency Name: City of Hendersonville

Nominator's Name: Logan Hickey

Nominator's Email: lhickey@hvlnc.gov

Nomination Category (Select Only One Per Nomination Form): Contract Management

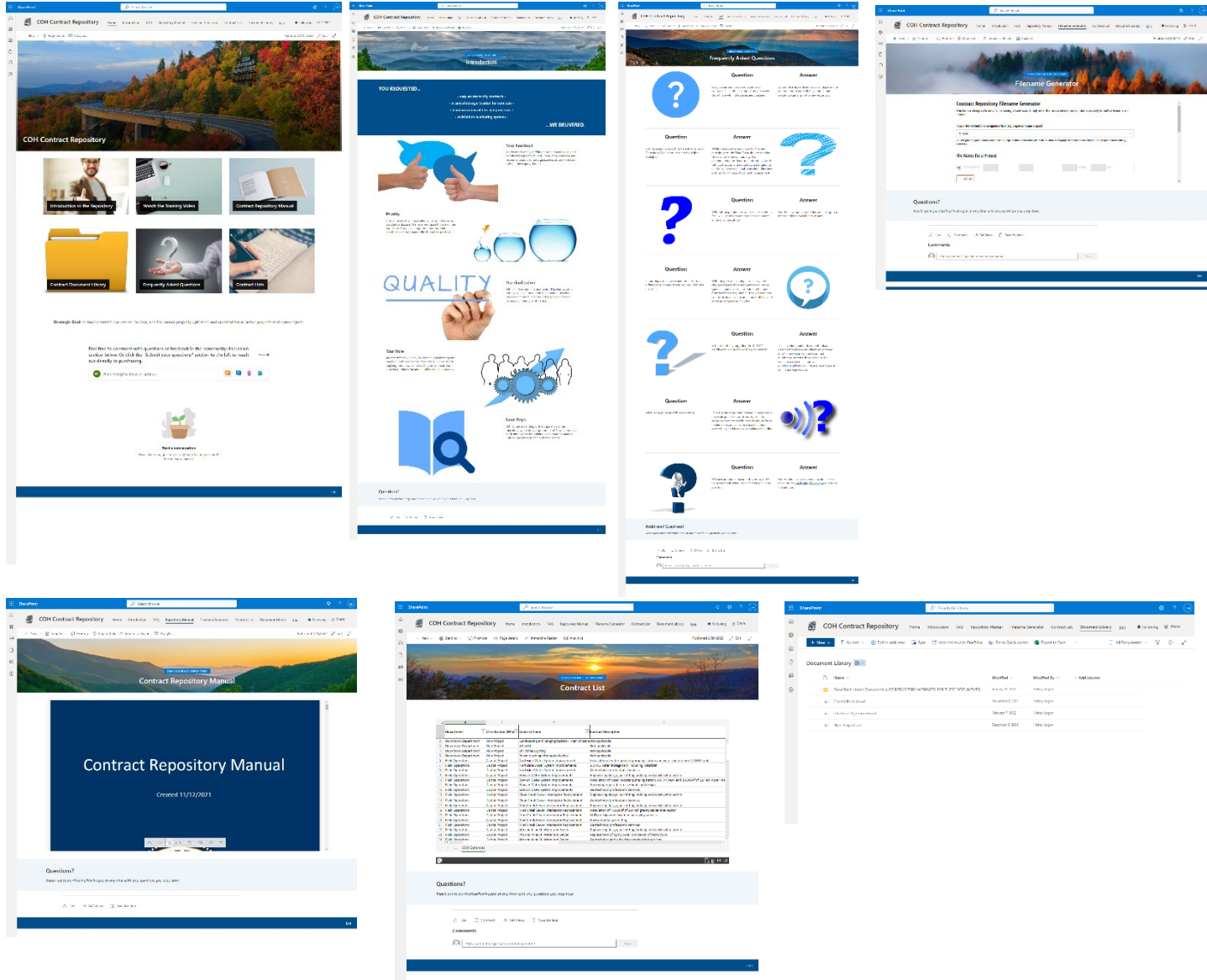
Narrative Description (350 words or less):

We at the City of Hendersonville identified a number of targeted Procurement innovations 1.5 years ago as we were shifting to a more centralized Procurement approach. One of those innovations was a new Contract Repository Website. After first surveying what that could look like from City-wide staff, we went to work and created what we have been told (unverified) is unlike anything local government municipalities have across the state. Below is more information about this repository. Thank you so much for any consideration on this incredible nomination honor!

After research, we selected SharePoint as the platform. The website was entirely created and designed by the Procurement Team. Here is an overview of the Repository and its features. Since it requires staff login for viewing, screenshots of some of the webpages are included on the next page below.

- Each page of the Website conveys the beauty of our regional Blue Ridge Mountains while effectively providing relevant information. Pages included are the following:
 - **Home Page**
 - **Introduction Page**
 - **FAQ Page**
 - **Repository Manual**
 - This manual establishes formal policies on formatting for the following:
 - Project Contract Numbering
 - Non-Project Contract Numbering
 - File-naming Structure
 - File Folder Structure by Initiative Type
 - Since the Repository is staff login-only, I have uploaded this manual to a [City Webpage](#), so that you can view its contents.
 - **Automated Filename Generator**
 - Users input file info, and the website automatically generates a correct filename for them to use when saving the file.
 - **City Contract List Page**
 - Loaded with information such as:
 - Department Name, Vendor Name, Amount, Expiration Date, etc.
 - **Document Library**
 - Current and Expired Contracts/Related Files with new File Folder Organization and Structures

Below is the home page header image and then a screenshot of many of the Contract Repository pages listed above. Thank you so much!



Your nomination must be received by 5:00 p.m. on February 21, 2023 to be considered.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Buchanan **MEETING DATE:** 4/12/23

AGENDA SECTION: PRESENTATION **DEPARTMENT:** Finance

TITLE OF ITEM: Employee Recognition – *John Buchanan, Finance Director*

SUGGESTED MOTION(S):

N/A

SUMMARY:

We would like to recognize Logan Hickey for receiving the Gold Star Agency Award for the contract repository he created on the City Sharepoint site. The Gold Star Award is sponsored by the North Carolina Department of Administration's Procurement and Contract Division and honors procurement professionals and their agencies for outstanding public procurement in five core categories, strategic sourcing, contract management, compliance, business systems, and procurement education. This is the first year of the award program and we are grateful for the State's recognition of Logan's efforts.

BUDGET IMPACT: N/A

Is this expenditure approved in the current fiscal year budget?

If no, describe how it will be funded.

ATTACHMENTS:

Gold Star Award Nomination Form

North Carolina Local Governmental Finance Officers Certification Program

Since 1985 the North Carolina Government Finance Officers Association (NCGFOA) has offered a program of voluntary certification for local governmental finance officers. Its purposes are to:

- provide greater service to the public and the management of local government,
- recognize achievement of an established level of competency and proficiency among finance officers,
- promote continuing professional development of finance officers, and
- enhance their professional image.

Those who meet the program's standards of experience, education, and examination will become a North Carolina Certified Local Governmental Finance Officer.

Eligibility for Certification

Two groups of people are eligible for certification: first, those who are the finance officer of a local government or public authority, as defined in G.S. 159-7, or of a local school administrative unit; second, others who hold supervisory or professional positions with a local government, public authority, or school administrative unit and have administrative responsibility for one or more financial functions, such as internal audit, investment, budgeting, or accounting.

The Standards for Certification

Professional Membership. A person who wishes to be certified as a local governmental finance officer must be a member of the NCGFOA.

Experience. He or she must have had at least one year of experience as a legally designated finance officer and one additional year of responsible financial management experience in governmental finance *or* at least two years of experience in North Carolina governmental finance and at least two additional years of responsible financial management experience. This professional experience must have occurred within the five years immediately before the person applies for certification.

Education. The applicant must have satisfactorily completed up to four "core" courses as identified by the Certification Committee. For initial hires in North Carolina local government that occur January 1, 2010, and after, the applicant must also have the equivalent of an Associates Degree or higher.

Examination. He or she must have completed all four parts of an examination that tests the subjects covered in the core courses.

The Educational Requirements

The five core courses are a joint effort of the two sponsoring organizations and the UNC School of Government. Each one is offered periodically by the School. (In meeting the educational requirement, an applicant may substitute comparable courses taken elsewhere for any of the core courses offered at the School.) The five core courses are:

- Introduction to Local Government Finance
- Governmental Accounting and Financial Reporting,
- Budgeting in Local Government *and* Capital Financing in Local Government (although offered as two separate courses, they constitute one core course requirement)
- Cash Management and Investment of Public Funds
- Effective Supervisory Management Program.

An applicant who has completed either the County Administration Course or the Municipal Administration Course offered by the School of Government will be given credit for one course: Introduction to Local Government Finance.

The basic requirement is that an applicant for certification has completed at least four core courses. At least two of these must have been completed within the five years immediately before the person applies for certification. However, between three and six years of consecutive experience in a position eligible for certification may be substituted for one core course; seven or more years of such experience may be substituted for two core courses; and an associate or bachelor degree in accounting plus at least two years of working experience in governmental accounting may be substituted for the core course in accounting.

The Examination

The examinations are offered online three times per year – the last successive Thursday and Friday of January, May, and September. All four parts will be offered and individuals can take up to all four exams during the time period. The exams will be accessible from 8:00 a.m. – 3:00 p.m. each day. Any of the four exams can be accessed during this time frame. Once an exam is opened, there will be two hours allowed to complete it. There is no pausing of the exam and if the exam has not already been voluntarily submitted, the exam will automatically close at the end of the two hour period. Results are returned within two to three weeks following each examination period.

Maintenance of Certification

The certification must be renewed every five years. Renewal may be achieved by accumulating professional training hours by attending courses, conferences, and other continuing education events, as well as from professional contributions. Certified Finance Officers should accumulate no less than 100 professional training hours (50 minutes of training = one professional training hour) and maintain the records to support the dates and times of training.

Administration of the Program

The certification program is administered by the Certification Committee, an NCGFOA subcommittee. The School of Government provides staff assistance to the committee and certification records will be housed at the School.

Further Information

If you have questions or wish further information about the certification program, please contact Gregory S. Allison at allison@sog.unc.edu or Rachel Mintel at mintel@sog.unc.edu.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: John Buchanan **MEETING DATE:** 4/12/23

AGENDA SECTION: PRESENTATION **DEPARTMENT:** Finance

TITLE OF ITEM: Employee Recognition – *John Buchanan, Finance Director*

SUGGESTED MOTION(S):

N/A

SUMMARY:

We would like to recognize Jesse Ivens for earning the Certified Local Government Finance Officer certificate sponsored by the North Carolina Government Finance Association.

This program is designed to enhance the public finance profession in North Carolina. Certification is achieved through a combination of professional experience, continuing educational requirements, and successful completion of four examinations in the public finance field:

- Governmental Accounting
- Financial Planning and Budgeting
- Cash Management and Investments
- Financial Management

We congratulate him on his achievement!

BUDGET IMPACT: N/A

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

If no, describe how it will be funded. EnterTextHere

ATTACHMENTS:

North Carolina Local Government Finance Officer Certification Program brochure.



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

PLANNING DIVISION

SUBMITTER:	Matthew Manley	MEETING DATE:	April 12, 2023
AGENDA SECTION:	Public Hearing	DEPARTMENT:	Community Development
TITLE OF ITEM:	Rezoning: Standard Rezoning – Upward Crossing Rezoning (P23-07-RZO) – <i>Matthew Manley, AICP / Planning Manager</i>		

SUGGESTED MOTION(S):

<p style="text-align: center;"><u>For Recommending Approval:</u></p> <p>I move City Council <u>adopt</u> an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PIN: 9588-21-9113) from PCD (Planned Commercial Development Conditional Zoning District) to CHMU (Commercial Highway Mixed Use) based on the following:</p> <p>1. The petition is found to be <u>consistent</u> with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:</p> <ol style="list-style-type: none"> 1. The Future Land Use designation of Regional Activity Center recommends restaurants & Community/Regional Services as primary land uses and the location of the subject property aligns with the goals and strategies of LU-9. <p>2. We <u>find</u> this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:</p> <ol style="list-style-type: none"> 1. The CHMU Zoning District features Design Standards 2. The CHMU Zoning District permits a mix of uses including those that are consistent with the interstate-oriented development occurring in this area. 3. The subject property is located in a “Priority Growth Area” <p style="text-align: center;">[DISCUSS & VOTE]</p>	<p style="text-align: center;"><u>For Recommending Denial:</u></p> <p>I move City Council <u>deny</u> an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PIN: 9588-21-9113) from PCD (Planned Commercial Development Conditional Zoning District) to CHMU (Commercial Highway Mixed Use) based on the following:</p> <p>1. The petition is found to be <u>consistent</u> with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:</p> <ol style="list-style-type: none"> 1. The Future Land Use designation of Regional Activity Center recommends restaurants & Community/Regional Services as primary land uses and the location of the subject property aligns with the goals and strategies of LU-9. <p>2. We <u>do not find</u> this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:</p> <ol style="list-style-type: none"> 1. The proposed zoning district is incompatible with the surrounding area. <p style="text-align: center;">[DISCUSS & VOTE]</p>
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SUMMARY: *The City of Hendersonville is in receipt of an application for a Standard Rezoning from Chris Cormier of Carolina Specialties Construction [Applicant] and Satis Patel of Upward Road Hospitality [Owner]. The applicant is requesting to rezone the 1.5 acre subject property (PIN: 9588-21-9113) located at Upward Crossing Rd, from Planned Commercial Development Conditional Zoning District (PCD) to Commercial Highway Mixed Use (CHMU).*

If rezoned, there will not be a binding site plan, list of uses or conditions placed on the site. All permitted uses within the CHMU district would be allowed on the site. 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.

At their meeting on March 9th, the Planning Board voted 7-0 to recommend approval of the petition.

PROJECT/PETITIONER NUMBER:	P23-07-RZO
PETITIONER NAME:	<ol style="list-style-type: none"> 1. Chris Cormier of Carolina Specialties Construction [Applicant] 2. Satis Patel of Upward Road Hospitality [Owner]
ATTACHMENTS:	<ol style="list-style-type: none"> 1. Staff Report 2. Planning Board Summary 3. CHMU Zoning District Standards 4. Draft Ordinance 5. Proposed Zoning Map 6. Application 7. Notice of Public Hearing

STANDARD REZONING: UPWARD CROSSING (P23-07-RZO)
CITY OF HENDERSONVILLE - COMMUNITY DEVELOPMENT STAFF REPORT

PROJECT SUMMARY 2

EXISTING ZONING & LAND USE 3

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

DRAFT COMPREHENSIVE PLAN CONSISTENCY AND REZONING REASONABLENESS STATEMENT 11



- Project Name & Case #:
 - Upward Crossing Rezoning
 - P23-07-RZO
- Applicant & Property Owner:
 - Chris Cormier/Carolina Specialties Construction [Applicant]
 - Satis Patel/Upward Road Hospitality [Owner]
- Property Address:
 - 0 Upward Crossing Dr
- Parcel Identification (PIN):
 - 9588-21-9113
- Project Acreage:
 - 1.5 Acres
- Current Parcel Zoning:
 - PCD – Planned Commercial Development Conditional Zoning District
- Requested Zoning:
 - CHMU – Commercial Highway Mixed Use
- Future Land Use Designation:
 - Regional Activity Center

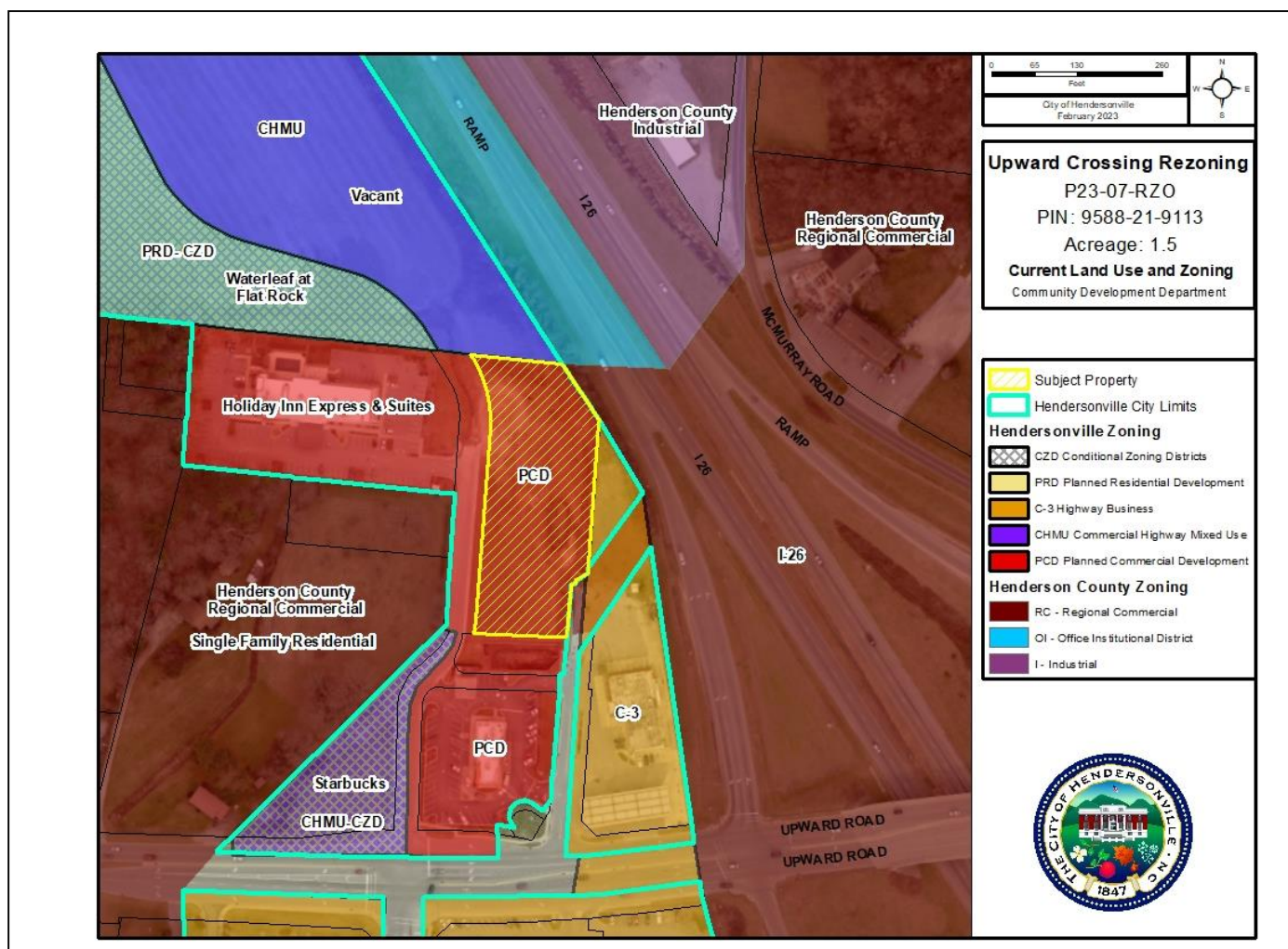


SITE VICINITY MAP

The City of Hendersonville is in receipt of an application for a Standard Rezoning from Chris Cormier of Carolina Specialties Construction [Applicant] and Satis Patel of Upward Road Hospitality [Owner]. The applicant is requesting to rezone the 1.5 acre subject property (PIN: 9588-21-9113) located at Upward Crossing Rd, from Planned Commercial Development Conditional Zoning District (PCD) to Commercial Highway Mixed Use (CHMU).

If rezoned, there will not be a binding site plan, list of uses or conditions placed on the site. All permitted uses within the CHMU district would be allowed on the site. 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.

EXISTING ZONING & LAND USE



City of Hendersonville Current Zoning & Land Use Map

The area around the subject property is a transitioning area which contains a wide range of interstate-oriented uses including lodging, fast food, and convenience stores, as well as recently-approved multi-family uses and industrial uses. The subject parcel is zoned PCD as it was part of a larger Planned Commercial Development – a portion of which has been developed.

The subject property is located on Upward Crossing Dr, which is a private street with access to Upward Rd. Property at the corner of Upwards Crossing and Upward Rd was recently rezoned to CHMU to allow for a Starbucks. Other recent rezonings have occurred on properties north of the site which lay between I-26 and S. Allen Rd. These properties include two PRD multi-family residential uses (under construction) that have been approved in the last two years. Additional vacant land in this area was recently annexed and zoned CHMU – a zoning district created specifically for this area. The subject property is also located in the “Upward Rd Planning District” which was adopted in 2011 along with the CHMU zoning district.

In general, this is a rapidly growing area that will continue to see growth due to its relationship with I-26.

SITE IMAGES



Access to the site along Upward Crossing Dr. Facing south towards Upward Rd



Access to the site along Upward Crossing Dr. Facing north towards future connection/access to Waterleaf Apartments

SITE IMAGES



View of I-26 / Upward Rd from eastern edge of boundary



View of site facing west towards Upward Crossing. Existing Holiday Inn Express in background.

REZONING HISTORY

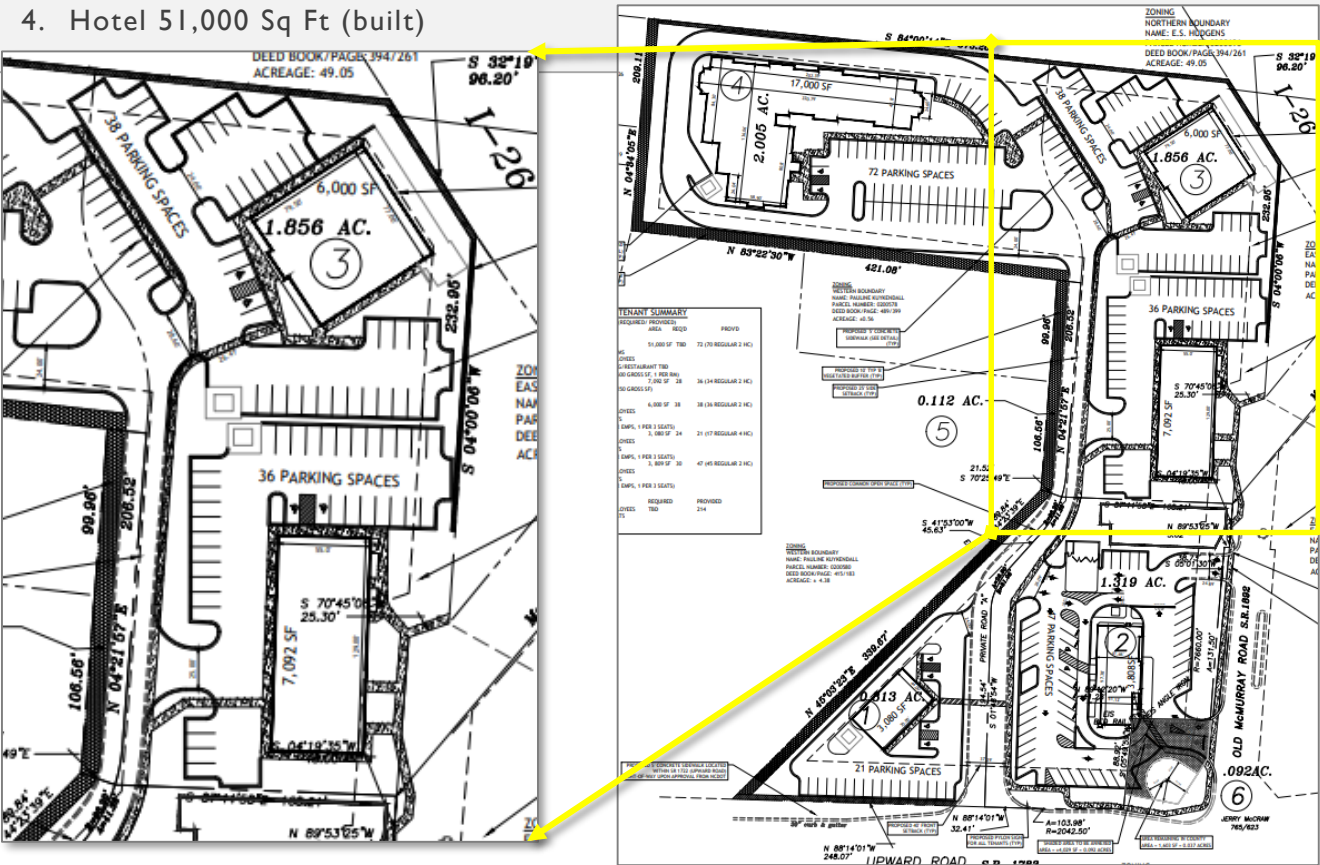
Prior Rezoning	Summary of Prior Petition	Status
Initial PCD zoning (2008) PCD Reapproved (7/3/2014) Expired (7/3/2019)	A site plan for a multi-phased retail, hotel and restaurant Planned Commercial Development.	Preliminary Site plan was approved by City Council- Final site plan was approved for portions of the development, but never fully developed.

Minutes from July 3, 2014 City Council meeting:

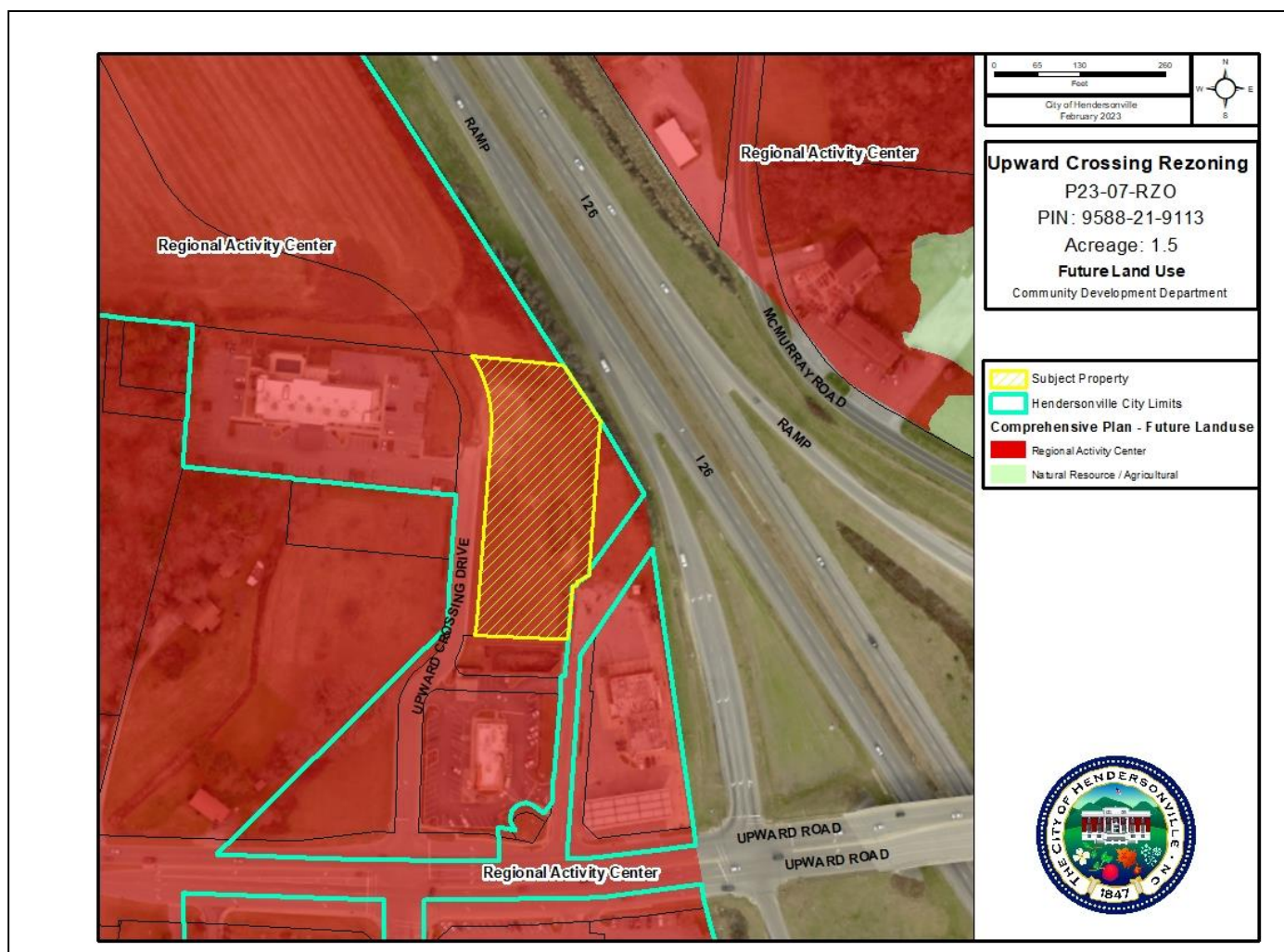
<https://library.municode.com/nc/hendersonville/munidocs/munidocs?nodeId=2d9a5168057e4>

Upward Road Property PCD

- 6.197 Acres
- 70,981 Sq Ft of Buildings
 1. Restaurant 3,080 Sq Ft (rezoned-Starbucks)
 2. Restaurant 3,809 Sq Ft (built)
 3. Retail 7,092 Sq Ft & Restaurant 6,000 Sq Ft (current proposal)
 4. Hotel 51,000 Sq Ft (built)



FUTURE LAND USE



City of Hendersonville Future Land Use Map

The City's 2030 Comprehensive Plan designates the subject property as **Regional Activity Center** and it is located within an **Activity Node** as indicated in the City's Future Land Use Map. Restaurants are a primary recommended land use in the Regional Activity Center designation.

