



AGENDA

Regular Town Board Meeting

April 5, 2021 - 6:00 PM

HUNTERSVILLE RECREATION CENTER (11836 Verhoeff Drive)

Meeting Information *This meeting will be held in person at the Huntersville Recreation Center located at 11836 Verhoeff Drive, Huntersville, NC and virtually via livestream at <https://www.facebook.com/HuntersvilleNCTownGovernment>. The public is invited to attend and comment during public comments or during any public hearings (1) in person at the Huntersville Recreation Center, 11836 Verhoeff Drive or (2) by telephonic communication in accordance with instructions sent to persons who have registered with the Town Clerk no later than 3 p.m. on April 5, 2021. The public may also submit comments by e-mail to the Town Clerk. E-mailed comments received no later than 3 p.m. on April 5, 2021 will be included in the record of the meeting. The Town Clerk may be reached by e-mail to jpierson@huntersville.org or by phone at (704) 766-2202.*

1. Pre-meeting - 5:00 p.m.

1.A. Budget Work Session - Requests from External Agencies.

2. Call to Order

3. Invocation - Moment of Silence

4. Pledge of Allegiance

5. Mayor and Commissioner Reports-Staff Questions

6. Public Comments, Requests, or Presentations - *Speakers are limited to 3 minutes. The Mayor reserves the right to shorten the time limit for speakers when an unusually large number of persons have signed up to speak. Speakers may not give all or a portion of their time to other speakers.*

7. Agenda Changes

8. Public Hearings

- 8.A. Conduct public hearing on Petition #R21-01, a conditional rezoning request by Tietsoort Investments LLLP 1 to rezone 10205 Sam Furr Road (Tax ID 00531101) from General Residential to Highway Commercial Conditional District to develop a day care center. *(Brad Priest)*
- 8.B. Conduct public hearing on Petition #TA21-04, a request by the Huntersville Town Board to amend Article 7.4.2 F of the Huntersville Zoning Ordinance to create an administrative staff review for tree mitigation plans. *(Brad Priest)*
- 8.C. Conduct public hearing on the modification to system cost components of the Storm Water Service Charge and proposed increases to the minor system component of the Storm Water Service Charge to be levied within Huntersville. *(Kevin Fox)*

9. Other Business

- 9.A. Consider adopting Resolution authorizing modification to system cost components of the Storm Water Service Charge to be levied in Huntersville. *(Kevin Fox)*
- 9.B. Consider decision on Petition #TA21-02, a request to consider the repeal of Chapter 13 of the Town Zoning Ordinance, the Adequate Public Facilities Ordinance (APFO), and related references contained in the Zoning and Subdivision Ordinances. *(Dave Hill)*
- 9.C. Consider adopting Resolution to acquire right-of-way and easements necessary for the construction of the adopted and funded Ranson Road Project. *(Lora Mastrofrancesco)*
- 9.D. Consider decision on an Ordinance to Amend Chapter 33 of the Huntersville Code of Ordinances, Entitled "Emergency Management." *(Emily Sloop)*
- 9.E. Consider adopting Policy on Public Comment Periods and Public Hearings. *(Emily Sloop)*
- 9.F. Consider approving Revised Fund Balance Policy. *(Pattie McGinnis)*
- 9.G. Consider adopting Resolution opposing the postponement of the 2021 Huntersville Municipal Election. *(Mayor Aneralla/Commissioner Phillips)*

10. Consent Agenda

- 10.A. Approve the minutes of the February 1, 2021 Regular Town Board Meeting. *(Janet Pierson)*