All parcels in the surrounding area share this same designation which can be attributed to the proximity to the interchange with I-26 and Upward Rd. I-26 is classified as a Freeway and Upward Rd is a Boulevard according to the City's Comprehensive Plan.

The 2020 Henderson County Future Land Use designation for the subject property is 'Community Service Center'. The County's 2045 Draft Comprehensive Plan designates this area as 'Community Center'. In both cases, these designations represent large commercial nodes that server broad geographic areas.

The subject parcel is also part of the Upward Rd Planning Area which was adopted in 2011 in response to the need to manage growth outside the ETJ in an area where sewer service would be desired.

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

COMPREHENSIVE PLAN CONSISTENCY	
Future Land Use	<p>Goal LU-9. - Regional Activity Center: “Meet the large-scale retail needs of Hendersonville residents while encouraging mixed-use, walkable design through redevelopment and infill projects.” [CONSISTENT]</p>
	<p>Strategy LU-9.1. Locations:</p> <ul style="list-style-type: none"> Commercial areas surrounding the US64/I-26 and Upward Road/I-26 interchanges. [CONSISTENT]
	<p>Strategy LU-9.2. Primary recommended land uses:</p> <ul style="list-style-type: none"> Community/Regional retail sales and services [CONSISTENT] Restaurants [CONSISTENT]
	<p>Strategy LU-9.4. Development guidelines:</p> <ul style="list-style-type: none"> Mitigation of bulk of large buildings through façade detailing and window coverage [CONSISTENT] Hiding of large parking lots (more than one double-row deep) from thoroughfares with out-lot structures [CONSISTENT] Provision of pedestrian connections to parking and other buildings and properties [CONSISTENT] <p><u>Activity Nodes:</u></p> <ul style="list-style-type: none"> Encouragement of multi-story, mixed-use buildings with retail on ground floors and office/residential on upper floors [CONSISTENT] Placement of new buildings close to the street along thoroughfares (less than 20 feet) encouraged [INCONSISTENT] Location of all parking to the side or rear of buildings or in a garage encouraged [CONSISTENT] Improved pedestrian connections to surrounding neighborhoods [CONSISTENT]
Land Use & Development	<p>Growth Management: The property is designated as a “Priority Growth Area” on the Growth Management Map (Map 8.3a). “Areas that are considered a high priority for expansion of the ETJ, annexation, and extension of infrastructure and services”. [CONSISTENT]</p>
	<p>Development Framework: The subject parcel is not listed as “Development Opportunity” in the Comprehensive Plan’s Map 8.2b: Development Framework due to the fact that the parcel was part of a previously-approved PCD that was not fully constructed. [CONSISTENT]</p>
Population & Housing	<p>No Goals, Strategies or Actions are directly applicable to this project.</p>

Natural & Environmental Resources	<i>Strategy NR-3.2. Enable and encourage Low-Impact Development practices in stormwater management.</i>
Cultural & Historic Resources	<i>No Goals, Strategies, or Actions are directly applicable to this project.</i>
Community Facilities	<i>No Goals, Strategies, or Actions are directly applicable to this project.</i>
Water Resources	<i>Strategy WR-2.3. Enable and encourage Low-Impact Development practices in stormwater management.</i>
Transportation & Circulation	<i>Strategy TC-1.1. - Encourage mixed-use, pedestrian-friendly development that reduces the need to drive between land uses.</i>
	<i>Strategy TC-5.2. - Enhance key entrances within the City, as indicated on Map 7.3a</i>

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

GENERAL REZONING STANDARDS	
Compatibility	Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property –
	The area around the subject property is a transitioning area which contains a wide range of interstate-oriented use. The CHMU zoning district was specifically established for this area and permits the types of uses that are likely to locate in vicinity of an interstate interchange.
Changed Conditions	Whether and the extent to which there are changed conditions, trends or facts that require an amendment -
	The corridor along Upward Rd has seen and will continue to see growth and development. The addition of manufacturing, multi-family and interstate-oriented restaurants and services is expected for the area.
Public Interest	Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare -
	While the petition to rezone would permit by-right development of the subject property, the CHMU district contains Design Standards which provides some assurance of compatibility and quality design.
Public Facilities	Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment
	The site will be served by City water and sewer service as well as City Police and Fire. Upward Road is designated as a boulevard on the comprehensive transportation plan and is maintained by NCDOT. Upward Crossing Rd is currently privately maintained.
Effect on Natural Environment	Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands and wildlife -
	Site has been previously disturbed and contains no mature trees nor environmentally sensitive features.

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 Future Land Use designation of Regional Activity Center recommends Restaurants and Community/Regional Services as primary land uses and the location of the subject property aligns with the goals and strategies of LU-9.

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

DRAFT [Rationale for Approval]

- *The CHMU Zoning District features Design Standards*
- *The CHMU Zoning District permits a mix of uses including those that are consistent with the interstate-oriented development occurring in this area.*
- *The subject property is located in a “Priority Growth Area”*

DRAFT [Rational for Denial]

- *The proposed zoning district is incompatible with the surrounding area*



PLANNING BOARD RECOMMENDATION

PROJECT #: P23-06-RZO

MEETING DATE: March 9, 2022

PETITION REQUEST: Upward Crossing Rezoning - Standard Rezoning (PCD to CHMU)
APPLICANT/PETITIONER: Chris Cormier of Carolina Specialties Construction [Applicant]
Satis Patel of Upward Road Hospitality [Owner]

PLANNING BOARD ACTION SUMMARY:

Staff gave a 7-Minute presentation on the request and reviewed the guidance from the Comprehensive Plan as well as the criteria for considering a rezoning. In total, the Planning Board considered this item for 10 minutes.

PUBLIC COMMENT:

No one spoke during public comment.

MOTION:

Peter Hanley made a motion to move that the Planning Board recommend approval providing the following:

COMPREHENSIVE PLAN CONSISTENCY STATEMENT:

The Future Land Use designation of Regional Activity Center recommends restaurants & Community/Regional Services as primary land uses and the location of the subject property aligns with the goals and strategies of LU-9.

REASONABLENESS STATEMENT:

[Rationale for Approval]

1. The CHMU Zoning District features Design Standards
2. The CHMU Zoning District permits a mix of uses including those that are consistent with the interstate-oriented development occurring in this area.
3. The subject property is located in a "Priority Growth Area"

BOARD ACTION

- Motion/Second: Hanley / Cromar
- Yeas: Martin, Cromar, Peacock, Brown, Hanley, Robinson, Robertson
- Nays: N/A
- Absent: Jamison
- Recused: N/A

APPENDIX A - ZONING ORDINANCE
ARTICLE V. - ZONING DISTRICT CLASSIFICATIONS
Sec. 5-27. CHMU Commercial Highway Mixed Use Zoning District Classification.

Sec. 5-27. CHMU Commercial Highway Mixed Use Zoning District Classification.

The Commercial Highway Mixed Use Zoning District Classification is intended to encourage a mix of high density residential development in conjunction with appropriately scaled and compatible commercial development, consisting of community and regional retail sales and services, professional offices, research facilities, restaurants, accommodations services and similar uses. Development design becomes a critical consideration when establishing regional activity centers that create attractive and functional roadway corridors which also encourage mixed-use and walkable design. In addition to the general dimensional and use provisions, the regulations contained herein, along with those in article XVIII which apply to mixed use zoning district classifications generally, address the design of buildings and development sites.

5-27-1 Permitted uses.

The following uses are permitted by right in the CHMU Commercial Highway Mixed Use Zoning District Classification, provided they meet all requirements of this section and all other requirements established in this ordinance:

- Accessory dwelling units subject to supplementary standards contained in section 16-4, below
- Accessory uses & structures
- Adult care centers registered with the NC Department of Health and Human Services (DHSS)
- Adult care homes
- Agriculture
- Animal hospitals & clinics so long as they contain no outdoor kennels
- Automobile car washes
- Automobile sales & service
- Banks & other financial institutions
- Business services
- Camps
- Child care centers, subject to supplementary standards contained in section 16-4, below
- Child care homes
- Civic clubs & fraternal organizations, subject to supplementary standards contained in section 16-4
- Congregate care facilities, subject to supplementary standards contained in section 16-4, below
- Construction trades facilities, so long as the storage of equipment and materials is screened from view from any public rights-of-way
- Convenience stores with or without gasoline sales
- Cultural arts buildings
- Dance, health & fitness facilities
- Day care facilities

Dry cleaning and laundry establishments containing less than 6,000 square feet of floor area

Equipment rental & sales

Funeral homes

Greenhouses & commercial nurseries

Health clubs & athletic facilities

Home occupations

Hotels & motels

Laundries, coin-operated

Lawn & garden centers

Manufacturing, light

Microbreweries, micro-distilleries, micro-cideries, and micro-wineries, subject to supplementary standards contained in section 16-4, below

Music & art studios

Neighborhood community centers

Newspaper offices & printing establishments

Nursing homes, subject to supplementary standards contained in section 16-4, below

Offices, business, professional and public

Parking lots & parking garages

Parks

Personal services

Progressive care facilities, subject to supplementary standards contained in section 16-4, below

Public & semi-public buildings

Recreational facilities, indoors

Recreational facilities, outdoors, commercial

Religious institutions

Repair services, miscellaneous

Research & development with no outdoor storage and operations

Residential care facilities

Residential dwellings, single family

 Residential dwellings, multi-family

 Residential dwellings, two-family

Restaurants

Restaurants, drive-in

Retail stores (not including manufactured housing, boat & heavy equipment sales)

Schools, post-secondary, business, technical and vocational

Schools, primary & secondary

Service stations

Signs, subject to the provisions of article XIII, below

Small scale manufacturing, subject to the supplementary standards contained in section 16-4, below

Telecommunications antennas, subject to supplementary standards contained in section 16-4, below

Theaters, indoors

5-27-2 Special uses.

The following uses shall be permitted in the CHMU Commercial Highway Mixed Use Zoning District Classification only upon issuance of a special use permit pursuant to article X and shall be subject to supplementary standards contained in section 16-4, below:

Bus stations

Public utility facilities

5-27-3 Development standards.

The following standards shall apply to development within the CHMU Commercial Highway Mixed Use Zoning District Classification.

5-27-3.1 Parking and loading. The requirements of section 6-5, below, shall apply.

5-27-3.2 Dimensional requirements.

Minimum lot area in square feet:	None
Minimum lot width:	None
Open space ratio:	≥0.30
Common space ratio:	≥0.10
Yard requirements:	Varies with building type. See design standards.
Building separation:	If buildings are separated, they must be separated by at least 15 feet. This provision shall not be construed to qualify any setback provisions contained elsewhere in this ordinance.
Building height:	Varies with building type. See design standards.

5-27-3.3 Residential density. The number of residential dwellings permitted on any development tract varies with regard to the open space ratio provided as noted on the following table.

Open Space Ratio	Maximum Dwelling Units/Acre
0.40	8
0.50	10
0.60	12

5-27-4 Design standards.

NOTE: "Building design element" sub-sections noted below are not required for one- and two-family dwellings; property owners/developers may voluntarily consent to these standards per G.S. 160D-702(b).

These standards are intended to apply to all development and redevelopment within the CHMU Commercial Highway Mixed Use Zoning District Classification. Applicants for authorization to undertake development or redevelopment within such zoning district shall demonstrate compliance with these standards or shall undergo alternative design review as provided for in article XVIII, below.

5-27-4.1 Standards of general applicability. The following standards shall apply to all development in the CHMU Commercial Highway Mixed Use Zoning District Classification regardless of use or building type.

5-27-4.1.1 General site development. Site development shall not result in the removal of lateral support for adjoining properties. Furthermore, development shall not create hazardous or dangerous conditions or result in the creation of a nuisance as specified in section 6-13, below.

5-27-4.1.2 Physical integration of uses. Residential and commercial uses may be located within the same or adjoining structures provided appropriate health and safety regulations are followed.

5-27-4.1.3 Building orientation. Primary façades, which may or may not contain an entrance to the building, shall face primary vehicular access or significant public space. A main entrance shall face a connecting walkway with a direct, safe, pedestrian connection to the street.

5-27-4.1.4 Common space. NOTE: Section 5-27-4.1.4 is not required for one- and two-family dwellings; property owners/developers may voluntarily consent to these standards per G.S. 160D-702(b).

Common space is intended to shape the design and character of a project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. It shall be designed to create areas where workers, residents and shoppers, as the case may be, are directly or indirectly invited to gather, browse, sit, interact or congregate. It shall be arranged as community space with open areas, landscaping, seating facilities and lighting fixtures which provide for safety and visual effects. Common spaces are intended to be places for social interaction and, thus, may include impervious surfaces.

Unless interior common space is approved by the reviewing authority, common space shall be out-of-doors. Common space design shall comply with the following:

- a) **Size.** At least ten percent of the acreage of a site shall be devoted to common space. Common space shall count toward meeting open space requirements for a project.
- b) **Trees.** One tree shall be planted for each 1,000 square feet of common space. Trees shall have a minimum caliper of three to three and one-half inches measured six inches above ground at the time of planting.
- c) **Utilities.** All utilities service lines and connections shall be underground.
- d) **Seating.** Seating shall be provided to accommodate workers, residents and/or shoppers. Seating may be accomplished in whole or in part using planters or other similar structures.
- e) **Amenities.** Common space for a development shall contain adequate amenities to animate and enliven the environment and to make it conducive for social interaction. Following is a list of such amenities: ornamental fountains, stairways, waterfalls, public art, arbors, trellises, planted beds, drinking fountains, clock pedestals, awnings, canopies, informational kiosks, and similar structures. This list is not intended to be exhaustive.

5-27-4.1.5 Architectural details. NOTE: Section 5-27-4.1.5 is not required for one- and two-family dwellings; property owners/developers may voluntarily consent to these standards per G.S. 160D-702(b).

The appearance of all street side façades is important and shall be addressed in development design. Architectural elements like openings, sill details, posts, and other architectural features shall be used to establish human scale at the street level. On corner lots, the applicant shall provide distinctive architectural elements at the corner of buildings facing the intersection. Windows, doors, columns, eaves, parapets, and other building components shall be proportional to the overall scale of the building. Windows shall be vertically aligned.

All buildings shall provide detailed design along all façades which are visible from a street or common space. Detailed design shall be provided by using at least three of the following architectural features:

Dormers.

Gables.

Recessed entries.

Covered porch, entries.

Cupolas or towers.

Pillars or posts.

Eaves (minimum 6-inch projection).

Off-sets in building face or roof.

Window trim (minimum nominal four inches wide).

Bay windows.

Balconies.

Decorative patterns on exterior finish (e.g. scales/shingles, wainscoting, ornamentation).

Decorative cornices and roof lines (for flat roofs).

5-27-4.1.6 Building façades. NOTE: Section 5-27-4.1.6 is not required for one- and two-family dwellings; property owners/developers may voluntarily consent to these standards per G.S. 160D-702(b).

Front, rear and side façades of buildings shall contain at least two building materials which shall contrast in color and texture. At least 15 percent of the façade, exclusive of windows, doors and trim, shall consist of stone, brick, decorative concrete or decorative block.

5-27-4.1.7 Windows. NOTE: Section 5-27-4.1.7 is not required for one- and two-family dwellings; property owners/developers may voluntarily consent to these standards per G.S. 160D-702(b).

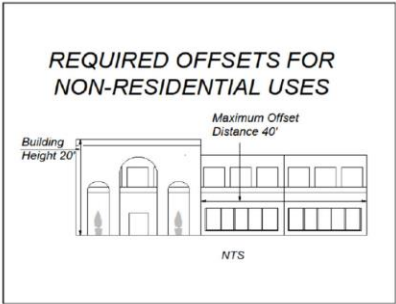
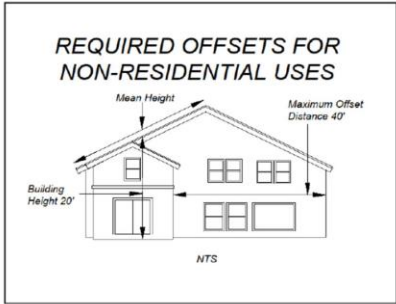
Windows shall either be (1) recessed a minimum of three inches from the façade or (2) trimmed. If trim is used, it shall be a minimum of four inches (nominal) in width and shall project beyond the façade.

5-27-4.1.8 Building scale. NOTE: Section 5-27-4.1.8 is not required for one- and two-family dwellings; property owners/developers may voluntarily consent to these standards per G.S. 160D-702(b).

The scale of a building is a function of the size of the individual pieces of a building and their relationship to each other. The scale of a building is important in order to contribute to the overall diversity of building types, to give visual interest, and to maintain compatibility between buildings. These design standards regulate scale by means of offsets, that is, protrusions or breaks in the plane of façades.

a) **Scale, buildings containing nonresidential uses.** The following requirements apply to any building containing nonresidential uses, regardless whether the building also contains residential uses:

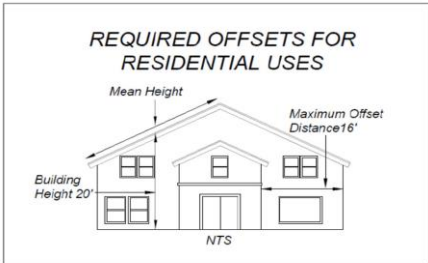
- 1) The distance between required offsets is related to the height of the building wall on a two-to-one basis. A building façade which is less than or equal to the height of the building shall not require an offset.



- 2) The height of any particular façade shall be measured from the average ground level to the mean height level between the eaves and ridge of a gable, hip or gambrel roof, or for flat roofs, to the top of the parapet.
- 3) The depth or projection of the offset shall be 1/10th the length of the longest adjacent wall panel; provided, however, the minimum offset depth shall be one foot. By means of illustration, a building with a 20-foot wall panel shall have a two-foot offset adjacent to such wall panel.
- 4) Each façade of a building visible from a street or common space shall comply with the offset requirements contained herein.

b) **Scale, buildings containing only residential uses.** The following requirements apply to any building containing only residential uses:

- 1) The distance between required offsets shall be related to the height of the building on a one-to-one basis; provided, however, no wall shall exceed 30 feet in length without an offset. A building façade which is less than or equal to the height of the building shall not require an offset. Provided, however, the provisions of this paragraph shall not be construed to require an offset for that portion of a façade containing a two-car garage.



- 2) The height of any particular façade shall be measured from the average ground level to the mean height level between the eaves and ridge of a gable, hip or gambrel roof, or, for flat roofs, to the top of the parapet.
- 3) Offsets shall have a minimum depth or projection of two feet regardless of the length of adjacent wall façades.
- 4) Each façade of a building visible from a street or common space shall comply with the offset requirements contained herein.

5-27-4.1.9 Streets and sidewalks. Streets and sidewalks shall comply with the circulation and access requirements contained in section 18-6-4.6, below.

5-27-4.1.10 Building materials. NOTE: Section 5-27-4.1.10 is not required for one- and two-family dwellings; property owners/developers may voluntarily consent to these standards per G.S. 160D-702(b).

Building materials shall be used consistently on the exterior of the building and shall comply with the lists of prohibited materials contained herein.

Prohibited building materials. Unless authorized through alternative design compliance, the following building materials shall be prohibited within the CHMU Commercial Highway Mixed Use Zoning District Classification: plain concrete block (with or without paint); corrugated or ribbed metal siding; reflective glass; more than 50 percent glass on any façade; roll roofing; roll siding; plain unfinished concrete (painting does not constitute a finish); aluminum; unpainted metal; exposed plain pipe columns; metal wall siding; and any other materials not customarily used in conventional construction.

5-27-4.2 General standards for residential developments. NOTE: Section 5-27-4.2 is not required for one- and two-family dwellings; property owners/developers may voluntarily consent to these standards per G.S. 160D-702(b).

5-27-4.3 General standards for nonresidential and multi-family buildings. The following standards shall apply to all buildings containing nonresidential uses and multi-family dwellings:

5-27-4.4 Specific standards for single-family and two-family detached dwellings.

5-27-4.6 Specific standards for multi-family dwellings. Multi-family dwelling consists of three or more dwelling units vertically and/or horizontally arranged. The ground floor may be available for commercial uses.

5-27-4.7 Specific standards for commercial and institutional buildings. Commercial buildings are structures which can accommodate a variety of uses mixed either horizontally (shopping center) or vertically (dwelling unit over a store). Office buildings, hotels and inns can be placed in commercial buildings. Buildings containing both commercial and residential uses shall be classified as commercial buildings for the purposes of this section. Institutional buildings are specialized public or semi-public buildings intended to serve as public gathering places. Such uses include governmental offices, churches or other places of worship, schools, hospitals, post offices, and nonprofit or charitable clubs and organizations. Note there are exceptions from the maximum height restrictions for steeples, cupolas and similar structures. These are contained in section 8-2, below.

Ordinance #

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL NUMBERS: 9588-21-9113 BY CHANGING THE ZONING DESIGNATION FROM PCD (PLANNED COMMERCIAL DEVELOPMENT CONDITIONAL ZONING DISTRICT) TO CHMU (COMMERCIAL HIGHWAY MIXED USE)

IN RE: Parcel Numbers: 9588-21-9113
(File # P23-07-RZO)

WHEREAS, the City is in receipt of a Zoning Map Amendment application from Chris Cormier of Carolina Specialties Construction [Applicant] and Satis Patel of Upward Road Hospitality [Owner].

WHEREAS, the Planning Board took up this application at its regular meeting on March 9th, 2023; voting 7-0 to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

WHEREAS, City Council took up this application at its called meeting on April 12th, 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 Number: 9588-21-9113 from PCD (Planned Commercial Development Conditional Zoning District) to CHMU (Commercial Highway Mixed Use)
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 12th day of April 2023.

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

Angela L. Reece, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney



**CITY OF HENDERSONVILLE
COMMUNITY DEVELOPMENT DEPARTMENT**

100 N. King Street, Hendersonville, NC 28792

Phone (828) 697-3010 | Fax (828) 698-6185

www.hendersonvillenc.gov

**Zoning Ordinance Map Amendment
Section 11-1 of the City Zoning Ordinance**

The following are the **required** submittals for a complete application for a Zoning Map Amendment. 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. Completed Signature Page (completed Owner's Affidavit if different from applicant)
- ☒ 3. Application Fee

A. Property Information

Date: JANUARY 13, 2023

PIN(s): 9588219113

Address(es) / Location of Property: UPWARD CROSSING

Current Zoning: PCD

Proposed Zoning: CHMU

B. Adjacent Parcel Numbers and Uses

PIN: 9588216205 Use: HOTEL

PIN: 9588221126 Use: VACANT LAND

PIN: 9588208756 Use: STORM WATER POND RETENTION

PIN: 9588209787 Use: GAS STATION STORE

PIN: _____ Use: _____

Office Use:

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

C. Applicant Contact InformationCHRIS CORMIER

* Printed Applicant Name

CAROLINA SPECIALTIES CONSTRUCTION

Printed Company Name (if applicable)

☐

Corporation

☒

Limited Liability Company

☐

Trust

☐

Partnership

☐

Other: _____

Applicant Signature

General Contractor

Applicant Title (if applicable)

624 7TH AVE EAST

Address of Applicant

HUNTERSVILLE NC 28792

City, State, and Zip Code

828-697-7184

Telephone

ccormier@cscwnc.com

Email

* Signature of the property owner acknowledges that if the property is rezoned, the property involved in this request is bound to the use(s) authorized, the approved site plan and any conditions imposed, unless subsequently changed or amended as provided for in the Zoning Ordinance.

D. Property Owner Contact Information (If different from Applicant)

SATIS PATHE

* Printed Property Owner Name

UPWARD ROAD HOSPITALITY

Printed Company Name (if applicable)

☐

Corporation

☒

Limited Liability Company

☐

Trust

☐

Partnership

☐

Other: _____

Property Owner Signature

Property Owner Title (if applicable)

P.O. Box 759

Address of Property Owner

FLORENCE

NC.

28732

City, State, and Zip Code

828-231-8980

Telephone

satis@bellsouth.net

Email

Signature of the property owner acknowledges that if the property is rezoned, the property involved in this request is bound to the use(s) authorized, the approved site plan and any conditions imposed, unless subsequently changed or amended as provided for in the Zoning Ordinance.

D. Section 11-1 Standards

The advisability of amending the text of this Zoning Ordinance or the Official Zoning Map is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt or disapprove the proposed amendment to the text of this Ordinance or the Official Zoning Map, the City Council shall consider the following factors among others:

- a) **Comprehensive Plan Consistency** – Consistency with the Comprehensive Plan and amendments thereto.

MEETS PLAN CONSISTENCY

- b) **Compatibility with surrounding uses** – Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property. (Also, see NCGS 160-601 (d) Down-Zoning)

COMPATIBLE WITH SURROUNDING USES

- c) **Changed Conditions.** Whether and the extent to which there are changed conditions, trends or facts that require an amendment. (Also, see NCGS 160D-601 (d) Down-Zoning)

BETTER MEET CITY GOAL ZONING
AND ON SITE BUSINESS

- d) **Public Interest.** Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare. (Also, see NCGS 160D-601 (d) Down-Zoning)

Rezonning would better
suit the surrounding
neighborhood and business

- e) **Public Facilities.** Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment. (Also, see NCGS 160D-601 (d) Down-Zoning)

All public facilities service this property

- f) **Effect on Natural Environment.** Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands and wildlife.

No adverse impacts

Govt Public Notices

Originally published at blueridgenow.com on 03/19/2023

PUBLIC HEARING NOTICE

Notice is hereby given that the City of Hendersonville City Council will hold 4 public hearing on Thursday, April 12, 2023, at 5:45 p.m., or as soon thereafter as possible in the City Operations Assembly Room located at 305 Williams Street, Hendersonville NC to consider the following:

I. Standard Rezoning – Upward Crossing Rd (P23-07-RZO) - Application for a Standard Rezoning from Chris Cormier with Carolina Specialties Construction, applicant and Satis Patel of Upward Road Hospitality, owner. The applicant is requesting to rezone the subject properties (PIN: 9588-21-9113) located at Upward Crossing Rd, from PCD, Planned Commercial Development to CHMU, Commercial Highway Mixed Use.

II. Standard Rezoning - 210, 212, 214 Hillview Blvd (P23-18-RZO) - Application for a Standard Rezoning from Brentley Drew Orr, applicant and Kenneth M. Gordon of Bickering Brothers, LLC, owner. The applicant is requesting to rezone the subject properties (PINs: 9578-04-4785; 9578-04-5733; and 9578-04-5792) located at 210, 212, & 214 Hillview Blvd, from R-15, Medium Density Residential Zoning District to C-2, Secondary Business Zoning District.

III. Conditional Zoning District – 1202 Greenville Highway Apartments (P22-111-CZD) – Application for a conditional rezoning from David Gorman of Lock 7 Development, applicant and Ann Ferguson, property owner. The applicant is requesting to rezone the subject property (PIN: 9578-01-3440) located at 1202 Greenville Highway, from GHMU, Greenville Highway Mixed Use to GHMU-CZD, Greenville Highway Mixed Use - Conditional Zoning District for the construction of a multi-family development consisting of 185 apartment units on approximately 6.76 acres.

IV. Annexation – 7 Bridgette Loop Road (C23-19-ANX) - A petition from Lynnwood Cabins LLC for a contiguous annexation of approximately 3.06 acres. The subject property includes PIN 9569-14-9568 and is located on Haywood Road and Bridgette Loop Road.

Digital/written public hearing comments must be received twenty-four hours prior to the meeting (by 5:45 p.m. on Tuesday, April 11th) to be considered by the City Council and must comply with security criteria in the Council's Public Comment Policy, available on the

Public hearing comments will also be accepted during the meeting from those attending in person and from those participating live via ZOOM at the designated time at this meeting. For security reasons screen sharing will not be allowed. Anyone wishing to submit written/digital public hearing comments for these public hearings prior to the meeting may visit <https://www.hendersonvillenc.gov/comment> to submit their comment. It is not necessary to submit digital comments if you are planning to address City Council during the meeting.

The meeting instructions to join by Zoom will be available on the City's website calendar by visiting <https://www.hendersonvillenc.gov/events-calendar>.

The City of Hendersonville is committed to providing accessible facilities, programs, and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact the City Clerk no later than 24 hours in advance of the meeting (828) 697-3005.
3/19, 3/26/23



CITY OF HENDERSONVILLE
AGENDA ITEM SUMMARY
PLANNING DIVISION

SUBMITTER: Matthew Manley MEETING DATE: April 12, 2023

AGENDA SECTION: Public Hearing DEPARTMENT: Community Development

TITLE OF ITEM: Rezoning: Standard Rezoning –Hillview Blvd Rezoning (P23-18-RZO) –
Matthew Manley, AICP / Planning Manager

SUGGESTED MOTION(S):

<p><u>For Recommending Approval of C-2:</u></p> <p>I move City Council <u>adopt</u> an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject properties (PINs: 9578-04-4785; 9578-04-5733; and 9578-04-5792 from R-15 (Medium Density Residential) to C-2 (Secondary Business) based on the following:</p> <p>1. The petition is found to be <u>inconsistent</u> with the City of Hendersonville 2030 <u>Comprehensive Plan</u> based on the information from the staff analysis and the public hearing, and because:</p> <p><i>The High Intensity Neighborhood designations call for Attached Single Family Residential and Multi-family Residential as the Primary Land Uses and only recommends Office and Retail uses along Thoroughfares. While the proposed zoning district would permit Attached Single-Family uses, it would also permit a range of Commercial uses on a Local Street.</i></p> <p>2. We <u>recommend amending the Future Land Use designation</u> of the subject parcel and other parcels fronting Hillview Blvd from <i>High Intensity Neighborhood</i> to <i>Neighborhood Activity Center</i>.</p> <p>3. We <u>[find]</u> this petition to be <u>reasonable and in the public interest</u> based on the information from the staff analysis and the public hearing, and because:</p> <p>1. The proposed commercial zoning district is compatible with the surrounding area because</p>	<p><u>For Recommending Denial of C-2:</u></p> <p>I move City Council <u>deny</u> an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PINs: 9578-04-4785; 9578-04-5733; and 9578-04-5792 from R-15 (Medium Density Residential) to C-2 (Secondary Business) based on the following:</p> <p>1. The petition is found to be <u>inconsistent</u> with the City of Hendersonville 2030 <u>Comprehensive Plan</u> based on the information from the staff analysis and the public hearing, and because:</p> <p><i>The High Intensity Neighborhood designations call for Attached Single Family Residential and Multi-family Residential as the Primary Land Uses and only recommends Office and Retail uses along Thoroughfares. While the proposed zoning district would permit Attached Single-Family uses, it would also permit a range of Commercial uses on a Local Street.</i></p> <p>2. We <u>[do not find]</u> this petition to be <u>reasonable and in the public interest</u> based on the information from the staff analysis and the public hearing, and because:</p> <p>1. The proposed commercial zoning district is incompatible due to the residential character established along Hillview Blvd.</p> <p>2. The petition to increase intensity is incompatible given the property frontage on a Local street.</p> <p>[DISCUSS & VOTE]</p>
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<div>it permits the same land uses as the adjacent parcels.</div> <div>2. The petition provides for an increase in intensity in close proximity to a major thoroughfare</div> <div>[DISCUSS & VOTE]</div>	
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SUMMARY: *The City of Hendersonville is in receipt of an application for a Standard Rezoning from Brentley Orr, applicant/property owner, and Kenneth M. Gordon of Bickering Brothers, LLC, property owner. The applicant is requesting to rezone the subject property at 210, 212, & 214 Hillview Blvd (PINs: 9578-04-4785; 9578-04-5733; and 9578-04-5792) totaling .78 acres, from R-15, Medium Density Residential to C-2 Secondary Business.*

If rezoned, there will not be a binding site plan, list of uses or conditions placed on the site. All permitted uses within the C-2 district would be allowed on the site. 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.

At their meeting on March 9th, the Planning Board voted 7-0 to recommend denial of the petition.

PROJECT/PETITIONER NUMBER:	P23-18-RZO
PETITIONER NAME:	<div>1. Brentley Orr [Applicant/Owner]</div> <div>2. Kenneth M. Gordon of Bickering Brothers, LLC, [Owner]</div>
ATTACHMENTS:	<div>1. Staff Report</div> <div>2. Planning Board Summary</div> <div>3. Zoning District Comparison</div> <div>4. Draft Ordinance</div> <div>5. Proposed Zoning Map</div> <div>6. Application</div> <div>7. Notice of Public Hearing</div>

STANDARD REZONING: HILLVIEW BLVD (P23-18-RZO)
CITY OF HENDERSONVILLE - COMMUNITY DEVELOPMENT STAFF REPORT

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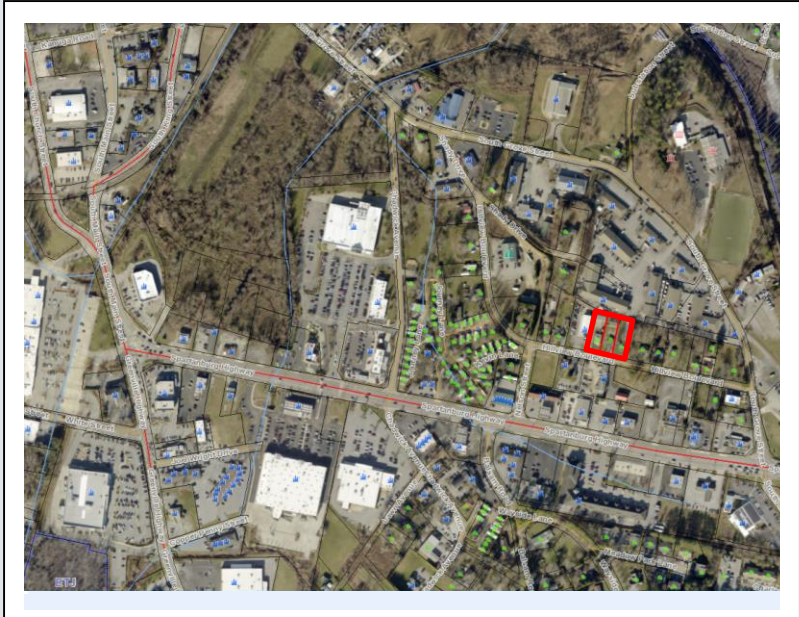
REZONING ANALYSIS – COMPREHENSIVE PLAN CONSISTENCY (ARTICLE 11-4) 9

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

DRAFT COMPREHENSIVE PLAN CONSISTENCY AND REZONING REASONABLENESS STATEMENT 12



- Project Name & Case #:
 - Hillview Blvd Rezoning
 - P23-18-RZO
- Applicant & Property Owner:
 - Brentley Orr [Applicant]
 - Brentley Orr and Kenneth M. Gordon/Bickering Brothers, LLC. [Owner]
- Property Address:
 - 210, 212, 214 Hillview Blvd
- Parcel Identification (PIN):
 - 9578-04-4785;
 - 9578-04-5733; and
 - 9578-04-5792
- Project Acreage:
 - .78 Acres
- Current Parcel Zoning:
 - R-15 Medium Density Residential
- Requested Zoning:
 - C-2 Secondary Business
- Future Land Use Designation:
 - High Intensity Neighborhood

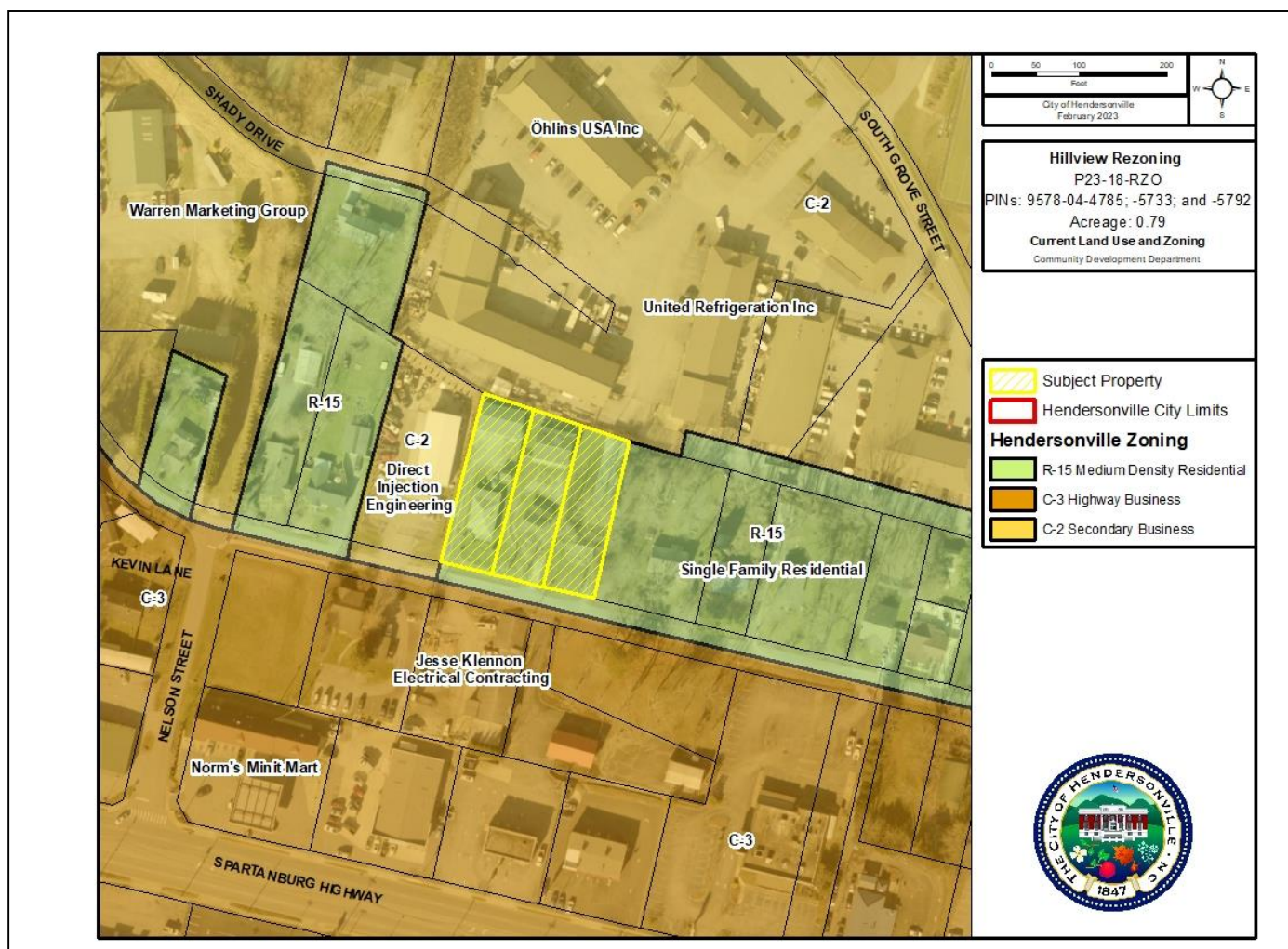


SITE VICINITY MAP

The City of Hendersonville is in receipt of an application for a Standard Rezoning from Brentley Orr, applicant/property owner, and Kenneth M. Gordon of Bickering Brothers, LLC, property owner. The applicant is requesting to rezone the subject property at 210, 212, & 214 Hillview Blvd (PINs: 9578-04-4785; 9578-04-5733; and 9578-04-5792) totaling .78 acres, from R-15, Medium Density Residential to C-2 Secondary Business.

If rezoned, there will not be a binding site plan, list of uses or conditions placed on the site. All permitted uses within the C-2 district would be allowed on the site. 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.

EXISTING ZONING & LAND USE



City of Hendersonville Current Zoning & Land Use Map

The subject property is located in a transition area. The uses in proximity to Spartanburg Highway are zoned C-3 and contain some of the most intense land uses found within the City. The properties with access to S. Grove St are zoned C-2 and contain a variety of commercial land uses. The R-15 zoning and single-family land uses located along Hillview Blvd represent the final remnants of what once was an entirely residential area (Hillview Subdivision originally platted July 12, 1946).

The subject property is adjacent to C-2 to the west and across the street from C-3 to the south. C-2 and C-3 are intense commercial uses. C-3 is the more intense of the two districts. See attached "Use Comparison" for additional information.

SITE IMAGES



Subject property 210 Hillview Blvd



Subject property 212 Hillview Blvd

SITE IMAGES



Subject property 214 Hillview Blvd



Direct Injection Engineering (C-2) adjacent to 210 Hillview Blvd

SITE IMAGES



Existing Single-family homes on Hillview



Existing Single-family homes on Hillview

SITE IMAGES

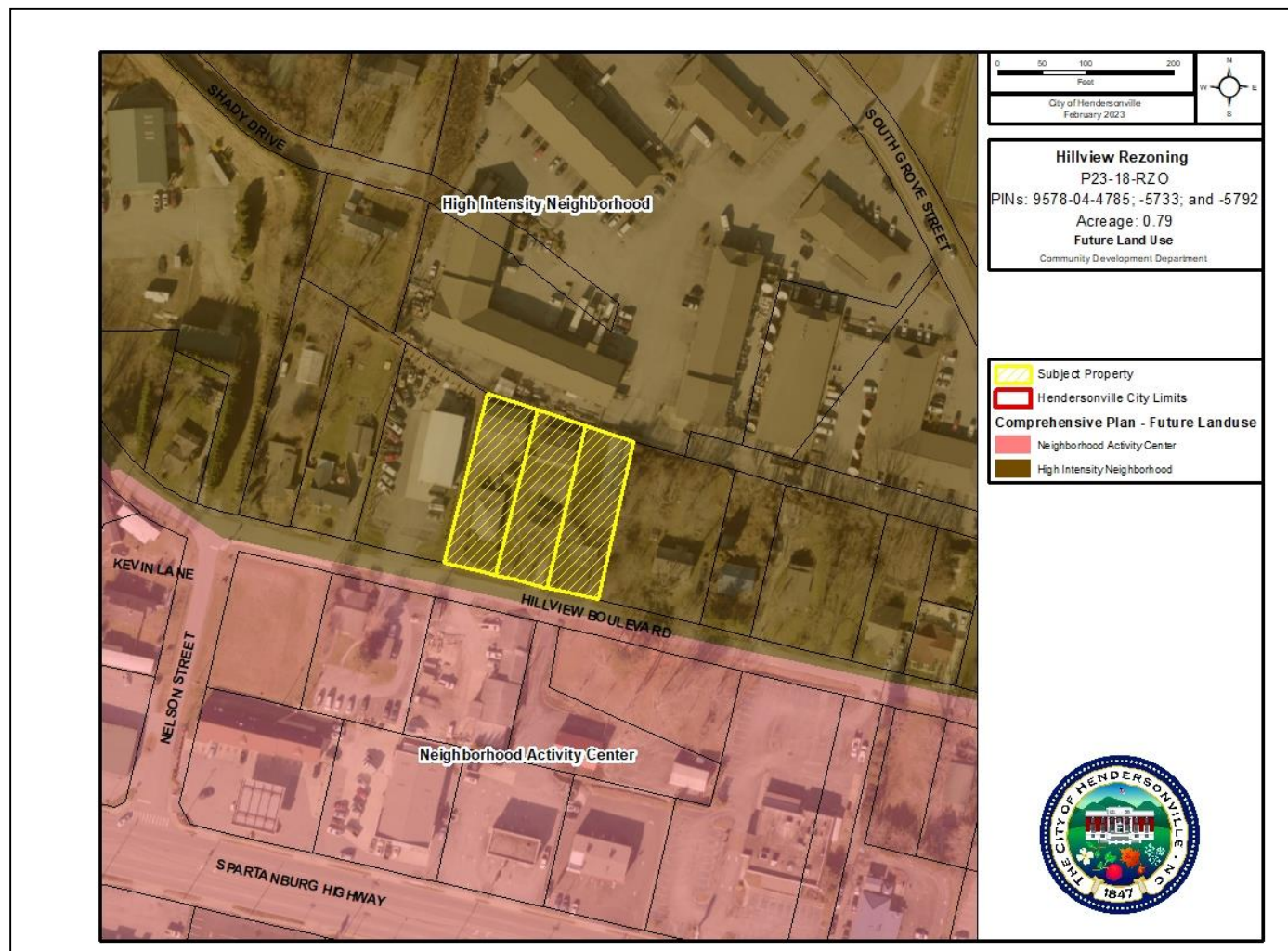


Commercial Uses with access to Hillview. Oriented towards Spartanburg Hwy



Commercial Uses visible from Hillview. Oriented towards Spartanburg Hwy

FUTURE LAND USE



City of Hendersonville Future Land Use Map

Hillview Blvd, the street providing access to the subject properties, serves at the transition line between High Intensity Neighborhood and Neighborhood Activity Center as established in the Comprehensive Plan.

The 2030 Comprehensive Plan's Future Land Use Map designates the subject property as High Intensity Neighborhood. This designation is also representative of the parcels north of Hillview Blvd, and those fronting either side of S. Grove St.

Properties to the south of Hillview Blvd are designated as Neighborhood Activity Center - as are all of the properties in the vicinity of Spartanburg Highway.

It should be noted that High Intensity Neighborhood designation calls for dense residential uses, but it does not recommend commercial uses along local streets. The commercial uses along S. Grove St that are designated as High Intensity Neighborhood would likely still be in alignment with the Comp Plan due to their location along a Minor Thoroughfare.

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

COMPREHENSIVE PLAN CONSISTENCY

Future Land Use	Goal LU-7 - High Intensity Neighborhood: Encourage low-maintenance, high density housing that supports Neighborhood and Regional Activity Centers and downtown and provides a transition between commercial and single-family development. Promote walkable neighborhood design that creates attractive and functional roadway corridors and multi-family residential neighborhoods
	Strategy LU-7.1. Locations: • Neighborhoods between Jackson Park and US-176 [CONSISTENT]
	Strategy LU-7.2. Primary recommended land uses: • Single-family attached [CONSISTENT] and multi-family residential [INCONSISTENT] • Planned Residential Developments [INCONSISTENT] • Open space [INCONSISTENT]
	Strategy LU-7.3. Secondary recommended land uses: • Public and institutional uses [CONSISTENT] • Offices and retail along thoroughfares [INCONSISTENT] • Recreational amenities [CONSISTENT]
	Strategy LU-7.4. Development guidelines: • Eight or more units per gross acre [PARTIALLY CONSISTENT ~ C-2 Min. Lot Size = 7 units per acre; C-2 Minor PRD = 8.5 units per acre] • Placement of higher-intensity uses (e.g. office or higher-density residential) close to Boulevards and Major Thoroughfares, and/or adjacent to Neighborhood and Regional Activity Centers [PARTIALLY CONSISTENT] • At least 60% open space in new residential developments greater than three acres [INCONSISTENT] • Architectural guidelines to encourage compatibility between different land uses (e.g. similarities in building height, massing, roof pitch, and rhythm of windows and façade detailing) [INCONSISTENT] • Encouragement of walkable neighborhood design [INCONSISTENT]
Land Use & Development	Growth Management (Map 8.3a): Designated as a “Priority Infill Area” - Areas that are considered a high priority for the City to encourage infill development on remaining vacant lots and redevelopment of underutilized or underdeveloped properties
	Goal LU-1. Encourage infill development that utilizes existing infrastructure in order to maximize public investment and revitalize existing neighborhoods.

Population & Housing	<i>Strategy PH-1.1 – Promote Compatible infill development...</i>
	<i>PH-1.4. Allow redevelopment and/or reuse of single-family homes that directly front on arterials into office or high-density residential uses in coordination with the Future Land Use Map.</i>
	<i>Goal PH-2 – Encourage a wide range of housing types and price points in order to meet the diverse and evolving needs of current and future residents, match the housing supply with the local workforce, and promote diverse neighborhoods.</i> <i>Strategy 2.3- Allow housing arrangements in existing and new neighborhoods that provide affordable and/or multigenerational housing alternatives in single-family neighborhoods</i>
	<i>Goal PH-3 – Promote safe and walkable neighborhoods.</i> <i>Strategy PH-3.2 - Encourage mixed land use patterns that place residents within walking distance of services.</i>
Natural & Environmental Resources	<i>No Goals, Strategies, or Actions are directly applicable to this project.</i>
Cultural & Historic Resources	<i>No Goals, Strategies, or Actions are directly applicable to this project.</i>
Community Facilities	<i>No Goals, Strategies, or Actions are directly applicable to this project.</i>
Water Resources	<i>No Goals, Strategies, or Actions are directly applicable to this project.</i>
Transportation & Circulation	<i>TC-1.1. Encourage mixed-use, pedestrian-friendly development that reduces the need to drive between land uses.</i>

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

GENERAL REZONING STANDARDS	
Compatibility	<p>The subject property is located in a transition area. The uses in proximity to Spartanburg Highway are zoned C-3 and contain some of the most intense land uses found within the City. The properties with access to S. Grove St are zoned C-2 and contain a variety of commercial land uses. The R-15 zoning and single-family land uses located along Hillview Blvd represent the final remnants of what once was an entirely residential area (Hillview Subdivision originally platted July 12, 1946).</p> <p>The subject property is adjacent to C-2 to the west and across the street from C-3 to the south. C-2 and C-3 are intense commercial uses. C-3 is the more intense of the two districts. See attached “Use Comparison” for additional information.</p>
Changed Conditions	West of the subject property, property fronting Hillview Ave was rezoned to C-2, Secondary Business.
Public Interest	The rezoning will allow for additional commercial development in an area transitioning from single-family residential due to its proximity to highway commercial zoning.
Public Facilities	A Water / Sewer Availability Request has not been received for this project. The site will be served by a City maintained street, which is classified as a “local street” in the comprehensive plan.
Effect on Natural Environment	The subject property is currently developed with single-family homes. No development is being considered as part of the standard rezoning, therefore there are no known environmental impacts at this time.

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

The High Intensity Neighborhood designations call for Attached Single Family Residential and Multi-family Residential as the Primary Land Uses and only recommends Office and Retail uses along Thoroughfares. While the proposed zoning district would permit Attached Single-Family uses, it would also permit a range of Commercial uses on a Local Street.

DRAFT FUTURE LAND USE MAP REDESIGNATION STATEMENT FOR APPROVAL OF C-2 ZONING:

The Future Land Use designation for the subject property and other parcels fronting Hillview Blvd should be redesignated as ‘Neighborhood Activity Center’

DRAFT RATIONALE FOR APPROVAL OF C-2 ZONING:

- *The proposed commercial zoning district is compatible with the surrounding area because it permits the same land uses as the adjacent parcels.*
- *The petition provides for an increase in intensity in close proximity to a major thoroughfare*

DRAFT COMPREHENSIVE PLAN CONSISTENCY STATEMENT FOR DENIAL OF C-2 ZONING:

[See Text Box Above]

DRAFT RATIONAL FOR DENIAL:

- *The proposed commercial zoning district is incompatible due to the residential character established along Hillview Blvd.*
- *The petition to increase intensity is incompatible given the property frontage on a Local street.*



PLANNING BOARD RECOMMENDATION

PROJECT #: P23-18-RZO

MEETING DATE: March 9, 2022

PETITION REQUEST: Signal Hill Rezoning - Standard Rezoning (R-15 to C-2)

APPLICANT/PETITIONER: Brentley Orr [Applicant/Owner]

Kenneth M. Gordon of Bickering Brothers, LLC, [Owner]

PLANNING BOARD ACTION SUMMARY:

Staff gave a 13-minute presentation on the request - reviewing the guidance from the Comprehensive Plan as well as the criteria for considering a rezoning and ultimately making a recommendation on the rezoning with consideration of the RCT zoning district rather than the C-2 zoning district due to the condition of Hillview Blvd not having the capacity to carry commercial traffic. The Planning Board asked questions related to application of the RCT Zoning District as an alternative given that it requires road improvements and has more neighborhood-oriented commercial uses. In total Planning Board considered this item for 39 minutes.

PUBLIC COMMENT:

The applicant spoke in favor of the petition:

Ken Gordon, Bickering Brothers, LLC – Spoke in favor of the petition

Justin Chaney, part owner of 212 Hillview Blvd – Spoke in favor of C-2 based on their intentions for the use of the property. He stated that RCT would not work for their intentions. He also spoke about issues related to non-conformity as a result of rezoning to the RCT.

Other public comments include the following:

Dan Brown, 371 Crab Creek Rd - adjacent property owner of PINS 9578045496 & 9578046542 – stated that the street is too narrow to accommodate commercial traffic

Lynne Williams, Chadwick Ave – spoke in opposition to the rezoning as a means of preserving existing housing stock.

DELIBERATION:

The Planning Board deliberated about the traffic concerns, the loss of modest housing as a result of the rezoning and potential consideration of RCT. While RCT was given some consideration, members felt as though that decision should be considered in the future if RCT permitted multi-family housing (it currently does not permit multi-family residential).

MOTION:

Neil Brown moved that the Planning Board recommend denial providing the following:

COMPREHENSIVE PLAN CONSISTENCY STATEMENT:

The High Intensity Neighborhood designations call for Attached Single Family Residential and Multi-family Residential as the Primary Land Uses and only recommends Office and Retail uses along Thoroughfares. While the proposed zoning district would permit Attached Single-Family uses, it would also permit a range of Commercial uses on a Local Street.

REASONABLENESS STATEMENT:

[Rationale for Denial]

- 1. The proposed commercial zoning district is incompatible due to the residential character established along Hillview Blvd.
- 2. The petition to increase intensity is incompatible given the property frontage on a Local street.

BOARD ACTION

- **Motion/Second:** Brown / Cromar
- **Yeas:** Martin, Cromar, Peacock, Brown, Hanley, Robertson, Robinson
- **Nays:** N/A
- **Absent:** Jamison
- **Recused:** N/A

The C-2 Zoning District has been requested by the Applicant. RCT, C-4 and R-6 Zoning Districts were alternative choices considered by Staff. C District has a significant present in the area of the subject property.