- 10.B. Approve the minutes of the February 15, 2021 Regular Town Board Meeting. (*Janet Pierson*)
- 10.C. Adopt Resolution to award the bid for the Veterans Park Stage Lighting Project and approve the construction contract. (*Michael Jaycocks*)
- 10.D. Adopt Resolution to approve contract with Tate's Janitorial, Inc. for janitorial services at the Huntersville Recreation Center. (*Michael Jaycocks*)
- 10.E. Adopt Resolution to approve contract with Trane USA, Inc. for HVAC services at Town Center. (*Michael Jaycocks*)
- 10.F. Approve budget amendment appropriating funds in the amount of \$120,000 from Fund Balance to Land for Church - Holbrooks-Dellwood Property. (*Pattie McGinnis*)
- 10.G. Adopt Resolution to accept the engineering and surveying on-call services work contract. (*Stephen Trott*)
- 10.H. Approve Lease with Segra to provide a fiber connection to the Police Department. (*Larry Davis*)
- 10.I. Approve lease with Technocom for ten Multifunction Copiers and one Plotter. (*Larry Davis*)
- 10.J. Approve Contract for CLEAR Proflex Investigative Software. (*Chief Hoyle*)
- 10.K. Adopt Resolution approving renewal of Axon Body Worn Camera and Conducted Energy Weapon Contract as a sole source contract. (*Bence Hoyle*)
- 10.L. Adopt Resolution to approve the awarding of a service firearm to a retiring law enforcement member. (*Emily Sloop/Chief Hoyle*)
- 10.M. Adopt Resolution and Award Contract for the demolition of the house located at 510 Dallas Street. (*Kevin Fox*)
- 10.N. Accept streets in the Mirabella Subdivision for Town maintenance. (*Kevin Fox*)

11. Closing Comments

12. Adjourn

13. Closed Session - Property Acquisition

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Brad Priest, Principal Planner

Date: April 5, 2021

Subject: Conduct public hearing on Petition #R21-01, a conditional rezoning request by Tietfort Investments LLLP 1 to rezone 10205 Sam Furr Road (Tax ID 00531101) from General Residential to Highway Commercial Conditional District to develop a day care center. *(Brad Priest)*

EXPLAIN REQUEST:

Petition R21-01 is a conditional rezoning request by Tietfort Investments LLLP 1 to rezone 10205 Sam Furr Road (Tax ID 00531101) from General Residential (GR) to Highway Commercial Conditional District (HC-CD). The purpose of the rezoning is to develop a Day Care Center.

ACTION RECOMMENDED:

Consider holding a public hearing for R21-01 on April 5th, 2021.

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

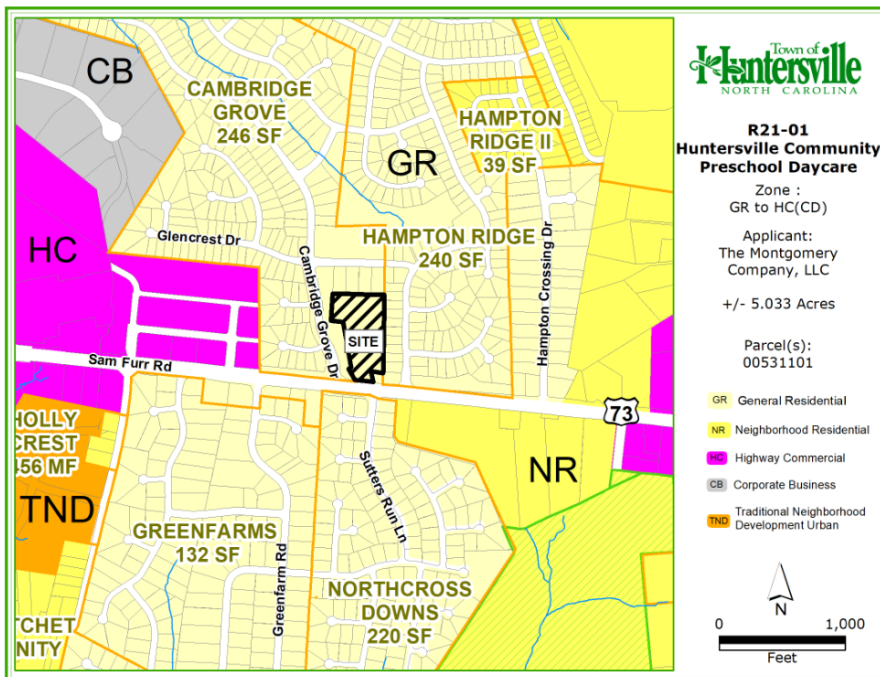
1. R21-01 Staff Report Huntersville Community Daycare - PH 4 5 21
2. Huntersville_Community_Daycare_Civil_Set (1)
3. Architectural Elevations
4. TIA Determination of Need - Completed
5. TIA Acceptance
6. Invitation List - Neighborhood Meeting
7. Neighborhood Meeting Minutes
8. Public Hearing - Notice List
9. R21-01 Public Hearing Postcard - Approved 3 11 21
10. Legal Ad Confirmation
11. TOH_General_Application_signed

Petition R21-01: Huntersville Community Daycare

PART 1: PROJECT SUMMARY

Application Summary:

- Petition R21-01 is a conditional rezoning request by Tietort Investments LLLP I to rezone 10205 Sam Furr Road (Tax ID 00531101) from General Residential to Highway Commercial Conditional District. The purpose of the rezoning is to develop a Day Care Center.