USE	C-2	C-3	C-4	R-6	RCT
Accessory dwelling units	SS	SS	SS	SS	SS
Accessory uses and/or structures	P	P	P	P	P
Adult care centers	SS	SS	SS	-	SS
Adult care homes	-	-	-	SS	SS
Animal hospitals & clinics	SS	SS	-	-	SS
Animal boarding facilities	SU	SU	-	-	-
Automobile car washes	P	P	SS	-	SS
Automobile sales & service	P	P	-	-	-
Automotive paint & body work	SU	P	-	-	-
Banks & other financial institutions	P	P	P	-	SS
Bed & breakfast facilities	P	P	SU	SU	SU
Bus stations	SU	SU	-	-	-
Business services	P	P	P	-	SS
Camps	-	-	-	P	-
Child care centers	SU	SU	SU	-	SU
Child care home	-	-	-	SS	SS
Civic clubs & fraternal organizations	SU	SU	SU	-	SU
Congregate care facilities	SS	SS	-	-	-
Construction trades facilities	SS	SS	-	-	-
Convenience stores with or without gasoline sales	P	P	P	-	-
Cultural arts buildings	P	P	-	-	-
Dance & fitness facilities	P	P	P	-	-
Dry cleaning & laundry (≤2,000SF)	P	P	P	-	-
Dry cleaning & laundry (≤6,000SF)	P	P	-	-	-
Farm equipment sales & service	P	P	-	-	-
Food pantries	SS	SS	-	-	-
Food processing establishments	-	SS	-	-	-
Funeral homes	P	P	-	-	-
Golf driving ranges, par 3 golf	P	P	-	-	-
Greenhouses & nurseries, commercial	P	P	-	-	SS
Home occupations	P	P	P	P	P
Hotels	P	P	-	-	-

USE	C-2	C-3	C-4	R-6	RC
Laundries, coin-operated	P	P	P	-	SS
Manufacturing, light	SU	-	-	-	-
Microbreweries	SS	SS	-	-	-
Mini-warehouses	-	SU	-	-	-
Mobile food vendors	SS	SS	-	-	-
Mobile home sales	-	SS	-	-	-
Motels	P	P	-	-	-
Music & art studios	P	P	P	-	P
Neighborhood community centers	P	-	-	P	P
Newspaper office & printing establishments	P	P	-	-	-
Nursing homes	SS	SS	-	-	-
Offices, business, professional & public	P	P	P	-	SS
Parking lots & parking garages	P	P	-	-	-
Parks	P	P	P	P	P
Personal services	P	P	P	-	SS
Pet-sitting	-	-	SU	-	SU
Planned residential development (minor)	SS	SS	-	SS	SS
Private clubs	SU	SU	-	-	-
Progressive care facilities	SS	SS	-	-	-
Public & semi-public buildings	P	P	-	-	-
Public utility facilities	SU	SU	SU	SU	SU
Recreational facilities, indoors	P	P	-	-	-
Recreational facilities, outdoors, commercial	P	P	-	-	-
Religious institutions	P	P	P	SS	P
Repair services, miscellaneous	P	P	-	-	-
Residential care facilities	P	P	-	SU	SU
Residential dwellings, single-family	P	P	P	P	P
Residential dwellings, multi-family	SS	-	P	-	-
Residential dwellings, two-family	P	P	-	P	P
Rest homes	SS	SS	-	-	-
Restaurants	P	P	SU	-	SU
Restaurants, drive-in	-	P	-	-	-
Retail stores	P	P	SS	-	SS

USE	C-2	C-3	C-4	R-6	RC
School, post secondary, business, technical & vocational	P	P	-	-	-
Schools, primary & secondary	P	P	-	SU	-
Service stations	P	P	P	-	-
Shelter facilities	P	P	-	-	-
Signs	SS	SS	SS	SS	SS
Storage yards	-	-	-	-	-
Telecommunications antennas	SS	SS	SS	SS	SS
Telecommunications towers	-	SS	-	-	-
Theaters, indoor	P	P	-	-	-
Wholesale businesses	P	P	-	-	-

RCT also has the following provision:

5-13-4. - Access.

To provide adequate room for increased vehicular traffic, at the time the use of the property changes to a commercial use, the street or streets on which the property fronts shall be widened to a minimum pavement width of 12 feet as measured from the center line of the street, from property line to property line. The widened streets shall meet the design and construction specifications of NCDOT.

Ordinance #

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCEL NUMBERS: 9578-04-4785; 9578-04-5733; AND 9578-04-5792 BY CHANGING THE ZONING DESIGNATION FROM R-15 (MEDIUM DENSITY RESIDENTIAL) TO C-2 (SECONDARY BUSINESS)

IN RE: Parcel Numbers: 9578-04-4785; 9578-04-5733; & 9578-04-5792
(File # P23-18-RZO)

WHEREAS, the City is in receipt of a Zoning Map Amendment application from Brently Orr [Applicant / Owner] and Kenneth M. Gordon of Bickering Brothers, LLC. [Owner].

WHEREAS, the Planning Board took up this application at its regular meeting on March 9th, 2023; voting 7-0 to recommend City Council not adopt an ordinance amending the official zoning map of the City of Hendersonville, and

WHEREAS, City Council took up this application at its called meeting on April 12th, 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 9578-04-4785; 9578-04-5733; & 9578-04-5792 from R-15 Medium Density Residential to C-2, Secondary Business.
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 12th day of April 2023.

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

Angela L. Reece, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney



**CITY OF HENDERSONVILLE
COMMUNITY DEVELOPMENT DEPARTMENT**

100 N. King Street, Hendersonville, NC 28792
Phone (828) 697-3010/Fax (828) 698-6185
www.hendersonvillenc.gov

**Zoning Ordinance Map Amendment
Section 11-1 of the City Zoning Ordinance**

The following are the **required** submittals for a complete application for a Zoning Map Amendment. 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. Completed Signature Page (completed Owner's Affidavit if different from applicant)
- ☐ 3. Application Fee

A. Property Information

Date: 1-30-2023

PIN(s): 9578044785, 9578045733, 9578045792

Address(es) / Location of Property: 210, 212, 214

Current Zoning: R-15

Proposed Zoning: C-2

B. Adjacent Parcel Numbers and Uses

PIN: 9578046679

Use: Residential

PIN: 9578055238

Use: Cabinetry

PIN: 9578043798

Use: Auto

PIN: _____

Use: _____

PIN: _____

Use: _____

Office Use:

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

C. Applicant Contact InformationBrentley Drew Orr

* Printed Applicant Name

Printed Company Name (if applicable)

☐

Corporation

☐

Limited Liability Company

☐

Trust

☐

Partnership

☒Other: individualBrentley Drew Orr

Applicant Signature

Applicant Title (if applicable)

2647 Bobs Creek Rd

Address of Applicant

Zirconia NC 28790

City, State, and Zip Code

828 - 845 - 5405

Telephone

Borr@HvLnc.gov

Email

* Signature of the property owner acknowledges that if the property is rezoned, the property involved in this request is bound to the use(s) authorized, the approved site plan and any conditions imposed, unless subsequently changed or amended as provided for in the Zoning Ordinance.

D. Section 11-1 Standards

The advisability of amending the text of this Zoning Ordinance or the Official Zoning Map is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt or disapprove the proposed amendment to the text of this Ordinance or the Official Zoning Map, the City Council shall consider the following factors among others:

- a) **Comprehensive Plan Consistency** – Consistency with the Comprehensive Plan and amendments thereto.

Property Abuts regional activity center

- b) **Compatibility with surrounding uses** – Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property. (Also, see NCGS 160-601 (d) Down-Zoning)

Property's are Surrounded
Front and back with higher commercial ratings

- c) **Changed Conditions.** Whether and the extent to which there are changed conditions, trends or facts that require an amendment. (Also, see NCGS 160D-601 (d) Down-Zoning)

Commercial business opened next door within the
past year

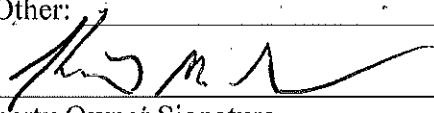
D. Property Owner Contact Information (If different from Applicant)

Kenneth M. Gordon
 * Printed Property Owner Name

Bickering Brothers LLC
 Printed Company Name (if applicable)

☐ Corporation ☒ Limited Liability Company ☐ Trust ☐ Partnership

☐ Other: _____


 Property Owner Signature

MEMBER MGR.
 Property Owner Title (if applicable)

140 Sultana Dr.
 Address of Property Owner

Hendersonville NC 28739
 City, State, and Zip Code

828-696-5442
 Telephone

Kengordon@bellsouth.net
 Email

Signature of the property owner acknowledges that if the property is rezoned, the property involved in this request is bound to the use(s) authorized, the approved site plan and any conditions imposed, unless subsequently changed or amended as provided for in the Zoning Ordinance.

- d) **Public Interest.** Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare. (Also, see NCGS 160D-601 (d) Down-Zoning)

More opportunity for
Commercial business in the future

- e) **Public Facilities.** Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment. (Also, see NCGS 160D-601 (d) Down-Zoning)

no extension of infrastructure needed

- f) **Effect on Natural Environment.** Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands and wildlife.

no impact

Govt Public Notices

Originally published at blueridgenow.com on 03/19/2023

PUBLIC HEARING NOTICE

Notice is hereby given that the City of Hendersonville City Council will hold 4 public hearing on Thursday, April 12, 2023, at 5:45 p.m., or as soon thereafter as possible in the City Operations Assembly Room located at 305 Williams Street, Hendersonville NC to consider the following:

I. Standard Rezoning – Upward Crossing Rd (P23-07-RZO) - Application for a Standard Rezoning from Chris Cormier with Carolina Specialties Construction, applicant and Satis Patel of Upward Road Hospitality, owner. The applicant is requesting to rezone the subject properties (PIN: 9588-21-9113) located at Upward Crossing Rd, from PCD, Planned Commercial Development to CHMU, Commercial Highway Mixed Use.

II. Standard Rezoning - 210, 212, 214 Hillview Blvd (P23-18-RZO) - Application for a Standard Rezoning from Brentley Drew Orr, applicant and Kenneth M. Gordon of Bickering Brothers, LLC, owner. The applicant is requesting to rezone the subject properties (PINs: 9578-04-4785; 9578-04-5733; and 9578-04-5792) located at 210, 212, & 214 Hillview Blvd, from R-15, Medium Density Residential Zoning District to C-2, Secondary Business Zoning District.

III. Conditional Zoning District – 1202 Greenville Highway Apartments (P22-111-CZD) – Application for a conditional rezoning from David Gorman of Lock 7 Development, applicant and Ann Ferguson, property owner. The applicant is requesting to rezone the subject property (PIN: 9578-01-3440) located at 1202 Greenville Highway, from GHMU, Greenville Highway Mixed Use to GHMU-CZD, Greenville Highway Mixed Use - Conditional Zoning District for the construction of a multi-family development consisting of 185 apartment units on approximately 6.76 acres.

IV. Annexation – 7 Bridgette Loop Road (C23-19-ANX) - A petition from Lynnwood Cabins LLC for a contiguous annexation of approximately 3.06 acres. The subject property includes PIN 9569-14-9568 and is located on Haywood Road and Bridgette Loop Road.

Digital/written public hearing comments must be received twenty-four hours prior to the meeting (by 5:45 p.m. on Tuesday, April 11th) to be considered by the City Council and must comply with security criteria in the Council's Public Comment Policy, available on the

Public hearing comments will also be accepted during the meeting from those attending in person and from those participating live via ZOOM at the designated time at this meeting. For security reasons screen sharing will not be allowed. Anyone wishing to submit written/digital public hearing comments for these public hearings prior to the meeting may visit <https://www.hendersonvillenc.gov/comment> to submit their comment. It is not necessary to submit digital comments if you are planning to address City Council during the meeting.

The meeting instructions to join by Zoom will be available on the City's website calendar by visiting <https://www.hendersonvillenc.gov/events-calendar>.

The City of Hendersonville is committed to providing accessible facilities, programs, and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact the City Clerk no later than 24 hours in advance of the meeting (828) 697-3005.
3/19, 3/26/23

ATTACHMENTS:

1. Order to close
2. Signed Resolution of Intent
3. Street Closure Plat
4. GIS Map
5. Deed
6. Application
7. TJF Enterprises, LLC Annual Report
8. Notice of Public Hearing

ORDER # _____

**ORDER TO PERMANENTLY CLOSE A
PORTION OF A RIGHT-OF-WAY LYING BETWEEN PIN 9568-78-7052 AND PINS 9568-78-
8039, 9568-78-8036, 9568-78-8044, 9568-78-8042, 9568-78-8041, AND 9568-77-8957**

(Petition from TJF Enterprises, LLC)

NORTH CAROLINA
HENDERSON COUNTY

TO WHOM IT MAY CONCERN:

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

WHEREAS, TJF Enterprises, LLC, owner, has petitioned the City of Hendersonville City Council to close a portion of a right-of-way that abuts property described in a deed recorded in the Henderson County Registry in Deed Book 948 at page 520, having PIN of 9568-78-7052.

WHEREAS, on March 2nd, 2023, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close a portion of this street and setting April 12th, 2023 as the date of a public hearing regarding such closure; and

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

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

WHEREAS, a public hearing was held in conformance with the aforementioned public notice on the twelfth day of April, 2023.

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

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

IN CONSIDERATION THEREOF, IT IS HEREBY ORDERED:

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

Being all of that real property described as "Existing 10' alley (To be Closed & maintained as 10' Utility Easement)" as shown on that plat recorded in Plat Book _____ at Page _____ of the Henderson County Registry [to be inserted at recording]

Description of a portion of N. Wall Street

to be closed under NCGS 160A-299

Beginning at the most NE corner of the

TJF Enterprises LLC property described in D.B. 948, PG. 520;

Said beginning point being located N 36°24'02" E a distance of 204.42' from a point having NCGS Gridiron "Post Office 2" coordinates of N: 587993.34 and E: 967676.32, and proceeding thence from said beginning point N 82°06'29" E a distance of 4.98' to a point; N 82°06'29" E a distance of 4.98' to a point;

thence S 07°52'22" E a distance of 95.02' to a point;

thence S 08°15'00" E a distance of 41.95' to a point;

thence S 81°41'57" W a distance of 4.68' to a point;

thence S 81°41'57" W a distance of 4.81' to a point;

thence N 08°10'52" W a distance of 137.04' to a point;

which is the point of beginning.

Having an area of 1,320 square feet, hereinafter "Closed Portion of N. Wall Street"

2. The City herewith reserves all right, title, and interest in and to any utility infrastructure including water, sewer, and stormwater infrastructure within the closed portion of N. Wall Street, as well as an easement over, upon, across, under and through the closed portion of N. Wall Street for the placement, construction, and maintenance of public utilities including waterlines, sewer lines, stormwater management, and underground telecommunications facilities including cables, wires, and/or conduit.

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

This order shall take effect the 12th day of April, 2023.

Barbara G. Volk, Mayor, City of Hendersonville

ATTEST:

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, _____, a notary public in Henderson County, State of North Carolina, do hereby certify that Barbara G. Volk, in her capacity as Mayor of the City of Hendersonville, Jill Murray, in her capacity as City Clerk, and Angela S. Beeker, in her capacity as City Attorney, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this _____.

My commission expires _____

Resolution #23-17

**RESOLUTION OF INTENT TO CLOSE A
PORTION OF N. WALL STREET**

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

WHEREAS, TJF Enterprises, LLC has petitioned the City of Hendersonville City Council to close a portion of the street known as N. Wall Street, located between PIN 9568-78-7052 and PINs 9568-78-8039, 9568-78-8036, 9568-78-8044, 9568-78-8042, 9568-78-8041, and 9568-77-8957; 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 12th day of April 2023, in the Assembly Room of the City Operations Center to consider closing a portion of the street known as N. Wall Street located between PIN 9568-78-7052 and PINs 9568-78-8039, 9568-78-8036, 9568-78-8044, 9568-78-8042, 9568-78-8041, and 9568-77-8957. 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 portion of N. Wall Street proposed for closing is as follows:

Beginning at a drill hole in concrete,

and being the most NE corner of the

TJF Enterprises LLC property described in D.B. 948, PG. 520;

thence N 82°06'29" E a distance of 4.98' to a point;
 thence N 82°06'29" E a distance of 4.98' to a point;
 thence S 07°52'22" E a distance of 95.02' to a point;
 thence S 08°15'00" E a distance of 41.95' to a point;
 thence S 81°41'57" W a distance of 4.68' to a point;
 thence S 81°41'57" W a distance of 4.81' to a point;
 thence N 08°10'52" W a distance of 137.04' to a point;
 which is the point of beginning.


Having an area of 1,320 square feet.

3. The City shall reserve all right, title, and interest in and to any utility infrastructure including water, sewer, and stormwater infrastructure within N. Wall Street, as well as an easement over, upon, across, under and through N. Wall Street for the placement, construction, and maintenance of public utilities including waterlines, sewer lines, stormwater management, and underground telecommunications facilities including cables, wires, and/or conduit.
4. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks.
5. 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.
6. 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 portion of N. Wall Street proposed for closure as required by G.S. 160A-299.
7. The City Council herewith declares its intent to close the street as described above.

[The remainder of this page is intentionally left blank]

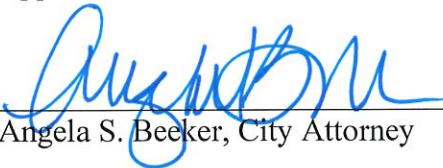
Adopted by the City Council of the City of Hendersonville, North Carolina on this 2nd day of March, 2023.

Attest:


Barbara G. Volk, Mayor, City of Hendersonville


Jill Murray, City Clerk

Approved as to form:


Angela S. Beeker, City Attorney

NOTES

THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY FIRM #3700956800J, DATED 10/02/2008.

SURVEYOR WAS NOT PROVIDED WITH A LEGAL TITLE SEARCH. THERE MAY EXIST EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS PERTINENT TO THIS PROPERTY THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE THAT ARE NOT SHOWN ON THIS SURVEY.

NO UNDERGROUND UTILITIES WERE LOCATED. CALL 1-800-632-4949 BEFORE DIGGING.

ALL BUILDINGS, SURFACE AND SUBSURFACE IMPROVEMENTS ON AND ADJACENT TO THE SITE ARE NOT NECESSARILY SHOWN. SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT SURVEYED OR CONSIDERED AS PART OF THIS SURVEY.

NO EVIDENCE OR STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONDITIONS, CONTAINERS, OR FACILITIES THAT MAY AFFECT THE USE OR DEVELOPMENT OF THIS PROPERTY.

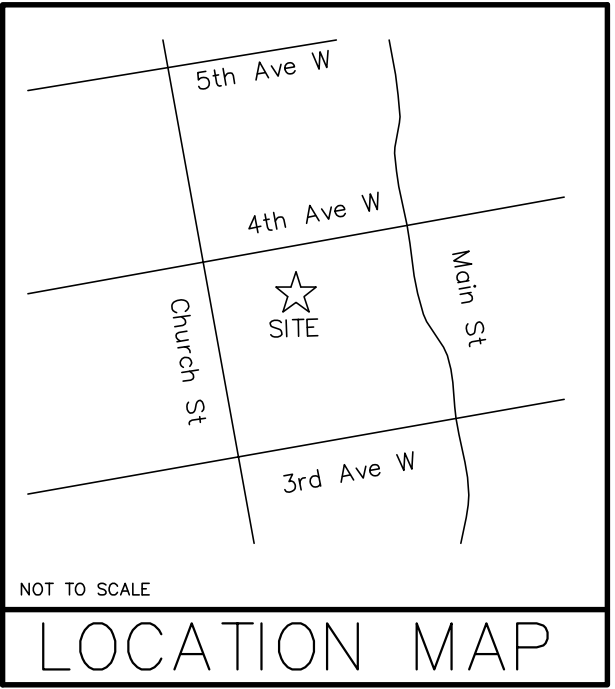
AREA BY COORDINATE COMPUTATION.

PROPERTY LINES SHOWN AS DASHED WERE NOT FIELD SURVEYED. THEY WERE PLOTTED FROM RECORD DOCUMENTS.

SUBJECT PROPERTY CURRENTLY ZONED C1 BY THE CITY OF HENDERSONVILLE. SETBACKS: NONE

ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE NOTED.

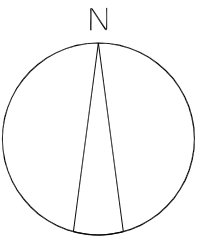
-INTENT STATEMENT: THE INTENT OF THIS PLAT IS TO CLOSE A 10' ALLEY (SHOWN HEREIN), WITH 5' BEING CONVEYED TO TJF ENTERPRISES AND 5' CONVEYED TO ADJACENT BUILDING OWNERS. THERE IS A PROPOSED NEW 10' UTILITY EASEMENT AT THE SAME LOCATION OF THE PREVIOUS ALLEY. THERE IS A PROPOSED NEW 10' PRIVATE ACCESS EASEMENT, SHOWN HEREIN.



ROAD CLOSURE AND
RIGHT-OF-WAY DEDICATION
PLAT FOR
TJF ENTERPRISES LLC (OWNER)
PROPERTY DESCRIBED IN D.B. 948/520
4TH AVENUE WEST

STATE OF NORTH CAROLINA
HENDERSON COUNTY
HENDERSONVILLE TOWNSHIP

TOTAL AREA
0.184 AC.
8,030± Sq. Ft.
DEED REF:
D.B. 948, PG. 520
PIN 9568-78-7052

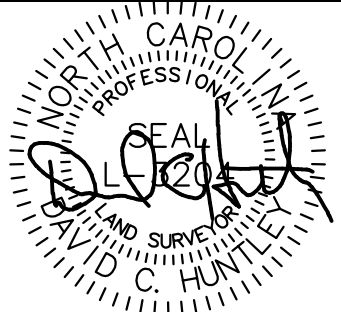


NAD '83 (2011)
CSF: 0.9997801988



I, David C. Huntley, certify that this survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exemption or exception to the definition of a subdivision. G.S. 47-30(f)(11)d. I also certify that this plat was drawn under my supervision from an actual survey made under my supervision (Deed description recorded in Bk. 948, Pg. 520); that the boundaries not surveyed are clearly indicated as drawn from information found in Bk. N/A, Pg. N/A; 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 17th day of November, 2022.

David C. Huntley PLS L-3204



DAVID C. HUNTLEY
& ASSOCIATES, INC.
675 MAPLE STREET
HENDERSONVILLE, NC 28792
(828) 693-8077

SURVEY CPE
DRAWN CPE
SCALE 1"=20'
DATE 11/17/2022
DWG. NO. H-7624

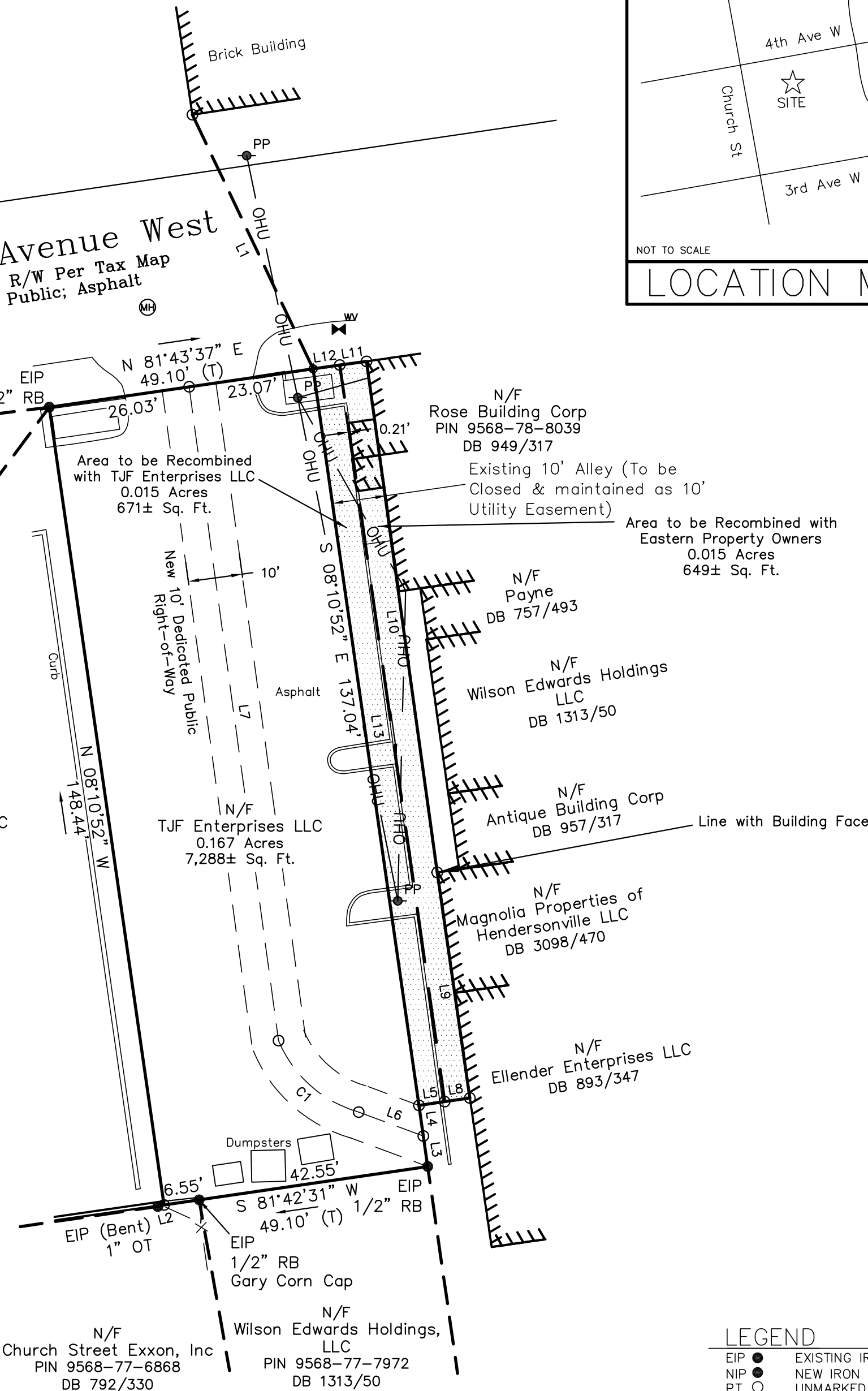
D.C. HUNTLEY PLS L-3204
C-1963

LEGEND

- EIP ● EXISTING IRON PIN
- NIP ● NEW IRON PIN 1/2" REBAR
- PT ○ UNMARKED POINT
- RB ○ REBAR
- OT ○ OPEN TOP
- DH ◆ DRILL HOLE
- PIN ○ PARCEL ID NUMBER
- PP ○ POWER POLE
- R/W ○ RIGHT-OF-WAY
- OHU ○ OVERHEAD UTILITIES
- N/F ○ NOW OR FORMERLY
- DB ○ DEED BOOK
- PB ○ PLAT BOOK
- X- ○ FENCE LINE
- NCGS ○ N.C. GRID SYSTEM
- CSF ○ COMBINED SCALE FACTOR

LINE	BEARING	DISTANCE
L1	N 25°23'46" W	51.79'
L2	S 76°14'45" W	1.16'
L3	N 08°10'52" W	5.69'
L4	N 08°10'52" W	5.69'
L5	N 81°41'57" E	4.81'
L6	N 69°41'22" W	12.70'
L7	N 07°47'44" W	121.53'
L8	N 81°41'57" E	4.68'
L9	N 08°15'00" W	41.95'
L10	N 07°52'22" W	95.02'
L11	S 82°06'29" W	4.98'
L12	S 82°06'29" W	4.98'
L13	S 08°06'39" E	137.01'

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	20.45'	22.60'	51°50'45"	N 48°17'25" W	19.76'





Portion of N. Wall Street
C23-16-SCL
PIN: 9568-78-7052
Area: 1,320 Square Feet
Street Closure Map
Community Development Department

 Area To Be Closed



8948 520

Filed and recorded in the Register of Deeds Office to
Henderson County, N. C. this 16 day of March, 1998
at 4:00 o'clock P.M. in Book 948 at page 520

Dedra W. Molen
Register of Deeds

By: Patsy B Higgins
Asst.

Excise Tax \$2,400

Recording Time, Book and Page

Tax Lot No. _____ Parcel Identifier No. _____
Verified by _____ County on the _____ day of _____, 19____
by _____

Mail after recording to T. Mullinax - Attorney

This instrument was prepared by Kilpatrick Stockton LLP (BAB)

Brief description for the Index 401 N. Main St. and Parking Lot, Hendersonville, NC

NORTH CAROLINA SPECIAL WARRANTY DEED

THIS DEED made this 12th day of March, 1998, by and between

GRANTOR

FIRST UNION NATIONAL BANK,
a national banking association,
formerly known as FIRST UNION NATIONAL BANK
OF NORTH CAROLINA and successor to
THE NORTHWESTERN BANK by merger, and successor
to WESTERN INVESTMENT CORPORATION by merger

GRANTEE

TJF ENTERPRISES, LLC,
a North Carolina limited liability company

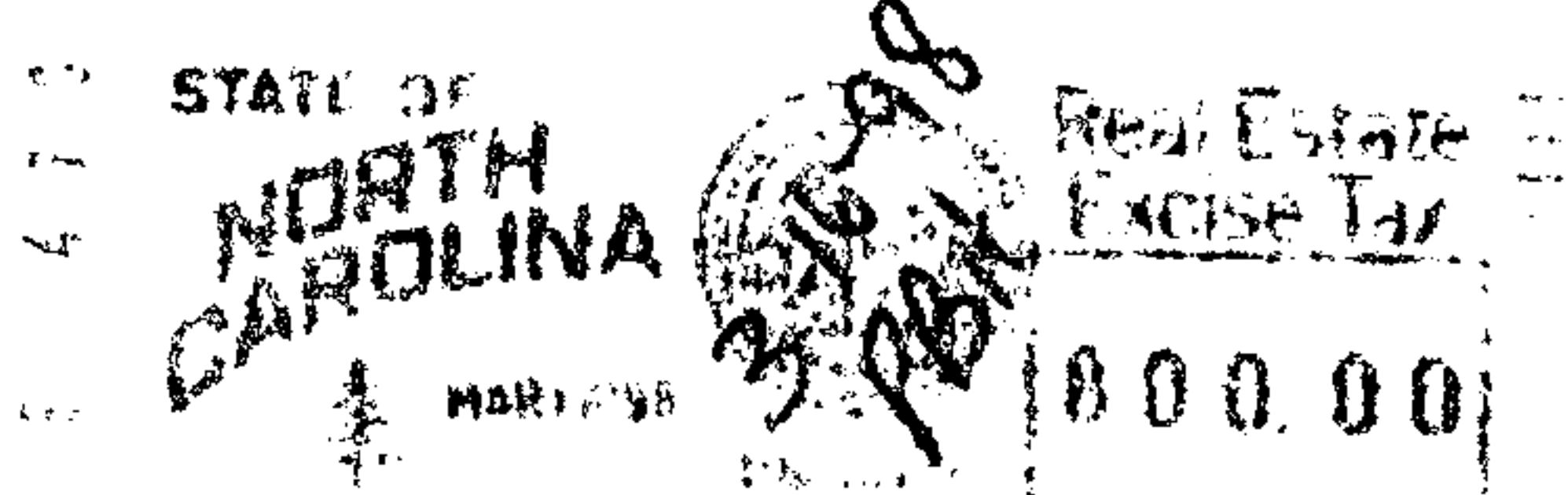
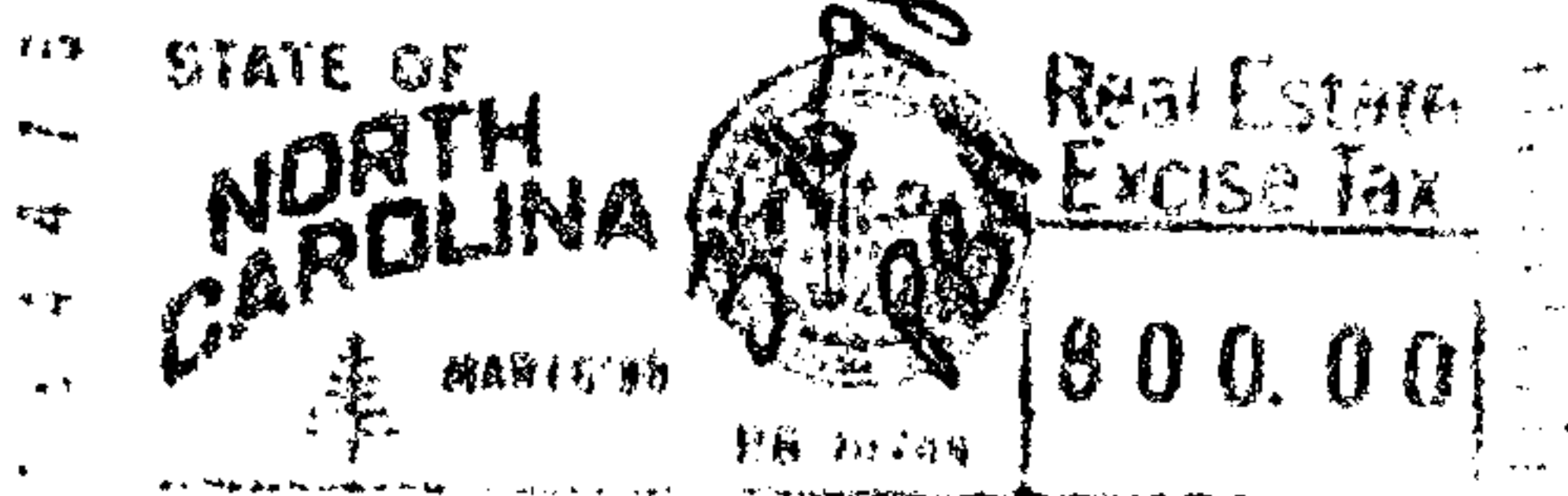
109 S. Main Street
Hendersonville, NC 28739

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

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 the City of Hendersonville, _____ Township, Henderson County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.



The property hereinabove described was acquired by Grantor by instrument recorded in Book 383, Page 596 and.....
Book 539, Page 891, Henderson County Registry

A map showing the above described property is recorded in Plat Book page

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 has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

easements, restrictions and rights of way of record; lien of ad valorem taxes;
general utility easements affecting the property; rights of tenants in possession.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

FIRST UNION NATIONAL BANK
(Corporate Name)
By: William J. Tensen
Vice President

ATTEST: Timothy R. Walters
Assistant Secretary (Corporate Seal)

USE BLACK INK ONLY

.....(SEAL)
.....(SEAL)
.....(SEAL)
.....(SEAL)



NORTH CAROLINA, County.
I, a Notary Public of the County and State aforesaid, certify that Grantor,
personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my
hand and official stamp or seal, this day of, 19.....
My commission expires: Notary Public



NORTH CAROLINA, Mecklenburg County.
I, a Notary Public of the County and State aforesaid, certify that Timothy R. Walters,
personally came before me this day and acknowledged that he is Assistant Secretary of
FIRST UNION NATIONAL BANK, a national banking association and that by authority duly
given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice
President, sealed with its corporate seal and attested by him as its Assistant Secretary.
Witness my hand and official stamp or seal, this 13th day of March, 19 98.
My commission expires: 1/18/01 1/8/2001 Michele Camp Notary Public

The foregoing Certificate of Michele Camp, Notary Public

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Debra W. Moles REGISTER OF DEEDS FOR Henderson COUNTY
By Patsy B. Higgins Deputy/Assistant-Register of Deeds.

8948

522

EXHIBIT A

BEING the identical parcels described in deeds recorded in Deed Book 539, at Page 891 and Deed Book 383, at Page 596, both of the Henderson County Registry, and being more particularly described by reference to a current survey thereof, as follows:

TRACT ONE: BEGINNING at a new iron pin in the southern margin of the right of way of 4th Avenue West in the City of Hendersonville, Henderson County, North Carolina, said new iron pin being located North 36 deg. 25 min. 19 sec. East 202.76 feet from an N.C.G.S. Monument "Post Office" (N - 587995.458, E - 967677.359), said new iron pin is also the northeasternmost corner of the United States of America tract as is shown and described in deed found in Deed Book 72, at Page 155 of Records of Deeds of the Henderson County Registry, and moving thence from said beginning point and traveling along and with the southern margin of the sidewalk on the southside of 4th Avenue West, North 81 deg. 48 min. 47 sec. East 49.10 feet to a new iron pin; thence turning and running South 08 deg. 11 min. 13 sec. East 148.45 feet to a new iron pin in the northern boundary of the Cunningham tract (now or formerly) as is shown and described in deed found in Deed Book 933, at Page 222 of the Records of the Henderson County Registry; thence turning and running South 81 deg. 44 min. 01 sec. West 49.10 feet to a new iron pin in the eastern margin of the United States of America tract as is shown and described in deed found in Deed Book 72, at Page 155 of Records of Deeds of the Henderson County Registry; thence along and with the eastern margin of the United States of America tract as aforesaid, North 08 deg. 11 min. 13 sec. West 148.52 feet to the new iron pin that is the point and place of BEGINNING, and containing .167 acres, more or less, and is shown as a Paved Parking Lot on "Plat of Survey for Thomas J. Fazio", dated March 3, 1998, by Steven Lloyd Waggoner, RLS 2874, and bearing Job No. 98-034.

For legal reference see deed found in Deed Book 539, at Page 891 of the Henderson County Registry.

TRACT TWO: BEGINNING at the southwesternmost building corner of that Multi Story Brick Building located at the terminus of the eastern margin of that 20-foot alleyway known as Wall Street as it intersects with the northern margin of the sidewalk of 4th Avenue West in the City of Hendersonville, Henderson County, North Carolina, the building corner is further located North 25 deg. 44 min. 30 sec. West 51 feet from the new iron pin that is the northeastern corner of Tract One hereinabove described; and moving thence from said beginning point along and with the northern boundary of the concrete sidewalk on the north side of 4th Avenue West in Hendersonville, North Carolina, North 81 deg. 49 min. 04 sec. East 130.04 feet to a point in the western boundary of the sidewalk for Main Street, City of Hendersonville; thence turning and running along and with the western boundary of the sidewalk for Main Street, North 08 deg. 11 min. 50 sec. West 45.80 feet to a building corner, the southeastern corner of the J. Hansen International, Inc., tract as is shown and described in deed found in Deed Book 862, at Page 676 of the Records of the Henderson County Registry; thence along and with the southern boundary of the J. Hansen International, Inc., tract as aforesaid and with the north face of the north wall of a Multi Story Brick Building, South 81 deg. 50 min. 28 sec. West 130.06 feet to a building corner in the eastern margin of the 20-foot alleyway known as Wall Street (former Jackson Alley); thence along and with the eastern margin of Wall Street, South 08 deg. 13 min. 29 sec. East 45.85 feet to the building corner that is the point and place of BEGINNING, and containing .137 acres, more or less, and is shown as a Multi Story Brick Building on "Plat of Survey for Thomas J. Fazio", dated March 3, 1998, by Steven Lloyd Waggoner, RLS 2874, and bearing Job No. 98-034.

For legal reference see deed found in Deed Book 383, at Page 596 of the Henderson County Registry.

Entry #: 4 - 1/30/2023

Status: Submitted

Submitted: 1/30/2023 5:10 PM

Section 7, Item C.

Date:

1/30/2023

Name of street/alley:

N. Wall St.

List 10 digit PIN or 7 digit PID number:

9568787052

Are you proposing to close a street or alley?

ALLEY

Are you closing all or a portion of the street/alley?

PORTION

Upload survey, deed, and typed boundary description:



[TJF Enterprises LLC 4th Ave West, N. Wall St.Alley Partial Road Closer.pdf](#)
0.2 MB



[4th Ave W Deed for TJF Enterprises LLC Parking Lot.pdf](#)
0.3 MB



Applicant Name:

TJF Enterprises LLC

Address

401 N. Main St. #400, Hendersonville, North Carolina 28792

Phone

(828) 693-0052

Email

dadams@faziodesign.com

Property Owner Name:

Address

Signature

Printed Name:

David E. Adams, Manager

by David E Adams, Manager

Property Owner Name:

Address

Signature

Printed Name:

Section 7, Item C.

Official Use:

Date Received:

Received By:

Fee Received:



LIMITED LIABILITY COMPANY ANNUAL REPORT

Section 7, Item C.

1/6/2022

NAME OF LIMITED LIABILITY COMPANY: TJF ENTERPRISES, LLC

SECRETARY OF STATE ID NUMBER: 0453062 STATE OF FORMATION: NC

REPORT FOR THE CALENDAR YEAR: 2022

Filing Office Use Only
E - Filed Annual Report
0453062
CA202210318436
4/13/2022 05:30

☐ Changes

SECTION A: REGISTERED AGENT'S INFORMATION

1. NAME OF REGISTERED AGENT: FAZIO, THOMAS J

2. SIGNATURE OF THE NEW REGISTERED AGENT: _____

SIGNATURE CONSTITUTES CONSENT TO THE APPOINTMENT

3. REGISTERED AGENT OFFICE STREET ADDRESS & COUNTY 4. REGISTERED AGENT OFFICE MAILING ADDRESS

401 N. Main St. Suite 400

401 N. Main St. Suite 400

Hendersonville, NC 28792-4915 Henderson County

Hendersonville, NC 28792-4915

SECTION B: PRINCIPAL OFFICE INFORMATION

1. DESCRIPTION OF NATURE OF BUSINESS: Commercial Property Development & Rental

2. PRINCIPAL OFFICE PHONE NUMBER: (828) 693-0052

3. PRINCIPAL OFFICE EMAIL: Privacy Redaction

4. PRINCIPAL OFFICE STREET ADDRESS

5. PRINCIPAL OFFICE MAILING ADDRESS

401 N. Main St. Suite 400

401 N. Main St. Suite 400

Hendersonville, NC 28792-4915

Hendersonville, NC 28792-4915

6. Select one of the following if applicable. (Optional see instructions)

☐

The company is a veteran-owned small business

☐

The company is a service-disabled veteran-owned small business

SECTION C: COMPANY OFFICIALS (Enter additional company officials in Section E.)

NAME: David Adams

NAME: Thomas Fazio

NAME: _____

TITLE: Manager

TITLE: Member

TITLE: _____

ADDRESS: _____

ADDRESS: 401 N. Main St.

ADDRESS: _____

401 N. Main Street, Suite 400

Suite 400

Hendersonville, NC 28792

Hendersonville, NC 28792

SECTION D: CERTIFICATION OF ANNUAL REPORT. Section D must be completed in its entirety by a person/business entity.

David Adams

4/13/2022

SIGNATURE

DATE

Form must be signed by a Company Official listed under Section C of This form.

David Adams

Manager

Print or Type Name of Company Official

Print or Type Title of Company Official

This Annual Report has been filed electronically.

MAIL TO: Secretary of State, Business Registration Division, Post Office Box 29525, Raleigh, NC 27626-0525

Govt Public Notices

Originally published at blueridgenow.com on 03/12/2023

Resolution #23-17

RESOLUTION OF INTENT TO CLOSE A PORTION OF N. WALL STREET

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

WHEREAS, TJF Enterprises, LLC has petitioned the City of Hendersonville City Council to close a portion of the street known as N. Wall Street, located between PIN 9568-78-7052 and PINs 956878-8039, 9568-78-8036, 9568-78-8044, 9568-78-8042, 9568-78-8041, and 9568-77-8957; 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 12th day of April 2023, in the Assembly Room of the City Operations Center to consider closing a portion of the street known as N. Wall Street located between PIN

9568-78-7052 and PINs 9568-78-8039, 9568-78-8036, 9568-78-8044, 9568-78-8042, 9568-788041, and 9568-77-8957. 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 portion of N. Wall Street proposed for closing is as follows:

Beginning at a drill hole in concrete, and being the most NE corner of the

TJF LLC property described in D.B. 948, PG. 520;

thence N 82°06'29 E a distance of 4.98' to a point

thence S 07°52'22 E a distance of 95.02' to a point;
 thence S 08°15'00 E a distance of 41.95' to a point;
 thence S 81°41'57 W a distance of 4.68' to a point;
 thence S 81°41'57 W a distance of 4.81' to a point;
 thence N 08°10'52 W a distance of 137.04' to a point; which is the point of beginning.
 Having an area of 1,320 square feet.

3. The City shall reserve all right, title, and interest in and to any utility infrastructure including water, sewer, and stormwater infrastructure within N. Wall Street, as well as an easement over, upon, across, under and through N. Wall Street for the placement, construction, and maintenance of public utilities including waterlines, sewer lines, stormwater management, and underground telecommunications facilities including cables, wires, and/or conduit
4. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks.
5. 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.
6. 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 portion of N, Wall Street proposed for closure as required by G.S. 160A-299.
7. 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 2nd day of March, 2023.

/s/ Barbara G. Volk
 Barbara G. Volk, Mayor,
 City of Hendersonville

Attest:

/s/ Jill Murray
 Jill Murray, City Clerk

Approved as to form:

/s/ Angela S. Beeker
 Angela S. Beeker,
 City Attorney

3/12, 3/19, 3/26, 4/2/2023 8554693

ATTACHMENTS:	<ol style="list-style-type: none"> 1. Ordinance 2. Signed Certificate of Sufficiency 3. Signed Resolution setting public hearing 4. Annexation Plat 5. Typed legal description 6. GIS map 7. Deed 8. Annexation Application 9. Lynnwood Cabins LLC Annual Report 10. Notice of Public Hearing
---------------------	---

Ordinance #____-____

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

IN RE: Petition for Contiguous Annexation
 Parcel Number: 9569-14-9568
 7 Bridgette Loop Road Annexation (File# C23-19-ANX)

WHEREAS, The City of Hendersonville has been petitioned by Lynnwood Cabins LLC (Diane Newman, Member Manager), pursuant to North Carolina General Statutes (NCGS) 160A-31, as amended, to annex the area described herein below; and

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

WHEREAS, a public hearing on the question of this annexation was held at 305 Williams Street (City Operations Center), Hendersonville, NC at 5:45 pm, on the 12th day of April 2023, after due notice by publication as provided by law on Sunday, March 19, 2023 and Sunday, March 26, 2023; and

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

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

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

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

- 1: By virtue of the authority granted by N.C.G.S. 160A-31, as amended, the following described contiguous area is hereby annexed and made part of the City of Hendersonville as of the 12th day of April 2023.

Being all of that real property consisting of PIN 9569-14-9568 described in the plat recorded in Book 2023- ____ [to be inserted at recording of the plat] of the Henderson County Registry, said PIN 9569-14-9568 being described by metes and bounds as follows:

Beginning at an existing iron pin at the southeast corner of Lot 27 of Lynnwood Subdivision, as shown on a plat filed in Plat Cabinet B, at Slide 158, in the Henderson County Registry;

Running with the existing Hendersonville city limits for the following five calls:

South 06 degrees 45 minutes 14 seconds West 11.01 feet to an existing pin;

Thence South 64 degrees 19 minutes 43 seconds East 241.17 feet to an existing iron pin;

Thence South 21 degrees 01 minutes 28 seconds West 179.75 feet to an existing iron pin;

Thence South 25 degrees 10 minutes 06 seconds West 364.83 feet to an existing iron pin along NC Highway 191 (Haywood Rd.)

Thence North 49 degrees 12 minutes 56 seconds West 79.98 feet along Haywood Road (NC 191) to an existing iron pin;

Thence, leaving Haywood Road (NC 191) and departing from the existing Hendersonville City limits, North 06 degrees 31 minutes 42 seconds East 185.36 feet to an existing iron pin;

Thence North 54 degrees 52 minutes 25 seconds West 311.62 feet to a calculated point at the corner of Lynnwood Circle (SR #1349);

Thence North 86 degree 12 minutes 56 seconds East 143.22 feet to an existing iron pin;

Thence North 22 minutes 52 degrees 12 seconds East 223.02 to an existing iron pin

Thence running South 75 degrees 49 minutes 58 seconds East 70.49 feet to an existing iron pin, the point and place of beginning, containing 3.06 acres, more or less.

- 2: Upon and after the twelfth day of April 2023, the above-described territory, and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Hendersonville and shall be entitled to the same privileges and benefits as other parts of the City of Hendersonville. Said territory shall be subject to municipal taxes according to NCGS 160A-58.10, as amended.
3. The Mayor of the City of Hendersonville shall cause to be recorded in the office of the Register of Deeds of Henderson County and at the Office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1, above, together with

a duly certified copy of this ordinance. Such a map shall also be delivered to the Henderson County Board of Elections, as required by G. S. 163-288.1.

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

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

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

Witness my hand and notarial seal, this _____ day of _____, 2023.

My commission expires: _____

CERTIFICATE OF SUFFICIENCY

Re: Petition for Contiguous Annexation
Petitioner: Lynnwood Cabins LLC (Diane Newman, Member Manager)
File No. C23-19-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 +/- 3.06 acres located on Bridgette Loop Road and Haywood Road in Hendersonville, NC, being tax parcel PIN 9569-14-9568, 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 2nd day of March, 2023.

(City Seal)




Jill Murray, City Clerk

EXHIBIT A
LEGAL DESCRIPTION

Being all of that real property consisting of PIN 9569-14-9568 described in the plat recorded in Book 2023- ____ [to be inserted at recording of the plat] of the Henderson County Registry, said PIN 9569-14-9568 being described by metes and bounds as follows:

Beginning at an existing iron pin at the southeast corner of Lot 27 of Lynnwood Subdivision, as shown on a plat filed in Plat Cabinet B, at Slide 158, in the Henderson County Registry;

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Thence North 22 minutes 52 degrees 12 seconds East 223.02 to an existing iron pin

Thence running South 75 degrees 49 minutes 58 seconds East 70.49 feet to an existing iron pin, the point and place of beginning, containing 3.06 acres, more or less.

Resolution #23-18

**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. April 12th, 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 9569-14-9568, described in the plat recorded in Book 2022 - ____ [to be inserted at recording of the plat] of the Henderson County Registry, said PIN 9569-14-9568 being described by metes and bounds as follows:

Beginning at an existing iron pin at the southeast corner of Lot 27 of Lynnwood Subdivision, as shown on a plat filed in Plat Cabinet B, at Slide 158, in the Henderson County Registry;

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Re: Petition for Contiguous Annexation
Petitioner: Lynnwood Cabins LLC (Diane Newman, Member Manager)
File No. C23-19-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 2nd Day of March, 2023.

Attest:

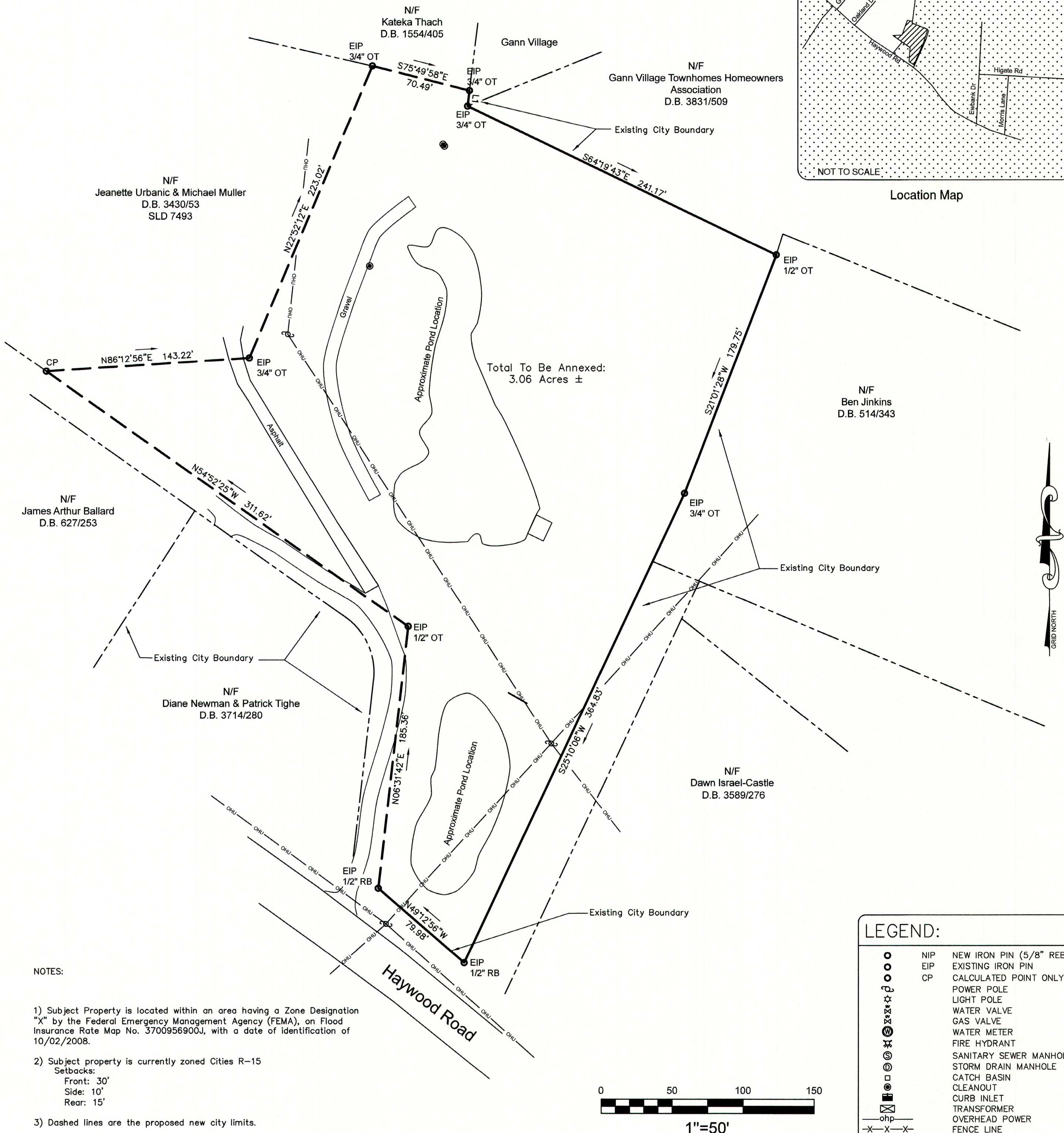

Barbara G. Volk, Mayor, City of Hendersonville


Jill Murray, City Clerk

Approved as to form:


Angela S. Beeker, City Attorney

LINE	BEARING	DISTANCE
L1	S06°45'14" W	11.01'

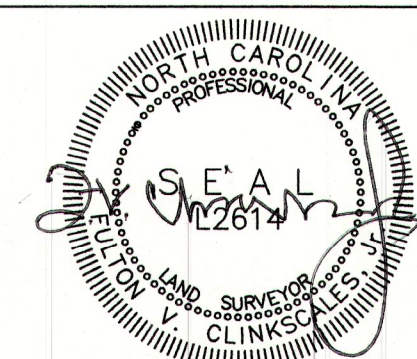


PURPOSE STATEMENT
THE PURPOSE OF THIS PLAT IS TO ANNEX PARCEL # 9569-14-9568 (3.06 CONTIGUOUS ACRES) INTO THE CITY LIMITS OF HENDERSONVILLE AS SHOWN ON THIS SURVEY.

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

Jill Murray, City Clerk _____ Date _____

**ANNEXATION PLAT FOR THE
CITY OF HENDERSONVILLE
TAX PARCEL: 9569-14-9568
Lynnwood Cabins LLC
(owner)
Haywood Road
Hendersonville Township, Henderson County
State of North Carolina**



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

REF. PLAT BOOK	SLD 7493
REF. DEED BOOK	3714/438
TAX MAP	9569-14-9568
PARTY CHIEF	BLB
DRAWN	GAB
DATE	12/29/2022
DWG. NO.	H42077

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

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7 Bridgette Loop Road
C23-19-ANX
PIN: 9569-14-9568
Acreage: 3.05
Annexation Map
Community Development Department

-  Subject Property
-  Hendersonville City Limits



BK 3714 PG 438 - 442 (5)

DOC# 953748

This Document eRecorded:

05/20/2021

02:30:15 PM

Fee: \$26.00

Henderson County, North Carolina

William Lee King, Register of Deeds

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$250.00

Parcel Identifier No.: 10-11047 Verified by _____ County on the ____ day of _____, 20_

By: _____

→Mail/Box to: Staton Law, P.A. 112 N. Washington Street, Hendersonville, NC 28739

This instrument was prepared by: Whitney Staton

Brief description for the Index: *3.05 Acres*THIS DEED made this 14th day of May, 2021 by and between**GRANTOR****Sandra A. Gann as Trustee of the Sandra A. Gann
Living Trust dated April 18, 2006**Mailing Address:
15462 Gulf Blvd Apt #506
Maderia Beach, FL 33708**GRANTEE****Lynnwood Cabins, LLC a North Carolina Limited
Liability Company**Mailing Address:
340 Big Spring Trail
Burnsville, NC 28714

Enter in appropriate block for each Grantor and Grantee: name, mailing address, and, if appropriate, character of entity, e.g. corporation or partnership.