Applicant: The Montgomery Company, LLC.

Property Owners: Tietort Investments LLLP 1

Property Address: 10205 Sam Furr Road

Project Size: 5.033 acres

Parcel Numbers: 00531101

Existing Zoning: General Residential (GR)

Proposed Zoning: Highway Commercial Conditional District (HC-CD)

1. Adjoining Zoning and Land Uses

North: General Residential (GR), Cambridge Grove Single Family Residential Neighborhood. Hampton Ridge Single Family Residential Neighborhood.

South: General Residential (GR), Greenfarms Single Family Residential Neighborhood, Northcross Downs Single Family Residential Neighborhood.

East: General Residential (GR), Hampton Ridge Single Family Residential Neighborhood

West: General Residential (GR), Cambridge Grove Single Family Residential Neighborhood, Highway Commercial Conditional District (HC-CD) Northcross Village Commercial Shopping Center. General Residential (GR) Playwise Preschool.

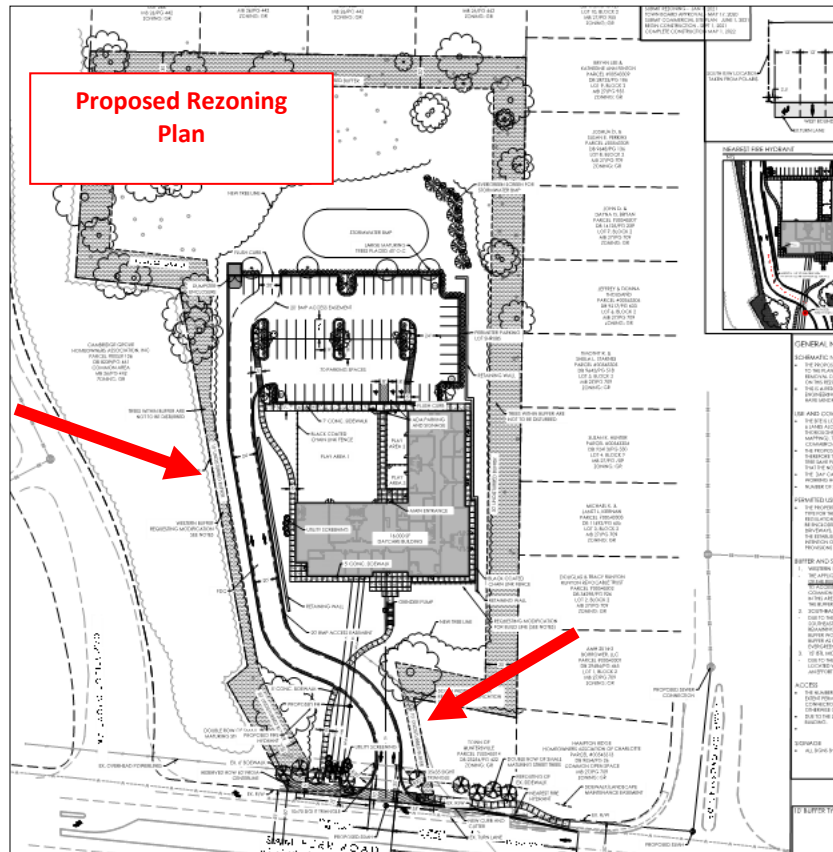
- The application submitted is to develop a 16,000 square foot day care facility with an estimated 250 child capacity and 50 employees.
- Schools and preschools are permitted by right in the residential zoning districts of the Huntersville Zoning Ordinance (including General Residential). Day Care Centers however are only permitted in commercial districts. As there is no definition of a preschool currently in the ordinance, staff has used the variables researched below to differentiate preschools from Day Care Centers. After reviewing the submitted development proposal, the

application provided to the Town was determined by staff to be a Day Care Center, therefore a rezoning to a commercial district is required.