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 the City of _____, Hendersonville Township, Henderson County, North Carolina and more particularly described as follows:**SEE ATTACHED EXHIBIT A**Submitted electronically by "Staton Law P.A."
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Henderson County Register of Deeds.

The property hereinabove described was acquired by Grantor by instrument recorded in Deed Book 3556 at Page 313, Henderson County Registry.

A map showing the above described property is recorded in Plat Slide 7493.

All or a portion of the property herein conveyed ☐ does ☒ does not include the primary residence of a Grantor.


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 2021 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.

 (SEAL)
Sandra A. Gann, Trustee

STATE OF FL
COUNTY OF Pinellas

I, the undersigned, a Notary Public of the County and State aforesaid, certify that, Sandra A. Gann as Trustee of the Sandra A. Gann Living Trust dated April 18, 2006, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal on this 14 day of May, 2021.

My Commission Expires: 12/26/2022


Notary Public Linda A. Kowzan

(Type or Print Name)



LINDA AKOWZAN
Commission # HH 070137
Expires December 26, 2022
Bonded Thru Budget Notary Services

EXHIBIT A

BEING all of that 3.05 acres as shown on that plat of survey recorded in Plat Slide 7493, Henderson County Registry, reference to which is hereby made and incorporated as if fully set forth herein.

TOGETHER WITH AND SUBJECT TO that non-exclusive right of way for the purpose of ingress, egress and regress as described in Deed Book 933 at Page 634, Henderson County Registry.

TOGETHER WITH AND SUBJECT TO that perpetual right of way for the purpose of ingress, egress and regress as shown on Plat Slide 3957, Henderson County Registry.

BEING a portion of that property as described in Deed Book 1328 at Page 500, Henderson County Registry.

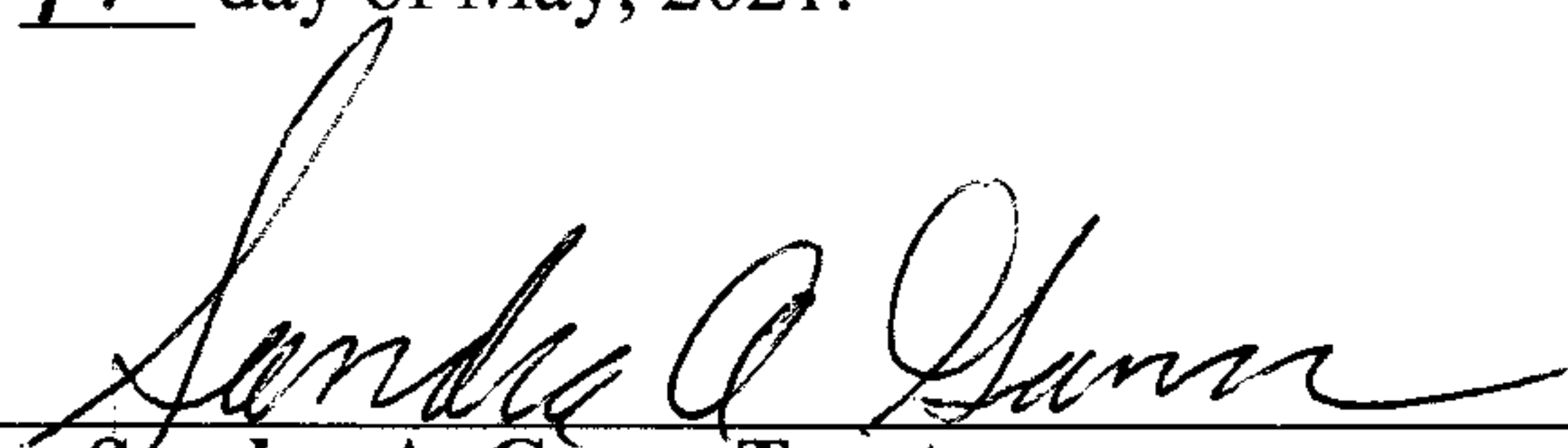
EXHIBIT B
CERTIFICATION OF TRUST

Pursuant to North Carolina General Statutes 36C-10-1013, I, Sandra A. Gann as Trustee of the Sandra A. Gann Living Trust dated April 18, 2006, and any amendments thereto, do hereby make the following representations and assurances:

1. A trust agreement as referred to herein and hereinafter known as Trust Agreement or Trust was executed on April 18, 2006;
2. The Trust has been lawfully executed, was validly created, is still in existence, and has not been revoked, modified, or amended in any manner which would cause the representations contained herein to be incorrect;
3. The Settlor(s) of the Trust is Sandra A. Gann;
4. The Settlor(s) of the Trust, if revocable, issued no instructions that would limit or restrict the Trustees' authority to enter into or consummate this transaction in accord with this certificate;
5. The current Trustee of the Trust is Sandra A. Gann and her address 15462 Gulf Blvd Apt #506, Maderia Beach, FL 33708;
6. The Trustee has been granted due authority to enter into and consummate the transaction the Trust grants all the necessary powers to the Trustee and contains no limitations or restrictions on said authority that would prohibit or limit the trustee's authority to enter into and consummate the proposed transaction;
7. The Trust does not limit a Trustee's authority to sign necessary documents, execute this certificate or otherwise authenticate the Trust and all trustees required to exercise the powers contained in the Trust have executed this certificate;
8. The Trust's taxpayer identification number is withheld pursuant to N.C.G.S. § 36C-10-103(j); and
9. The Trust may take title to real property by Deed or devise. The property conveyed herein was acquired by Deed from Sandra A. Gann and Mary Gann Sitton as Co-Trustees of the Herbert T. Gann Family Trust, a 50% undivided interest, dated September 3, 2020 and recorded Henderson in Book 3556 at Page 313 of the Henderson County, North Carolina Registry.

FURTHER, Trustee does hereby acknowledge that this Certification may be recorded in the Register of Deeds Office and agrees that this Certification is being executed in duplicate counterparts each of which shall be deemed an original (the counterpart to be recorded may have the taxpayer identification number redacted if it is the social security number of a settlor).

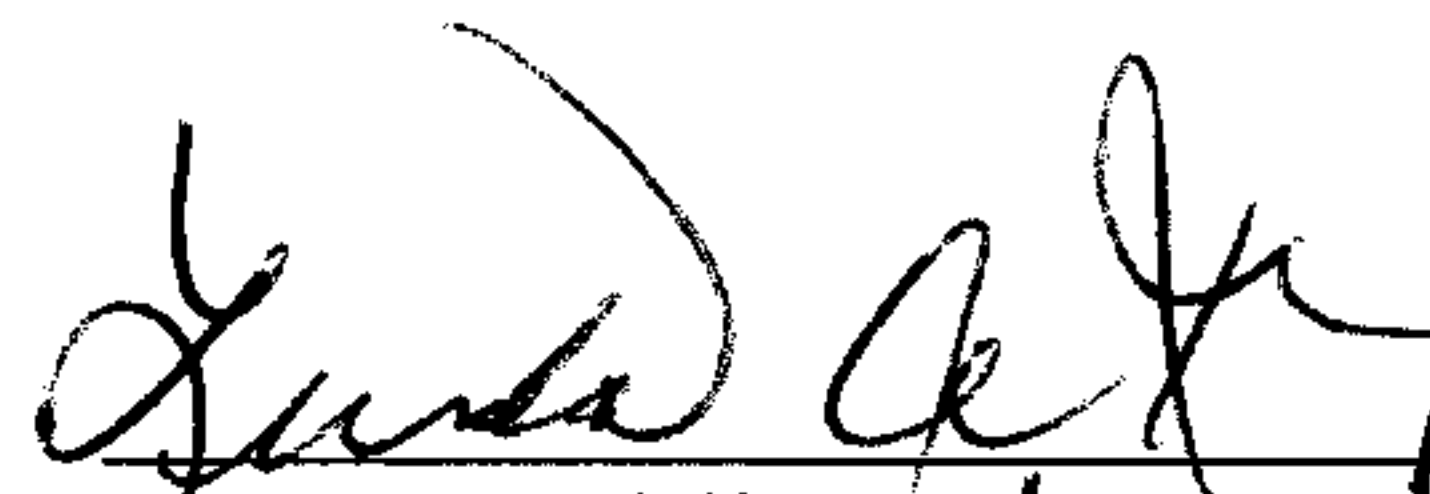
This the 17 day of May, 2021.


Sandra A. Gann, Trustee

STATE OF FL
COUNTY OF Pinellas

I, the undersigned, a Notary Public of the County and State aforesaid, certify that, Sandra A. Gann as Trustee of the Sandra A. Gann Living Trust dated April 18, 2006, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal on this 14 day of May, 2021.

My Commission Expires: 12/26/2022


Notary Public Linda A Kowzan
(Type or Print Name)



LINDA A KOWZAN
Commission # HH 070137
Expires December 26, 2022
Bonded Thru Budget Notary Services



**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): 9569-14-9568

Address(es) / Location of Property: 7 BRIGITTE LOOP RD
HENDERSONVILLE, NC 28791

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

Is the property within the ETJ? ☒ Yes ☐ No

Reason for Annexation:

APPLICATION FOR WATER/SEWER
APPLICATION FOR WATER/SEWER

Office Use:

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

B. Property Owner Contact InformationDIANE NEWMAN

* Printed Applicant Name

2/1/23

Date

LYNNWOOD CABINS, LLC MEMBER/MANAGER

Printed Company Name (if applicable)

☐ Corporation☒ Limited Liability Company☐ Trust☐ Partnership☐ Other:Diane NewmanMEMBER/MANAGER

Property Owner Signature

Property Owner Title (if applicable)

340 BIG SPRING TRL

Address of Property Owner

BURNSVILLE, NC 28714

City, State, and Zip Code

803 920 9428

Telephone

dianepaige2010@gmail.com

Email



LIMITED LIABILITY COMPANY ANNUAL REPORT

Section 7, Item D.

1/6/2022

NAME OF LIMITED LIABILITY COMPANY: Lynnwood Cabins LLC

SECRETARY OF STATE ID NUMBER: 1662628 STATE OF FORMATION: NC

REPORT FOR THE CALENDAR YEAR: 2022

Filing Office Use Only
E - Filed Annual Report
1662628
CA202208903440
3/30/2022 10:30

☐ Changes

SECTION A: REGISTERED AGENT'S INFORMATION

1. NAME OF REGISTERED AGENT: Newman, Diane

2. SIGNATURE OF THE NEW REGISTERED AGENT: _____
SIGNATURE CONSTITUTES CONSENT TO THE APPOINTMENT

3. REGISTERED AGENT OFFICE STREET ADDRESS & COUNTY 4. REGISTERED AGENT OFFICE MAILING ADDRESS

340 Big Spring Trail 340 Big Spring Trail
Burnsville, NC 28714 Yancey County Burnsville, NC 28714

SECTION B: PRINCIPAL OFFICE INFORMATION

1. DESCRIPTION OF NATURE OF BUSINESS: Vacation Rental

2. PRINCIPAL OFFICE PHONE NUMBER: (803) 920-9428 3. PRINCIPAL OFFICE EMAIL: Privacy Redaction

4. PRINCIPAL OFFICE STREET ADDRESS 5. PRINCIPAL OFFICE MAILING ADDRESS
340 Big Spring Trail 340 Big Spring Trail
Burnsville, NC 28714 Burnsville, NC 28714

6. Select one of the following if applicable. (Optional see instructions)

- ☐ The company is a veteran-owned small business
☐ The company is a service-disabled veteran-owned small business

SECTION C: COMPANY OFFICIALS (Enter additional company officials in Section E.)

NAME: <u>Diane Newman</u>	NAME: <u>Patrick M Tighe</u>	NAME: _____
TITLE: <u>Member</u>	TITLE: <u>Chairman</u>	TITLE: _____
ADDRESS: _____	ADDRESS: _____	ADDRESS: _____
<u>340 Big Spring Trail</u>	<u>340 Big Spring Trl.</u>	_____
<u>Burnsville, NC 28714</u>	<u>Burnsville, NC 28714</u>	_____

SECTION D: CERTIFICATION OF ANNUAL REPORT. Section D must be completed in its entirety by a person/business entity.

Diane Newman 3/30/2022
SIGNATURE DATE

Form must be signed by a Company Official listed under Section C of This form.

Diane Newman Member
Print or Type Name of Company Official Print or Type Title of Company Official

This Annual Report has been filed electronically.

MAIL TO: Secretary of State, Business Registration Division, Post Office Box 29525, Raleigh, NC 27626-0525

Govt Public Notices

Originally published at blueridgenow.com on 03/19/2023

PUBLIC HEARING NOTICE

Notice is hereby given that the City of Hendersonville City Council will hold 4 public hearing on Thursday, April 12, 2023, at 5:45 p.m., or as soon thereafter as possible in the City Operations Assembly Room located at 305 Williams Street, Hendersonville NC to consider the following:

I. Standard Rezoning – Upward Crossing Rd (P23-07-RZO) - Application for a Standard Rezoning from Chris Cormier with Carolina Specialties Construction, applicant and Satis Patel of Upward Road Hospitality, owner. The applicant is requesting to rezone the subject properties (PIN: 9588-21-9113) located at Upward Crossing Rd, from PCD, Planned Commercial Development to CHMU, Commercial Highway Mixed Use.

II. Standard Rezoning - 210, 212, 214 Hillview Blvd (P23-18-RZO) - Application for a Standard Rezoning from Brentley Drew Orr, applicant and Kenneth M. Gordon of Bickering Brothers, LLC, owner. The applicant is requesting to rezone the subject properties (PINs: 9578-04-4785; 9578-04-5733; and 9578-04-5792) located at 210, 212, & 214 Hillview Blvd, from R-15, Medium Density Residential Zoning District to C-2, Secondary Business Zoning District.

III. Conditional Zoning District – 1202 Greenville Highway Apartments (P22-111-CZD) – Application for a conditional rezoning from David Gorman of Lock 7 Development, applicant and Ann Ferguson, property owner. The applicant is requesting to rezone the subject property (PIN: 9578-01-3440) located at 1202 Greenville Highway, from GHMU, Greenville Highway Mixed Use to GHMU-CZD, Greenville Highway Mixed Use - Conditional Zoning District for the construction of a multi-family development consisting of 185 apartment units on approximately 6.76 acres.

IV. Annexation – 7 Bridgette Loop Road (C23-19-ANX) - A petition from Lynnwood Cabins LLC for a contiguous annexation of approximately 3.06 acres. The subject property includes PIN 9569-14-9568 and is located on Haywood Road and Bridgette Loop Road.

Digital/written public hearing comments must be received twenty-four hours prior to the meeting (by 5:45 p.m. on Tuesday, April 11th) to be considered by the City Council and must comply with security criteria in the Council's Public Comment Policy, available on the

Public hearing comments will also be accepted during the meeting from those attending in person and from those participating live via ZOOM at the designated time at this meeting. For security reasons screen sharing will not be allowed. Anyone wishing to submit written/digital public hearing comments for these public hearings prior to the meeting may visit <https://www.hendersonvillenc.gov/comment> to submit their comment. It is not necessary to submit digital comments if you are planning to address City Council during the meeting.

The meeting instructions to join by Zoom will be available on the City's website calendar by visiting <https://www.hendersonvillenc.gov/events-calendar>.

The City of Hendersonville is committed to providing accessible facilities, programs, and services for all people in compliance with the Americans with Disabilities Act (ADA).

Should you need assistance or a particular accommodation for this meeting please contact the City Clerk no later than 24 hours in advance of the meeting (828) 697-3005.

3/19, 3/26/23

ATTACHMENTS:	<ol style="list-style-type: none"> 1. Order to close 2. Signed Resolution of Intent 3. Street Closure Plat 4. GIS Map 5. Deeds 6. Applications 7. Notice of Public Hearing
---------------------	---

ORDER # _____

**ORDER TO PERMANENTLY CLOSE, AN UNOPENED,
UNIMPROVED PORTION OF A RIGHT-OF-WAY LYING BETWEEN PINS: 9568-18-1100,
9568-18-1372, 9568-18-3257 and 9568-18-3133**

(Petition from Danny Huggins, Sara Huggins and Katheryn Enloe
Writesel)

NORTH CAROLINA
HENDERSON COUNTY

TO WHOM IT MAY CONCERN:

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

WHEREAS, Danny Huggins, Sara Huggins and Katheryn Enloe Writesel, owners, have petitioned the City of Hendersonville City Council to close a portion of unimproved right-of-way that abuts property described in a deed recorded in the Henderson County Registry in Deed Book 838 at page 55, Deed Book 1383 at page 679, Deed Book 1180 at page 721, and Deed Book 1107 at page 27 having PINs of 9568-18-1100, 9568-18-1372, 9568-18-3257 and 9568-18-3133.

WHEREAS, on February 8th, 2023, the Hendersonville City Council adopted a resolution expressing the intention of the municipality to close a portion of this street and setting April 12th, 2023 as the date of a public hearing regarding such closure; and

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

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

WHEREAS, a public hearing was held in conformance with the aforementioned public notice on the twelfth day of April, 2023.

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

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

IN CONSIDERATION THEREOF, IT IS HEREBY ORDERED:

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

Being all of that real property described as "Unopened Portion of Laws Avenue to Be Closed" as shown on that plat recorded in Plat Book _____ at Page _____ of the Henderson County Registry [to be inserted at recording]

Description of a portion of Laws Avenue

to be closed under NCGS 160A-299

Beginning on a 3/4" iron pipe, said iron pipe standing S 83°36'39" E 73.23' from the northwestern most corner of the Huggins property as described in Deed Book 838, Page 055, and continuing thence from said beginning point thus established, N 06°41'02" E 20.00' to a point, thence N 06°41'02" E 9.25' to a 3/4" iron pipe, said pipe marking the southwestern corner of the Enloe property as described in Deed Book 1388, Page 679, and continuing thence S 87°40'12" E 258.20' to a point, thence S 02°29'48" E 20.98' to a 1/2" iron pipe, thence N 87°25'58" E 124.94' to a 3/4" iron pipe, thence N 87°25'58" E 10.47' to a 1/2" iron pipe set, thence S 04°16'22" 24.84' to a point, thence S 04°16'22" 20.00' to a 1/2" iron pipe, thence S 85°45'15", passing through a 1/2" iron pipe at 67.39', a total distance of 150.00' to a 1/2" iron pipe, thence N 65°55'09" W 35.00' to a 1/2" iron pipe, thence N 65°42'22" W 41.74' to a point, thence N 83°28'54" W 182.52' to the point and place of beginning. Containing 0.37 Acres (16213 SF) and being an unopened portion of "Laws Avenue" as shown on survey by Associated Land Surveyors & Planners, PC bearing job number S-22-753, herein after "closed portion of Laws Avenue".

2. The City herewith reserves all right, title, and interest in and to an easement over, upon, across, under and through the closed portion of Laws Avenue for the placement, construction, and maintenance of public utilities including waterlines, sewer lines, stormwater management, and underground telecommunications facilities including cables, wires, and/or conduit.
3. The City Clerk shall forthwith cause a certified copy of this order to be filed in the Office of the Register of Deeds of Henderson County.

This order shall take effect the 12th day of April, 2023.

Barbara G. Volk, Mayor, City of Hendersonville

ATTEST:

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, _____, a notary public in Henderson County, State of North Carolina, do hereby certify that Barbara G. Volk, in her capacity as Mayor of the City of Hendersonville, Jill Murray, in her capacity as City Clerk, and Angela S. Beeker, in her capacity as City Attorney, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this _____.

My commission expires _____

Resolution #23-11

**RESOLUTION OF INTENT TO CLOSE AN UNOPENED,
UNIMPROVED PORTION OF LAWS AVENUE**

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

WHEREAS, Danny Huggins, Sara Huggins and Katheryn Enloe Writesel have petitioned the City of Hendersonville City Council to close an unopened and unimproved portion of the street known as Laws Avenue, located between PINs 9568-18-1100, 9568-18-1372, 9568-18-3257 and 9568-18-3133; 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 12th day of April 2023, in the Assembly Room of the City Operations Center to consider closing an unopened and unimproved portion of the street known as Laws Avenue located between PINs 9568-18-1100, 9568-18-1372, 9568-18-3257 and 9568-18-3133. 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 portion of Laws Avenue proposed for closing is as follows:

Beginning on a 3/4" iron pipe, said iron pipe standing S 83°36'39" E 73.23' from the northwestern most corner of the Huggins property as described in Deed Book 838, Page 055, and continuing thence from said beginning point thus established, N 06°41'02" E 20.00' to a point, thence N 06°41'02" E 9.25' to a 3/4" iron pipe, said pipe marking the southwestern corner of the Enloe property as described in Deed Book 1388, Page 679, and continuing thence S 87°40'12" E 258.20' to a

point, thence S 02°29'48" E 20.98' to a 1/2" iron pipe, thence N 87°25'58" E 124.94' to a 3/4" iron pipe, thence N 87°25'58" E 10.47' to a 1/2" iron pipe set, thence S 04°16'22" 24.84' to a point, thence S 04°16'22" 20.00' to a 1/2" iron pipe, thence S 85°45'15", passing through a 1/2" iron pipe at 67.39', a total distance of 150.00' to a 1/2" iron pipe, thence N 65°55'09" W 35.00' to a 1/2" iron pipe, thence N 65°42'22" W 41.74' to a point, thence N 83°28'54" W 182.52' to the point and place of beginning. Containing 0.37 Acres (16213 SF) and being an unopened portion of "Laws Avenue" as shown on survey by Associated Land Surveyors & Planners, PC bearing job number S-22-753.

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 portion of Laws Avenue 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 8th day of February, 2023.

Attest:

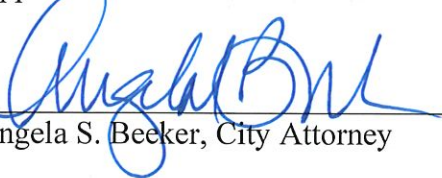


Barbara G. Volk, Mayor, City of Hendersonville



Jill Murray, City Clerk

Approved as to form:



Angela S. Becker, City Attorney


*This Plat Represents A Street Or Alley To Be Closed By The City Of Hendersonville,
North Carolina City Council Pursant To NCGS 160A-299, By Ordinance Duly
Adopted (Order To Close _____). This _____ Day of _____, 2023.*

Mayor City of Hendersonville

Attest:

City Clerk

Review Officer
Date


 I, Cameron S. Baker, certify that this plat was
 drawn under my supervision from an actual survey under my
 supervision, (deed description recorded in Book As Shown,
 Page), that the ratio of precision as calculated by
 adjusting all measurements does not exceed 1:1,000 and that
 this plat was prepared in accordance with G.S. 47-30 as amended.
 Witness my original signature, license number and seal
 this 12th day of January, 2023.

Professional Land Surveyor No. L-4920

I, Cameron S. Baker, certify that this survey is of another category, such as the recombination of existing parcels, a court ordered survey, or other exception to the definition of subdivision such as an easement.

Professional Land Surveyor No. L-4920

- Notes:
1. Property is subject to all easements, restrictions and right of ways of record.
2. The locations of underground utilities are based on above-ground structures and record drawings provided to the surveyor. Locations of underground utilities/structures may vary from locations shown hereon. Additional buried utilities/structures may be encountered.
3. The surveyor has made no independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate title search may disclose.
4. The certification of survey and plat was prepared for the entity named in the title block hereon and does not extend to any other entity, unless recertified by the professional land surveyor.
5. All miscellaneous survey related materials, including but not limited to, project plans, deed and ROW research, maps, field notes and data, survey reports, record title report, calculations, working drawings, estimates, and other materials acquired and/or prepared by the surveyor as instruments of service shall remain the property of the surveyor and assigns.
6. This document is not valid unless the original signature and stamp are attached. Any reproduction or variance to this survey by electronic or any other means are not to be considered issued by the professional surveyor.
7. Properties are currently zoned R-20 by the City of Hendersonville.

30 0 30 60 90
GRAPHIC SCALE - FEET

L9 - L13, L19-L20 Are Tie Lines
L14-L18 Are The Centerline of the 40' Right of Way As Per Plat Slide 818
L15-L18 Are The Centerline of the 40' Right of Way To Be Closed

Course	Bearing	Distance
L12	N 29°52'20" W	24.80'
L13	N 29°52'24" W	24.80'
L14	S 83°36'39" E	88.00'
L15	S 83°28'54" E	185.59'
L16	S 65°42'22" E	44.83'
L17	S 65°55'03" E	29.92'
L18	N 85°45'15" E	144.94'
L19	N 06°41'02" E	20.00'
L20	N 06°41'02" E	9.25'

Legend:
 ECM = Existing Concrete Monument
 EIP = Existing Iron Pipe
 EIS = Existing Iron Stake
 IPS = Iron Pipe Set
 O = Unmarked Point, Unless Otherwise Noted
 ROW/MON = Right of Way Monument
 ROW = Right of Way
 RSS = Railroad Spike
 CCP = Corrugated Concrete Pipe
 CMP = Corrugated Metal Pipe
 P/P = Power Pole
 W/M = Water Meter
 — = Fence

Map of Street Closure for
The City of Hendersonville
Of an Unopened Portion of
Laws Avenue

Pin: As Shown

Hendersonville Township	Henderson County, NC
-------------------------	----------------------

OLS

ASSOCIATED LAND SURVEYORS

P.O. BOX 578 * HORSE SHOE, NC 28742

8) 890-3507 NC BUSINESS LICENSE NO. C-

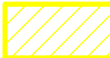
SCALE: 1 Inch = 30 Feet

DATE: November 14, 2022

InterCAD 396



Portion of Laws Avenue
C23-01-SCL
PINs: 9568-18-1100, -1372, -3257, -3133
Acreage: 0.37
Street Closure Map
Community Development Department

 Area to be Closed





**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 to Permanently Close a Street/Alley

The following are the **required** submittals for a complete application to permanently close a street/alley. 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. Appropriate Fee
- ☒ 3. A copy of the deed indicating ownership of the property.
- ☒ 4. A Survey Plat of the property prepared by a registered surveyor licensed to practice in the state of North Carolina.
- ☒ 5. A typed boundary description of the area to be closed, in digital format if possible.

A. Property Information

PIN(s): 105908, 106038, 9943505 & 9949866

Name of Alley/Street: Laws Avenue

Are you proposing to close a street or alley?

☒ Street

☐ Alley

Are you closing all or a portion of the street/ alley?

☒ Portion

☐ All

B. Property Owner Contact Information

Danny Huggins

* Printed Applicant Name

12-19-22

Date

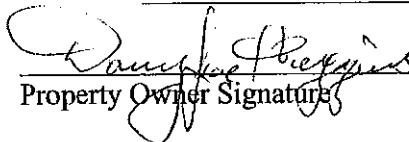
Printed Company Name (if applicable)

Office Use:

Date Received: _____ By: _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership

☐ Other: _____


Property Owner Signature

Property Owner Title (if applicable)

504 Broadway Street

Address of Property Owner

Hendersonville, NC 28739

City, State, and Zip Code

828-697-1760

Telephone

gosling_atlas@yahoo.com

Email

C. Additional Property Owner Contact Information (if needed)

Katheryn Enloe Writesel

* Printed Applicant Name

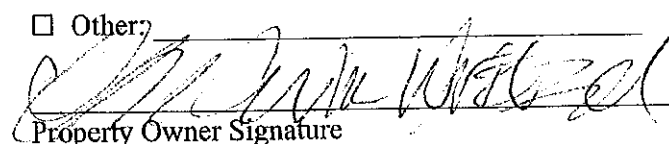
12-19-2022

Date

Printed Company Name (if applicable)

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership

☐ Other: _____


Property Owner Signature

Property Owner Title (if applicable)

200 Wildwood Road

Address of Property Owner

Hendersonville, NC 28739

City, State, and Zip Code

828 - 230 - 4780

Telephone

ladykathryn1112@gmail.com

Email

D. Additional Property Owner Contact Information (if needed)

Sara T Huggins

* Printed Applicant Name

1/11/2023

Date

Printed Company Name (if applicable)

☐ Corporation

☐ Limited Liability Company

☐ Trust

☐ Partnership

☐ Other:

Sara T Huggins

Property Owner Signature

Property Owner Title (if applicable)

504 Broadway Street

Address of Property Owner

Hendersonville, NC 28739

City, State, and Zip Code

828 - 697 - 1760

Telephone

gosling-atlas@yahoo.com

Email

\$ 15.00 PAID 5-3-04
Henderson Co., N.C., Register of Deeds

North Carolina, Henderson County The foregoing certificate(s) of
James L. Goldsmith Jr.
Notary Public (~~Notaries Public~~) is/are certified to be correct, this
instrument presented for registration and recorded in this office
this 3 day of May, 2004
at 337 P. in book 1180, page 721

Jesse W. Miles
Register of Deeds

(Assistant Deputy)

\$ 15.00
Excise Tax

Tax Lot No. _____ Parcel Identifier No. _____

Verified by _____ County on the _____ day of _____, 2003
by _____

Mail after recording to: Goldsmith Law Office, 212 S.Grove Street Hendersonville, NC 28792

This instrument prepared by: James L. Goldsmith, Jr.

Brief Description for the index Lots 1 and 2 of Wm. Laws, Sr Subdivision

NORTH CAROLINA GENERAL WARRANTY DEED

*Deed Preparation Only
No Title Search*

THIS DEED made this 3d. day of May 2004, by and between Grantor and Grantee:

The designation Grantor, Grantee, Trustee, and Beneficiary 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.

GRANTOR
ROBERT S. CLARK and wife
MARGARET L. CLARK

GRANTEE
DANNY J. HUGGINS and wife
SARA T. HUGGINS

PO Box 2445
Hendersonville, NC 28793

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 Hendersonville Township, Henderson County, North Carolina and more particularly described as follows:

BEGINNING at the northwest intersection of Westbrook Street (SR 1182), formerly known as Huger Street and Laws Avenue, and running North 4 degrees West 100 feet to a point; thence South 86 degrees West 125 feet to a point; thence South 4 degrees East 100 feet to the north margin of Laws Avenue; thence with said north margin of Laws Avenue, North 86 degrees East 125 feet to the point and place of BEGINNING. Being Lots 1 and 2 of Wm. Laws, Sr. Subdivision on Westbrook Street as surveyed and platted by W.C. Jordan on August 10, 1923 and recorded in the Record of Plats for Henderson County. Having PIN # 00956818325755.

Being the identical property as described in Deed from Jesse Mabel Henderson, widow to Robert S. Clark and wife, Margaret L. Clark as recorded in Deed Book 739 at page 329, Henderson County Registry.

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 except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

Subject to rights of ways, restrictions, easements and zoning regulations, if any.

Subject to Henderson County Ad Valorem taxes.

IN WITNESS WHEREOF, the grantor has hereunto set his hand and seal, or has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

(Entity Name) Robert S. Clark (SEAL)
Robert S. Clark

By: _____ (SEAL)
~~Margaret L. Clark~~

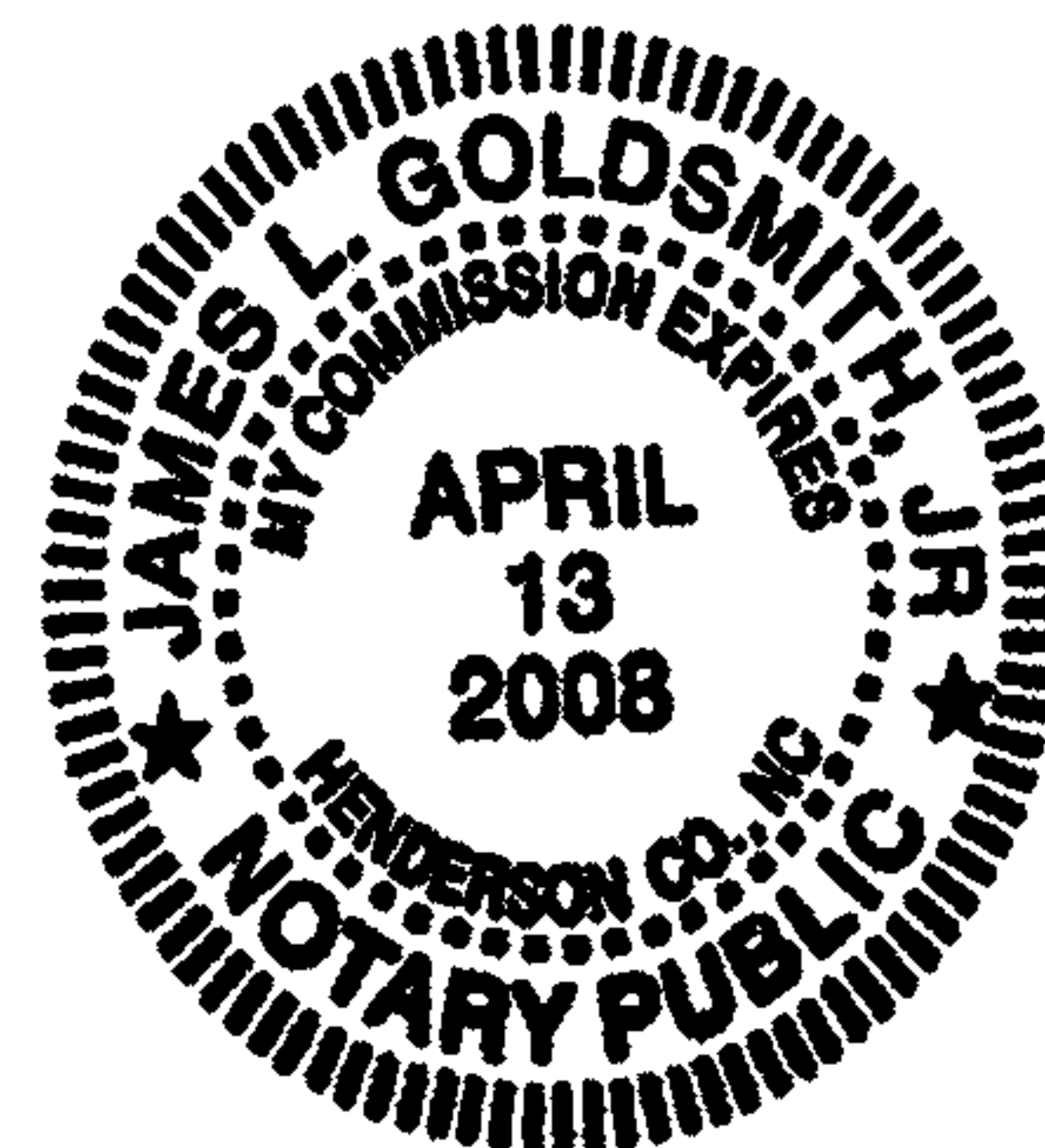
Title: _____ (SEAL)
Margaret L. Clark
Margaret L. Clark

NORTH CAROLINA
HENDERSON COUNTY

I, James L. Goldsmith, Jr. a notary public of aforesaid County and State, certify that Robert S. Clark and Margaret L. Clark, Grantors, personally appeared before me this day and acknowledged the execution of the foregoing instrument.
Witness my hand and official stamp or seal, This 3d day of May, 2004.

James L. Goldsmith, Jr.
Notary Public

My commission expires: 4/13/08



Filed and recorded in the Register of Deeds Office for
Henderson County, N.C. this 29 day of JULY, 20 02
at 2:25 o'clock P M. in Book 1107 at page 27

Nedra W. Moler
Register of Deeds
by: Willa Blair, Deputy

\$ 24.00 PAID 7-29-02
Henderson Co., N.C., Register of Deeds

Excise Tax \$24.00

Tax Lot No. _____ Parcel Identifier No. _____
Verified by _____ County on the _____ day of _____, 19____
by _____

Mail after recording to Veazey Law Firm, 210 N. Main St., Hendersonville, NC 28792
This instrument was prepared by Lex H. Veazey

Brief Description for the Index Lot 3 of G.C. Richardson, Jr. Estate
Property

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this the _____ day of July, 2002, by and between

GRANTOR	GRANTEE
PAMELA ANNE KARR, TRUSTEE under the Will of MARGARET CHAPMAN RICHARDSON HYSONG, also known as PEGGY C. HYSONG	DANNY J. HUGGINS and wife, SARA T. HUGGINS (Mailing Address: PO Box 2554 Hendersonville, NC 28793)

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation
or partnership.

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 the City of _____, Hendersonville Township, Henderson
County, North Carolina and more particularly described as follows:

BEING all of Lot 3 containing 0.463 acre, as shown on a map of the G.C. Richardson, Jr., Estate
property prepared by Steven L. Waggoner, RLS, of record in Slide 818 in the Office of the Register of
Deeds for Henderson County, North Carolina, reference to which is hereby made and incorporated
herein for a more specific description.

BEING that property conveyed to Peggy C. Richardson in Deed Book 771 at Page 570, Henderson
County Registry. Peggy C. Richardson, also known Margaret Chapman Richardson Hysong, died
Testate on March 22, 1993. Her Will, filed in Henderson County, NC, Estate File 93-E-247, willed her
estate to Pamela Anne Karr, as Trustee for her children.

PAK

31107 P028

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 except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

MARGARET CHAPMAN RICHARDSON HYSONG
TRUST

By: _____

ATTEST:

(Corporate Seal)

By: Pamela Anne Karr, Trustee (SEAL)
PAMELA ANNE KARR, TRUSTEE under the Will of
MARGARET CHAPMAN RICHARDSON HYSONG,
also known as PEGGY C. HYSONG

(SEAL)

(SEAL)

NORTH CAROLINA, Davie COUNTY.

I, a Notary Public of the County and State aforesaid, certify that PAMELA ANNE KARR, TRUSTEE under the Will of MARGARET CHAPMAN RICHARDSON HYSONG, also known as PEGGY C. HYSONG, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 24th day of July, 2002.

NOTARY STAMP/SEAL TO THE RIGHT OF THIS LOCATION
(must be no closer than 1/2" of right margin)

My commission expires: Nov. 4, 2002

Gloria C. Caudle
Notary Public



NORTH CAROLINA, _____ County.

I, a Notary Public of the County and State aforesaid, certify that , personally came before me this day and acknowledged that he/she is _____ Secretary of , a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal and attested by him/her as its _____ Secretary. Witness my hand and official stamp or seal, this ____ day of _____, 20 ____.

NOTARY STAMP/ SEAL TO THE RIGHT OF THIS LOCATION
(must be no closer than 1/2" of right margin)

My commission expires: _____

Notary Public

The foregoing Certificate of GLORIA C CAUDLE, NOTARY PUBLIC is ~~not~~ certified to be correct. This instrument and this certificate are duly registered at the date and in the Book and Page shown on the first page hereof.

Nedra W. Moles REGISTER OF DEEDS FOR Henderson COUNTY
By Willa Blair, Deputy Deputy ~~Assistant~~ Register of Deeds.

1208.00

55

STATE OF NORTH CAROLINA

EXECUTOR'S DEED

COUNTY OF HENDERSON

THIS DEED, made and entered into this 28th day of January, 1994, by and between B. B. MESSAGEE, III, Executor of the Estate of Margaret Chapman Richardson Hysong, Deceased (hereinafter referred to as the "party of the first part") and DANNY J. HUGGINS and wife, SARA T. HUGGINS (hereinafter referred to as the "party of the second part" and having a mailing address of P.O. Box 2554, Hendersonville, NC 28793);

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, have bargained and sold, and by these presents do bargain, sell, and quitclaim unto said party of the second part, their heirs and assigns, a certain tract or parcel of land lying and being in Hendersonville Township, Henderson County, North Carolina, more particularly described as follows:

BEGINNING at a point in the eastern margin of the right-of-way of Broadway Street, said point being located North ___ deg. 30 min. 34 sec. West 194.07 feet from an iron pin located at the northernmost corner of Lot 2, Block C of Central Park Subdivision, shown on that plat recorded in Plat Cabinet B, Slide 280, Henderson County Registry, said Beginning Point also being located at the point of intersection of the eastern margin of the right-of-way of Broadway Street and the southern margin of the unopened road right-of-way of Laws Avenue, and running thence from said Beginning Point in a southerly direction with the eastern margin of the right-of-way of Broadway Street, South 22 deg. 43 min. 12 sec. East 298.59 feet and South 33 deg. 26 min. 26 sec. East 23.04 feet; thence leaving the margin of the right-of-way of Broadway Street and running in a northeasterly direction, North 70 deg. 11 min. 49 sec. East 110.03 feet; running thence, North 20 deg. 27 min. 29 sec. West 71.83 feet; running thence, South 87 deg. 36 min. 46 sec. East 77.08 feet; running thence, North 14 deg. 24 min. 00 sec. East 35.00 feet; running thence, North 00 deg. 03 min. 16 sec. West 113.43 feet to a point in the southern margin of the unopened right-of-way of Laws Avenue; running thence in a westerly direction with the southern margin of the unopened right-of-way of Laws Avenue, North 65 deg. 51 min. 12 sec. West 41.59 feet and North 83 deg. 30 min. 10 sec. West 255.74 feet to the point and place of BEGINNING.

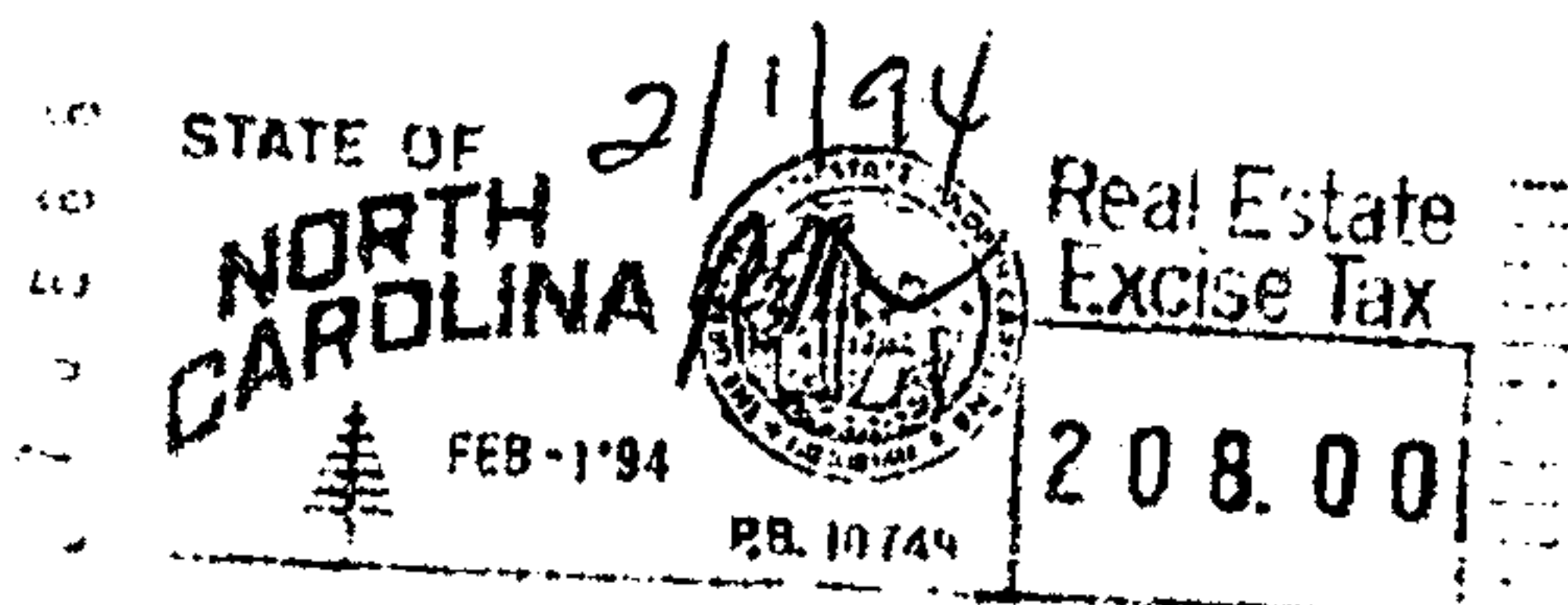
ALSO conveyed and quitclaimed is the party of the first part's right, title and interest (if any) to the non-exclusive use of the gravel drive extending in an easterly direction from the right-of-way of Broadway Street, immediately South of the subject property and then extending in a southeasterly direction to the right-of-way of Fifth Avenue West, for initial ingress, egress and regress.

TO HAVE AND TO HOLD the aforesaid tract or parcel of land, together with all privileges and appurtenances thereunto belonging to them, the said party of the second part and their heirs and assigns in fee simple forever.

And said party of the first part executes and delivers this deed solely in his capacity as Executor of the Estate of Margaret Chapman Richardson Hysong, Deceased. The party of the first part expressly makes no warranties, covenants, or representations to the party of the second part.

IN TESTIMONY WHEREOF, said party of the first part has hereunto set his hand and seal the day and year first above written.

B. B. Messagee, III, Executor of the Estate of Margaret Chapman Richardson Hysong (SEAL)



43 111 11/11/94

56

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

I, a Notary Public of the County and State aforesaid, certify that B. B. Massagee, III, Executor of the Estate of Margaret Chapman Richardson Hysong, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 28th day of February, 1994.

Carolyn P. Malachuk
Notary Public
My Commission Expires: June 3, 1994

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

The foregoing certificates of Carolyn P. Malachuk, Notary Public, is certified to be correct. This instrument being presented for registration and recorded in this office this 1 day of February, 1994, at 3:25 P m. in Deed Book 838, Page 55 and verified

Patricia A. Miller
HENDERSON COUNTY REGISTER OF DEEDS

by: Derek H. Hensley, Deputy

FILED IN HENDERSON COUNTY REGISTER OF DEEDS
OFFICE. NEDRA W. MOLES, REGISTER
DATE: 12-31-08 TIME: 12:07 PM
EXCISE TAX STAMP: _____
BOOK: 1383 PAGE: 679

Prepared by: James J. Hugenschmidt, 137 Biltmore Avenue, Asheville, NC 28801
Return to: James J. Hugenschmidt, 137 Biltmore Avenue, Asheville, NC 28801
Brief description for the index: NO TITLE EXAMINATION

Tax Lot No: _____ Parcel Ident. No. _____
Verified by _____ County on the _____ day of _____,
by _____

NORTH CAROLINA SPECIAL WARRANTY DEED

THIS DEED, made this 16 day of December, 2008, between Coleman Enloe, Grantor, and Kathryn Enloe, Grantee, whose address is: 200 Wildwood Road, Hendersonville, NC, 28739.

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 the City of Hendersonville, _____ Township, Henderson County, North Carolina and more particularly described as follows:

See Exhibit A attached hereto.

This property is to be the separate property of the Grantee within the intent and meaning of N.C.G.S. 50-20 and other applicable law.

The property herein above described was acquired by Grantor by instrument recorded in Book 832 at Page 239-241

A map showing the above described property is recorded in Plat Book _____ Page _____.

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 has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, except for the exceptions hereinafter stated.
Title to the property hereinabove described is subject to the following exceptions:

No title examination.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in the corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first-above written.

(Corporate Name)

By: _____

_____ President


ATTEST: _____

_____ Secretary (Corporate Seal)

Coleman Enloe (SEAL)
Coleman Enloe

(SEAL)
(SEAL)
(SEAL)
(SEAL)

NORTH CAROLINA, BUNCOMBE COUNTY

A circular notary seal for Buncombe County, North Carolina, with the text "Seal/stamp" written over it.

I, a Notary Public of the County and State aforesaid, certify that Coleman Enloe, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 17th day of December, 2008.
My commission expires: 2-4-2011
Jamie W. Wolfe
Notary Public

NORTH CAROLINA, BUNCOMBE COUNTY

I, a Notary Public of the County and State aforesaid, certify that _____ personally appeared before me this day and acknowledged that he is _____ Secretary of _____, a North Carolina corporation, and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal and attested by _____ as its _____ Secretary. Witness my hand and official stamp or seal, this _____ day of _____, 2008.
My commission expires: _____

Notary Public

The foregoing Certificate(s) of _____
_____ is/are certified to be correct.
This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

By _____ REGISTER OF DEEDS for _____ COUNTY

Deputy/Assistant - Register of Deeds.

EXHIBIT A
TO DEED FROM THOMAS JOSEPH FAZIO AND WIFE, SUSAN KOPP FAZIO TO
COLEMAN KEITH ENLOE AND WIFE, KATHRYN TOLAND ENLOE

BEGINNING at an existing iron pin located at the southwestern corner of that property as described in Deed recorded in Deed Book 723, at Page 687, Henderson County Registry; said existing iron pin also being located at the intersection of the eastern margin of the right of way of Wildwood Road with the northern margin of the right of way of Laws Avenue; thence from said beginning point and with the eastern margin of the right of way of Wildwood Road, North 06 degrees 05 minutes 11 seconds East 102.28 feet to an existing iron pin; thence leaving said right of way and travelling with the southern boundaries of the Enevold Tract as described in Deed recorded in Deed Book 689, at Page 277, Henderson County Registry and the Echols Tract as described in Deed recorded in Deed Book 637, at Page 33, Henderson County Registry, North 72 degrees 43 minutes 29 seconds East 223.29 feet to an existing iron pin located in the southern boundary of the Meadows Tract as described in Deed recorded in Deed Book 680, at Page 621, Henderson County Registry; thence with the western boundaries of the Dalton Tract as described in Deed recorded in Deed Book 417, at Page 83 and Deed recorded in Deed Book 400, at Page 591, Henderson County Registry and the Clark Tract as described in Deed recorded in Deed Book 739, at Page 329, Henderson County Registry, South 02 degrees 56 minutes 38 seconds East 179.00 feet to a new iron pin located in the northern margin of the right of way of Laws Avenue; thence with the northern margin of same, North 88 degrees 20 minutes 44 seconds West 257.15 feet to THE POINT AND PLACE OF BEGINNING and being .81 acres, more or less, as shown on a survey prepared by David C. Huntley RLS, entitled "Survey for Coleman Keith Enloe and Kathryn Toland Enloe", dated October 25, 1993 and being Drawing Number H-1183, reference to which is hereby made and incorporated herein.

There is also conveyed to the Grantees herein, their heirs and assigns, a perpetual non-exclusive right of way for purposes of access and utilities, over that right of way known as Wildwood Road and that right of way known as Laws Avenue, said rights of way being shown on that plat of the W.A. Smith Cole Land Annex Park as shown on a plat thereof recorded in Plat Book 4, at Page 49 and re-indexed in Plat Cabinet B, at Slide 315, Henderson County Registry.

AND BEING all of Lots 10 and 11 and a portion of Lots 1, 2, and 9 of the W.A. Smith Cole Land Annex Park Subdivision as shown on plat thereof recorded in Plat Book 4, at Page 49 and re-indexed in Plat Cabinet B, at Slide 315, Henderson County Registry.

This property is conveyed subject to that Boundary Line Agreement as recorded in Deed Book 572, at Page 435, Henderson County Registry and that Perpetual Road Maintenance Agreement recorded in Deed Book 688, at Page 849, Henderson County Registry.

Govt Public Notices

Originally published at blueridgenow.com on 03/12/2023

Resolution #23-11

RESOLUTION OF INTENT To CLOSE AN UNOPENED, UNIMPROVED PORTION OF LAWS AVENUE

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

WHEREAS, Danny Huggins, Sara Huggins and Katheryn Enloe Writesel have petitioned the City of Hendersonville City Council to close an unopened and unimproved portion of the street known as Laws Avenue, located between PINs 9568-18-1100, 9568-18-1372, 9568-18-3257 and 9568-183133; 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 12th day of April 2023, in the Assembly Room of the City Operations Center to consider closing an unopened and unimproved portion of the street known as Laws Avenue located between PINs 9568-18-1100, 9568-18-1372, 9568-18-3257 and 9568-18-3133. 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: 1817

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

Section 7, Item E.

2. The legal description for the portion of Laws Avenue proposed for closing is as follows:

Beginning on a 3/4 iron pipe, said iron pipe standing S 83 036' 39 E 73.23' from the northwestern most corner of the Huggins property as described in Deed Book 838, Page 055, and continuing thence from said beginning point thus established, N 06 041 '02 E 20.00' to a point, thence N 06 041 '02 E 9.25' to a 3/4 iron pipe, said pipe marking the southwestern corner of the Enloe property as described in Deed Book 1388, Page 679, and continuing thence S 87040'12 E 258.20' to a

3/12, 3/19, 3/26, 4/2/2023 #



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

SUBMITTER: Adam Murr **MEETING DATE:** 04/12/2023

AGENDA SECTION: Public Hearing **DEPARTMENT:** Administration

TITLE OF ITEM: 2023 Installment Financing Contract (IFC) - Adam Murr, Budget Manager

SUGGESTED MOTION(S):

I move City Council adopt the *RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO* as presented.

SUMMARY:

The City of Hendersonville has determined it is in the best interest of the City to contract with a bank to finance the renovations and improvements to the City Hall and City Operations Center, complete 7th Avenue Streetscape improvements/enhancements, and certain other related matters.

The attached initial resolution authorizes the City Manager and Staff, Special Counsel, and Financial Advisor to negotiate financing for the projects, not to exceed \$8,000,000.00 in accordance with NCGS160A-20. The resolution also authorizes an application to the Local Government Commission (LGC) and approval of the Financing Team:

Parker Poe [Special Counsel]; and,
First Tryon Advisors [Financial Advisors].

BUDGET IMPACT: \$8,000,000.00

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

If no, describe how it will be funded. This item directs Staff and a team of consultants to obtain an installment financing not to exceed \$8.00 million for the City Hall and City Operations, 7th Avenue Streetscape, and certain other related projects.

ATTACHMENTS:

1. Resolution
2. Notice of Public Hearing

PUBLIC NOTICE

Notice is hereby given that the City Council (the “City Council”) of the City of Hendersonville, North Carolina (the “City”) will hold their regular monthly meeting on Wednesday, April 12, 2023, at 5:45 p.m., in the City Operations Assembly Room located at 305 Williams Street, Hendersonville NC to consider the following:

Installment Financing Contract. – Pursuant to Sections 160A-20 of the General Statutes of North Carolina, the City Council is considering entering into an installment financing contract (the “Contract”), in a principal amount of approximately \$8,000,000, under which the City will make certain installment payments, in order to pay the costs of (1) renovations and improvements to City facilities and infrastructure, including City Hall located at 160 6th Avenue East, Hendersonville, North Carolina 28792 and the City Operations Center located at 305 Williams Street, Hendersonville North Carolina 28792 (collectively, the “2023 Projects”) and (2) entering into the Contract. In connection with the Contract, the City will grant a security interest on all or a portion of the sites of the 2023 Projects and improvements thereon as may be required for the benefit of the entity providing the funds to the City under the Contract (the “Mortgaged Property”). The Contract will permit the City to enter into amendments to finance additional projects and refinance projects using the Mortgaged Property as collateral and the City may or may not grant additional collateral in connection with such amendments. On payment by the City of all installment payments due under the Contract the lien created in the Mortgaged Property will terminate and the City’s title will be unencumbered.

Digital/written public hearing comments must be received twenty-four hours prior to the meeting (by 5:45 p.m. on Tuesday April 11th) to be considered by the City Council **and must** comply with security criteria in the Council’s Public Comment Policy, available on the City’s website.

Public hearing comments will also be accepted during the meeting from those attending in person and from those participating live via ZOOM at the designated time at this meeting. For security reasons screen sharing will not be allowed. Anyone wishing to submit written/digital public hearing comments for these public hearings prior to the meeting may visit <https://www.hendersonvillenc.gov/comment> to submit their comment. It is not necessary to submit digital comments if you are planning to address City Council during the meeting.

The meeting instructions to join by Zoom will be available on the City’s website calendar by visiting <https://www.hendersonvillenc.gov/events-calendar> and as follows:

Zoom information for the meeting is: <https://zoom.us/join>
 Dial-in by phone: (646) 558-8656
 Meeting ID: 822 0104 2528
 Passcode: 1847

The City of Hendersonville is committed to providing accessible facilities, programs, and services for all people in compliance with the Americans with Disabilities Act (ADA). Should

you need assistance or a particular accommodation for this meeting please contact the City Clerk no later than 24 hours in advance of the meeting (828) 697-3005.

LOCALiQ

StarNews | The Dispatch
Times-News

PO Box 631245 Cincinnati, OH 45263-1245

PROOF OF PUBLICATION

Jill Murray
City Clerk
City Of Hendersonville
160 6Th AVE E
Hendersonville NC 28792-3775

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

The Hendersonville Times-News, a newspaper printed and published in the city of Gastonia, and of general circulation in the County of Henderson, State of North Carolina, and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issue dated:

04/02/2023

and that the fees charged are legal.
Sworn to and subscribed before on 04/02/2023



Legal Clerk



Notary, State of WI, County of Brown

10-25-26

My commision expires

Publication Cost: \$19.16
Order No: 8642957 # of Copies:
Customer No: 488558 1
PO #:

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

RYAN SPELLER
Notary Public
State of Wisconsin

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Section 7, Item F.

Installment Financing Contract. – Pursuant to Sections 160A-20 of the General Statutes of North Carolina, the City Council is considering entering into an installment financing contract (the "Contract"), in a principal amount of approximately \$8,000,000, under which the City will make certain installment payments, in order to pay the costs of (1) renovations and improvements to City facilities and infrastructure, including City Hall located at 160 6th Avenue East, Hendersonville, North Carolina 28792 and the City Operations Center located at 305 Williams Street, Hendersonville North Carolina 28792 (collectively, the "2023 Projects") and (2) entering into the Contract. In connection with the Contract, the City will grant a security interest on all or a portion of the sites of the 2023 Projects and improvements thereon as may be required for the benefit of the entity providing the funds to the City under the Contract (the "Mortgaged Property"). The Contract will permit the City to enter into amendments to finance additional projects and refinance projects using the Mortgaged Property as collateral and the City may or may not grant additional collateral in connection with such amendments. On payment by the City of all installment payments due under the Contract the lien created in the Mortgaged Property will terminate and the City's title will be unencumbered.

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4/2/2023 8642957

Resolution #

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA,
AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT AND PROVIDING
FOR CERTAIN OTHER RELATED MATTERS THERETO**

WHEREAS, the City of Hendersonville, North Carolina (the “City”) is a municipal corporation existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the “State”);

WHEREAS, the City has the power, pursuant to the General Statutes of North Carolina to (1) enter into installment contracts in order to purchase, or finance or refinance the purchase of, real or personal property and to finance or refinance the construction or repair of fixtures or improvements on real property and (2) create a security interest in some or all of the property financed or refinanced to secure repayment of the purchase price;

WHEREAS, the City Council of the City (the “City Council”) hereby determines that it is in the best interest of the City to (1) enter into an installment financing contract (the “Contract”) with a financial institution to be determined (the “Bank”) in order to pay the costs of (a) renovations and improvements to City facilities and infrastructure, including City Hall and the City Operations Center (collectively, the “2023 Projects”) and (b) entering into the Contract and (2) in order to provide security for the City’s obligations under the Contract, grant to the Bank a security interest under a deed of trust, security agreement and fixture filing (the “Deed of Trust”) on all or a portion of the sites of the 2023 Projects and improvements thereon as may be required by the Bank;

WHEREAS, the City staff has retained (1) Parker Poe Adams & Bernstein LLP, as special counsel (“Special Counsel”) and (2) First Tryon Advisors, as financial advisor, in connection with the proposed installment financing;

WHEREAS, the City Council hereby determines that the 2023 Projects are essential to the City’s proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the 2023 Projects will provide an essential use and will permit the City to carry out public functions that it is authorized by law to perform; and that entering into the Contract and Deed of Trust is necessary and expedient for the City by virtue of the findings presented herein;

WHEREAS, the City Council hereby determines that such cost of the 2023 Projects exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the City in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;

WHEREAS, although the cost of financing the 2023 Projects pursuant to the Contract and the Deed of Trust is expected to exceed the cost of financing the 2023 Projects pursuant to a bond financing for the same undertaking, the City hereby determines that the cost of financing the 2023 Projects pursuant to the Contract and Deed of Trust and the obligations of the City thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond

financing, as required by the laws of the State, would result in the expenditure of significant funds; (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of the 2023 Projects; and (3) insufficient revenues are produced by the 2023 Projects so as to permit a revenue bond financing;

WHEREAS, the City Council hereby determines that the estimated cost of financing the 2023 Projects pursuant to the Contract and the Deed of Trust allows the City to finance the 2023 Projects at a favorable interest rate currently available in the financial marketplace and on terms advantageous to the City and reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

WHEREAS, the City does not anticipate a future property tax increase to pay installment payments falling due under the Contract but an increase in taxes, if any, necessary to meet the sums to fall due under the Contract will not be excessive.

WHEREAS, Special Counsel will render an opinion to the effect that entering into the Contract and the transactions contemplated thereby are authorized by law;

WHEREAS, no deficiency judgment may be rendered against the City in any action for its breach of the Contract, and the taxing power of the City is not and may not be pledged in any way directly or indirectly or contingently to secure any money due under the Contract;

WHEREAS, the City is not in default under any of its debt service obligations;

WHEREAS, the City's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the City has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget Ordinance;

WHEREAS, past audit reports of the City indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the City has not been censured by the Local Government Commission of North Carolina (the "*LGC*"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies;

WHEREAS, a public hearing on the Contract, the Deed of Trust and the 2023 Projects, after publication of a notice with respect to such public hearing, was held on April 12, 2023 and approval of the LGC with respect to entering the Contract must be received; and

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

Section 1. ***Authorization to Negotiate the Contract and the Deed of Trust.*** That the City Manager, the Assistant City Manager and the Finance Director (the "*Authorized Officers*"), individually or collectively, with advice from the City Attorney, Special Counsel and the City's financial advisor, are hereby authorized and directed to negotiate on behalf of the City (1) the financing

of the 2023 Projects for a principal amount of approximately \$8,000,000 under the Contract to be entered into with the Bank in accordance with the provisions of Section 160A-20 of the General Statutes of North Carolina, as amended, and (2) the provision of a security interest under the Deed of Trust in the City’s fee simple interest on all or a portion of the sites of the 2023 Projects, together with all improvements and fixtures located thereon, as may be required by the Bank providing the funds to the City under the Contract to secure the City’s obligations thereunder.

Section 2. **Application to LGC.** The Finance Director or his designee is hereby directed to file with the LGC an application for its approval of the Contract and all relevant transactions contemplated thereby on a form prescribed by the LGC and to state in such application such facts and to attach thereto such exhibits regarding the City and its financial condition as may be required by the LGC.

Section 3. **Approval of the Financing Team.** Parker Poe Adams & Bernstein LLP has been retained by the City to serve as special counsel and First Tryon Advisors been retained to serve as financial advisor. The Authorized Officers, with advice from the City Attorney and Special Counsel, are hereby authorized to retain the assistance of other professionals as they deem necessary and desirable to carry out the intention of this Resolution.

Section 4. **Ratification.** All actions of the City and its officials, whether previously or hereafter taken in effectuating the proposed financing as described herein, are hereby ratified, authorized and approved.

Section 5. **Repealer.** All motions, orders, resolutions and parts thereof in conflict herewith are hereby repealed.

Section 6. **Effective Date.** This Resolution is effective on the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 12th day of April, 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:

John Connet, City Manager

MEETING DATE:

April 12, 2023

AGENDA SECTION:

NEW BUSINESS

DEPARTMENT:

Administration

TITLE OF ITEM:

Tree Ordinance Study Committee – *John Connet, City Manager*

SUGGESTED MOTION(S):

I move City Council to appoint a limited purpose committee, the Tree Ordinance Study Committee, to study and recommend ordinance provisions related to the preservation of the tree canopy within the City of Hendersonville, to consist of the following people: _____..

SUMMARY:

A representative from the Tree Board will be present to discuss with City Council various recommendations that the Tree Board has been studying to facilitate the preservation of the tree canopy within the City.

The Council is also asked to consider appointing a limited purpose committee, the Tree Ordinance Study Committee to study these and other recommendations concerning a possible Tree Ordinance for the City. This could take the form of a stand-alone ordinance, or be incorporated into another ordinance, such as the Zoning Ordinance.



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Tom Wooten, Director of Public Works **MEETING DATE:** April 12, 2023

AGENDA SECTION: New Business **DEPARTMENT:** Public Works

TITLE OF ITEM: *Resolution to adopt a ten-foot Right of Way for Wall Street*

SUGGESTED MOTION(S):

I move the City of Hendersonville City Council to adopt the resolution accepting the Right of Way from TJF Enterprises, LLC as described and shown on the final plat.

SUMMARY:

The City of Hendersonville has received a request from TJF Enterprises, LLC to accept a 10 foot right of way through their property, known as Wall Street, into our street maintenance program. A copy of the resolution from TJF Enterprises, LLC, Certificate of Dedication, and Right of Way Dedication Plat are included for your review. Staff have no objections to this dedication and request that City Council adopt the attached Resolution.

ATTACHMENTS:

Resolution

Resolution from TJF Enterprises, LLC

Certificate of Dedication from TJF Enterprises, LLC

Final Plat showing road closure and new Right of Way Dedication

Resolution #__-____

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL AUTHROZING
ACCEPTANCE OF A TEN-FOOT RIGHT OF WAY INTO THE CITY STREET SYSTEM**

WHEREAS, TJF ENTERPRISES, LLC, a North Carolina limited liability company, has submitted a request to the City to accept a ten-foot right of way through their property, having PIN # 9568-78-7052; and,

WHEREAS, City Council previously closed the old road within the same parcel that was not accessible to the public and need the new ten-foot right of way for a dedicated public road; and,

WHEREAS, TJF Enterprises, LLC has approve a resolution and offered the ten-foot right of way for dedication and acceptance by the City of Hendersonville; and

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

The City of Hendersonville accept the ten-foot right of way from TJF Enterprises, LLC as presented.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 12th day of April, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

TJF Enterprises, LLC
401 N. Main St.
Suite 400
Hendersonville, NC 28792

February 3, 2023

Mr. Tom Wooten
Director of Public Works
City of Hendersonville
305 Williams St.
Hendersonville, NC 28792

Re: Road Closure and Right of Way Dedication of TJF Enterprises, LLC, North Carolina limited liability company, to the City of Hendersonville for TJF Enterprises, LLC

Dear Mr. Wooten:

We hereby submit the following documents required for dedication and to formalize our request:

1. Copy of Resolution of TJF Enterprises, LLC, a North Carolina limited liability company dated February 3, 2023 stating that the sole Member has voted and has consented to the dedication of 10' dedication row
2. A Certificate of Dedication signed by a manager of TJF Enterprises, LLC dated February 3, 2023.
3. A Final Plat of Road Closure and Right of Way Dedication

Please contact David E Adams at 828-693-0052 if any additional information is required.

Sincerely,

A handwritten signature in black ink, appearing to read "David E. Adams". The signature is fluid and cursive, with the first name "David" being more prominent.

David E. Adams
Manager

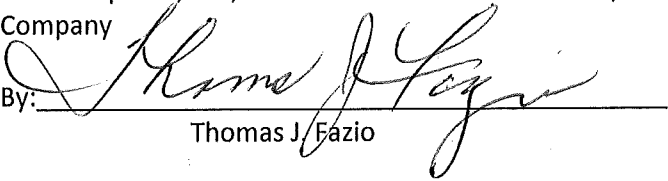
RESOLUTION OF THE SOLE MEMBER OF TJF ENTERPRISES, LLC to pursue with the City of Hendersonville, TJF Enterprises, LLC's request for the City of Hendersonville, to accept the partial road closure of N. Wall St. Alley south of 4th Ave. W. in Hendersonville, NC.

WHEREAS, the sole member of TJF Enterprises, LLC, a North Carolina limited liability company, has voted to approve the proposal requesting that the City of Hendersonville assume maintenance of the new 10' dedicated public right of way.

WHEREAS, since the sole member of TJF Enterprises, LLC has by its unanimous vote and consent approved the proposal that the City of Hendersonville be formally requested to accept the maintenance of the new 10' dedicated public right of way.

THEREFORE BE IT RESOLVED, that David E. Adams, Manager of TJF Enterprises, LLC, will be directed to proceed with an expeditious submission of the above described proposal to the City of Hendersonville.

Authorization granted this ____ day of February, 2023 by the sole member of TJF Enterprises, LLC.

MEMBER:
TJF Enterprises, LLC, a North Carolina limited liability
Company
By: 
Thomas J. Fazio
Title: Member Manager

CERTIFICATE OF DEDICATION

The undersigned certifies that he is manager of TJF Enterprises, LLC, a North Carolina limited liability company, and that he has been authorized to execute this Certificate pursuant to authority granted by resolution of TJF Enterprises, LLC, a copy of which resolution is attached hereto.

TJF Enterprises, LLC, through the undersigned, hereby certifies that as shown on the Survey of the Road Closure and Right of Way Dedication for TJF Enterprises, LLC, (the "Plat") is owned by TJF Enterprises, LLC and is free of any encumbrances or liens.

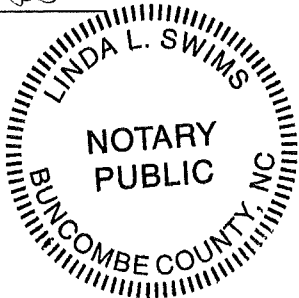
TJF Enterprises, LLC, through the undersigned, freely dedicates the new 10' Dedicated Right of Way as the same is shown on the Plat.

TJF Enterprises, LLC
By: David E. Adams
David E. Adams, Manager

STATE OF NORTH CAROLINA, County of Henderson

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated herein and in the capacity indicated: David E. Adams, Manager of TJF Enterprises, LLC, a North Carolina limited liability company.

Date: 2-16-23



Linda L. Swims
Official Signature of Notary

Linda L. Swims
Notary's printed or typed name

My commission expires: 8-23-2024

Petition to Permanently Close a Street/Alley

Thank you for filling out the form. Your application has been submitted.

Date:

1/30/2023

Name of street/alley:

N. Wall St.

List 10 digit PIN or 7 digit PID number:

9568787052

Are you proposing to close a street or alley?

ALLEY

**Are you closing all or a portion of the street/
alley?**

PORTION

Upload survey, deed, and typed boundary description:



TJF Enterprises LLC 4th Ave West, N. Wall St. Alley Partial Road Closer.pdf

0.2 MB



4th Ave W Deed for TJF Enterprises LLC Parking Lot.pdf

0.3 MB



Applicant Name:

TJF Enterprises LLC

Address

401 N. Main St. #400, Hendersonville, North Carolina 28792

Phone

(828) 693-0052

Email

dadams@faziodesign.com

Property Owner Name:

Address

Signature

Printed Name:

Section 9, Item B.

David E. Adams, Manager

by David E Adams, Manager

Property Owner Name:

Address

Signature

Printed Name:

Official Use:

Date Received:

Received By:

Fee Received:



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Brian Pahle, Assistant City Manager

MEETING DATE: 04/12/2023

AGENDA SECTION: New Business

DEPARTMENT: Administration

TITLE OF ITEM: City Hall/Ops Renovations Bid Approval – *Brian Pahle, Assistant City Manager*

SUGGESTED MOTION(S):

I move that City Council approve the Resolution by the City of Hendersonville City Council to authorize the City Manager to negotiate and execute a contract for the City Hall and Ops Renovations Project.

SUMMARY:

An agenda item to authorize the City Manager to negotiate with the most responsive and responsible low bidder for the City Hall/Ops Renovations Project.

BUDGET IMPACT: Not to exceed \$4,221,000.00

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

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

ATTACHMENTS:

Resolution

Certified Bid

Resolution #__-____

**RESOLUTION BY THE CITY OF HENDERSONVILLE CITY COUNCIL TO
AUTHORIZE THE CITY MANAGER TO EXECUTE AGREEMENT WITH
H&M CONSTRUCTORS FOR THE CITY HALL AND CITY OPERATIONS CENTER
RENOVATIONS PROJECT**

WHEREAS, the City Council approved THE CITY HALL AND CITY OPERATIONS CENTER RENOVATIONS PROJECT as part of the budget, the “Project”; and;

WHEREAS, the City Manager’s Office has solicited proposals in an effort to hire a reputable and responsible vendor(s) to perform the Project; and

WHEREAS, H&M Constructors has submitted the lowest certified responsive and responsible bid in the best interest of the City, and references indicate that they are a responsible vendors, able to complete the Project within the bid or price stated, and within the time frames requested; and

WHEREAS, the City Manager’s Office is recommending that the Project be awarded to H&M Constructors and the Agreement be approved; and

WHEREAS, the City Manager’s Office has requested that the City Manager be authorized to negotiate and enter into a contract with H&M Constructors for a not to exceed amount;

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

1. The Project is awarded to H&M Constructors in the amount not to exceed \$4,221,000.00.
2. The City Manager is authorized to negotiate and enter into an agreement with H&M Constructors on behalf of the City in such form and with such provisions as he may deem appropriate, after consultation with the City Attorney, provided that the price may not be changed without approval from the City Council.
3. The City Manager, City Attorney, and City Staff are authorized to take such other actions as may be necessary to carry out the terms and provisions of the agreement as entered and signed by the City Manager.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 12th day of April, 2023.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

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

Hendersonville City Hall First Floor Alterations & Alterations to City Operations Center Bid Tab
Hendersonville, NC



Bid Tabulation Form - General Construction - Single Prime
Tuesday, March 28, 2023 at 2:00 pm
ADW Project #22029

To the best of my knowledge, this bid tabulation
represents the results from the Bid Opening held on
Tuesday, March, 28, 2023.

Keith T. Carlyon, AIA



												City Hall First Floor Alterations		Alterations to City Operations Center			
Bidder	License #	Subcontractors		Bid Form (Y/N)	Bid Bond (Y/N)	Non-Collusive Affidavit (Y/N)	MBE Forms (Y/N)	Addenda 1-3 (Y/N)	UP#1 - Removal of unsuitable material, per cubic yard	UP#2 - In-place structural fill, per cubic yard	UP#3 - In-Place Concrete paving (4" thickness) per square foot	Base Bid Amount	Alt. #1 Bullet Resistant Customer Service Windows	Base Bid Amount	Alt. #1 New Finishes in 2nd Floor Bathrooms	Alt. #2 Alterations to 2nd Floor Bathrooms	Alt. #3 Additional Solar Tubular Lighting
H&M Constructors, A Division of MB Haynes Corporation	1245	Plumbing	T.P. Howard	Y	Y	Y	Y	Y	\$400	\$450	\$25	\$1,739,000	\$57,300	\$2,240,000	\$57,200	\$109,000	\$75,700
		Mechanical	Bolton														
		Electrical	Emory														

#R-23-_____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA DIRECTING THE APPLICATION TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF A WATER AND SEWER SYSTEM REVENUE BOND AND CERTAIN RELATED MATTERS

WHEREAS, the City Council (the “*City Council*”) of the City of Hendersonville, North Carolina (the “*City*”) hereby determines that it is desirable to finance certain improvements to its water and sewer system (the “*Water and Sewer System*”);

WHEREAS, the City Council is considering the issuance of a not to exceed \$9,000,000 Water and Sewer System Revenue Bond, Series 2023 (the “*2023 Bond*”) to (1) finance improvements to the City’s water and sewer system, including, without limitation, (a) the replacement, improvement and maintenance of water and sewer mains, pipes and pump stations, (b) the replacement and installation of water meters, (c) improvements to a water intake reservoir, (d) payments to the North Carolina Department of Transportation related to the adjustment, relocation and improvements of certain city-owned water and sewer lines completed by the North Carolina Department of Transportation and (e) the acquisition of equipment (collectively, the “*2023 Projects*”) and (2) pay the costs of issuing the 2023 Bond; and

WHEREAS, the City has retained (A) Parker Poe Adams & Bernstein LLP, as bond counsel for the 2023 Bond, (B) First Tryon Advisors, as financial advisor for the 2023 Bond and (C) The Bank of New York Mellon Trust Company, N.A., as trustee for the 2023 Bond and (D) Stantec Inc., as feasibility consultant (collectively, the “*Financing Team*”); and

WHEREAS, on approval by the Local Government Commission of North Carolina (the “*Commission*”) of the City’s application for the 2023 Bond, the Commission will sell the 2023 Bond on behalf of the City to a financial institution to be selected by the City through a request for proposal process (the “*Lender*”);

WHEREAS, the City Council wants the Finance Director of the City to file with the Commission an application for its approval of the 2023 Bond, on a form prescribed by the Commission, and (1) request in such application that the Commission approve (A) the negotiation of the sale of the 2023 Bond to the Lender, (B) the City’s use of the Financing Team in connection with the issuance of the 2023 Bond; and (2) state in such application such facts and to attach thereto such exhibits in regard to the 2023 Bond and to the City and its financial condition, as may be required by the Commission, and to take all other action necessary to the issuance of the 2023 Bond.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA, AS FOLLOWS:

Section 1. That the 2023 Bond is to be issued by the City in an aggregate principal amount not to exceed \$9,000,000 for the purpose of providing funds to (1) finance the 2023 Projects and (2) pay the costs of issuing the 2023 Bond, all as will be set out in the documents

attached to the City's application to the Commission. The 2023 Projects are necessary to meet the needs of the users of the Water and Sewer System and to assure that the Water and Sewer System remains in full compliance with all state and federal requirements for the provision of water and sewer services.

Section 2. That the City Manager, the Assistant City Manager and the Finance Director, with advice from the City's financial advisor and bond counsel, is hereby authorized and directed to select the Lender through the request for proposal process.

Section 3. That the Financing Team is hereby approved in connection with the issuance by the City of the 2023 Bond, and the Mayor, the City Manager, the Assistant City Manager and the Finance Director, in consultation with the Commission, are each hereby authorized to retain other persons or organizations as may be necessary and appropriate to carry out the intention of this Resolution.

Section 4. That the Finance Director of the City with advice from the City Manager, the Assistant City Manager, the City Attorney, the financial advisor and bond counsel, is hereby authorized, directed and designated to file an application with the Local Government Commission of North Carolina for its approval of the issuance of the 2023 Bond.

Section 5. That the City Council finds and determines and asks the Commission to find and determine from the City's application and supporting documentation:

- (a) that the issuance of the 2023 Bond is necessary or expedient;
- (b) that the not to exceed stated principal amount of the 2023 Bond will be sufficient but is not excessive, when added to other money available to the Water and Sewer System, to finance the 2023 Projects;
- (c) that the Water and Sewer System as now constituted, and as it will be constituted after the completion of the 2023 Projects, is feasible;
- (d) that the City's debt management procedure and policies are good; and
- (e) that the 2023 Bond can be marketed at a reasonable interest cost to the City.

Section 6. That the City Council requests that the Commission sell the 2023 Bond through negotiation to the Lender on such terms as may be agreed on but at an interest rate not exceeding 5.50%.

Section 7. That the Mayor, the City Manager, the Assistant City Manager, the City Attorney, the Finance Director and the City Clerk, as their respective designees, individually or collectively, are each hereby authorized to do any and all other things necessary to complete the steps necessary for the authorization and sale of the 2023 Bond.

Section 8. That this Resolution is effective on the date of its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 12th day of April 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)
) SS:
CITY OF HENDERSONVILLE)

I, *Jill Murray*, City Clerk of the City of Hendersonville, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of a resolution titled “**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA DIRECTING THE APPLICATION TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF A WATER AND SEWER SYSTEM REVENUE BOND AND CERTAIN RELATED MATTERS**” adopted by the City Council of the City of Hendersonville, North Carolina in a regular meeting convened on the 12th day of April, 2023, as recorded in the minutes of the City Council of the City of Hendersonville, North Carolina.

WITNESS my hand and the seal of the City of Hendersonville, North Carolina, this the ____ day of _____, 2023.

(SEAL)

Jill Murray
City Clerk
City of Hendersonville, North Carolina



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

SUBMITTER: Adam Murr **MEETING DATE:** 04/12/2023

AGENDA SECTION: New Business **DEPARTMENT:** Administration

TITLE OF ITEM: 2023 Water and Sewer Revenue Bond – *Adam Murr, Budget Manager*

SUGGESTED MOTION(S):

I move City Council adopt the *RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA DIRECTING THE APPLICATION TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF A WATER AND SEWER SYSTEM REVENUE BOND AND CERTAIN RELATED MATTERS.*

SUMMARY:

The City of Hendersonville has determined it is desirable to finance certain improvements related to: the Fleetwood Utility Improvement Project, the Long John Mountain Property Acquisition Project, the Church Street Sewer Project, the I-26 Utility Project, the 2023 AMI Meter Project, the North Fork Improvement Project, and the Vactor Truck Project. The not to exceed amount for the projects, plus the cost of issuance and contingency is \$9,000,000. The City is not required to hold a public hearing for revenue bond issuances.

Staff recommends the City Council adopt the attached initial resolution, drafted by Special/Bond Counsel, Parker Poe Adams & Bernstein, LLP. The resolution directs Staff and Special Counsel to negotiate financing and apply to the Local Government Commission for approval of Contracts.

BUDGET IMPACT: \$9,000,000.00

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

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

ATTACHMENTS:

Resolution

CITY OF HENDERSONVILLE
FIRST CITIZENS CUSTODIAN ACCOUNT

INVESTMENT REPORT

FEB 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		3137EAF2	99.91	0.25%	0.25%	3/24/2021	12/4/2020	12/4/2023	No	999,100.00
Federal Farm Credit	FFCB	Aaa AA+	3133EL7EB	99.975	0.22%	0.23%	9/29/2020	9/15/2020	3/15/2023	Yes	1,999,500.00
US Treasury Bill	USTB		912796YL7	98.31			10/27/2022		3/16/2023	NO	3,440,664.02
TOTAL TREASURY AND FEDERAL AGENCIES											6,938,389.02
COMMERCIAL PAPER/CASH EQUIVALENT											
Mufg Bk LTD N Y Brh Disc Coml Disc Coml Paper	MRU		62479MRU9	97.426	3.47%	3.59%	8/3/2022	8/4/2022	4/28/2023	NO	974,264.17
Natixis Disc Coml Paper Disc Coml Paper	KQ18		63873KQ18	98.003	3.44	3.533	8/3/2022	8/4/2022	3/1/2023	NO	980,028.89
TOTAL COMMERCIAL PAPER/ CASH EQUIVALENT											1,954,293.06
OTHER INVESTMENTS (MUNI/BABS/)											
TOTAL OTHER INVESTMENTS (MUNI/BABS)											0.00
Total Securities											8,892,682.08
NC Capt Management	Cash										1,745,000.23
Total Security - Cost Basis											10,637,682.31

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	\$	1,999,500.00	17.41%	
US Treasury Note	USTN		-	0.00%	
US Treasury Note	USTN		-	0.00%	
US Treasury Bill	USTB		3,440,664.02	29.96%	
Total GOVERNMENT AGENCIES			\$ 6,938,389.02		
Commercial Paper	Ing		1,954,293.06	17.02%	
MUNI/OTHER			-		
Cash			1,745,000.23		
			\$ 10,637,682.31		

Portfolio Allocation - by Maturity Date:		
2023	\$	8,393,557.08
2024	\$	-
2025	\$	-
2026	\$	499,125.00
		\$8,892,682.08
		-



CITY OF HENDERSONVILLE

AGENDA ITEM SUMMARY

SUBMITTER:

John Connet

MEETING DATE:

4/12/2023

AGENDA SECTION:

CLOSED SESSION

DEPARTMENT:

Administration

TITLE OF ITEM:

Closed Session – *John Connet, City Manager*

SUGGESTED MOTION(S):

I move that City Council enter closed session pursuant to NCGS § 143-318.11 (a) (1) and (6) 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 the public body and to consider the qualifications, competence, performance, character, fitness of an individual public officer or employee.

SUMMARY:

City staff is requesting a closed session 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 consider the qualifications, competence, performance, character, fitness of an individual public officer or employee.

BUDGET IMPACT: \$ TBD

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

If no, describe how it will be funded. NA

ATTACHMENTS:

None