- Preschools tend to have a structured educational based curriculum.
 - Preschools will generally have a minimum age requirement and usually do not accept infants.
 - Preschools generally release students around midafternoon each day (day care centers supervise children until after business hours usually to 6 pm).
4. As a condition of the application, the conceptual architectural elevations of the proposed building have been submitted.
 5. A neighborhood meeting for this application was advertised for and held both in person and virtually on Wednesday February 10th, 2021. A meeting summary of the neighborhood meeting is included in the agenda packet. Concerns of the adjacent property owners included:
 - Potential cut through traffic on Cambridge Grove Drive and Hampton Crossing Drive. As the driveway on Sam Furr Road will only be right in/right out, the concern is parents dropping off from I-77 will turn left in to Cambridge Grove Drive, go through the neighborhood, and take a right out Hampton Crossing Drive to take a right in to the Day Care facility.
 - Aggravate potential storm water run-off problems off site.
 6. A Traffic Impact Analysis (TIA) Determination of Need form was submitted and reviewed by Transportation Staff for the proposed application. Upon review by engineering staff, it was found that a Traffic Impact Analysis was required. The completed TIA determination form is attached in the agenda packet.
 7. Brad Priest of the Planning Staff certifies that the required notifications were made for the application's public hearing. Notice was advertised in the local paper, adjacent property owner notice post cards were sent and a sign was installed at the subject property per state statute requirements.

PART 2: REZONING/SITE PLAN ISSUES

- Please see the proposed rezoning plan below on page 3 and attached in the agenda packet.
- **Buffer Modification:** Article 7.5 of the Zoning Ordinance requires HC uses establish a 30 foot buffer between residential property lines. As allowed in Article 11.4.7 K of the Zoning Ordinance, the applicant is seeking 2 buffer modifications/reductions through the conditional rezoning process; one on the western side of the property, and one on the front adjacent to a parcel owned by the Town of Huntersville. These modification locations are highlighted with red arrows below on the proposed rezoning plan on page 3. The proposed modifications would reduce both buffer widths down to 10 feet, and are labeled as "undisturbed buffers". Staff notes that only 10 wide buffers will likely not be wide enough to safely save any existing vegetation located in this area.
 - The applicants state on the application that the western buffer reduction will meet the intent of the ordinance due to being adjacent to Cambridge Grove open space that provides additional buffer from the adjacent neighborhood.
 - The front buffer modification is adjacent to a parcel the Town purchased for a potential traffic signal as part of the past NC 73 widening project. It is staff's understanding however that signal is no longer needed or planned at this time.
 - Staff does not support the buffer modification requests. Please see the Huntersville 2040 Community Plan Policy LU6.3 discussion on page 6 and rezoning criteria discussion below on page 6 and 7. Staff recommends that if the applicant is to establish consistency with adjacent development and have a context sensitive design, all required buffers should be provided along residential properties.



- **Build-to-Line Modification:** Article 4 of the Huntersville Zoning Ordinance requires Highway Commercial (HC) building types have a maximum 15 foot build to line from the fronting right of way. The ordinance allows some modification for a larger setback due to “pattern of lot widths” or unusual topography. Due to the existence of the Town parcel along Sam Furr Road as well as the unique location of the driveway on Sam Furr Road, the applicants are requesting a 200 foot build to line. Staff supports the modification due to the unusual circumstances of the site.
 - However, another option would be for the applicant to pursue a potential driveway on Cambridge Grove Drive with the Cambridge Grove Subdivision HOA, and to acquire the small Town owned parcel in the front. This option would create more traffic on Cambridge Grove Drive, but would also achieve the following (please see the transportation exhibit below on page 4):
 - The building could be moved up to Sam Furr Road in conformance with ordinance standards.
 - The development would be moved up further away from several single family homes to the rear of the property.
 - The buffer reduction modifications to the west would likely not be needed, as the driveway would not be coming back to the west of the property from Sam Furr Road.
 - Cut through traffic through the neighborhood could be significantly reduced as a left over into Cambridge Grove Drive is already accommodated for.
 - The storm water outfall in the rear of the property would have a greater distance to travel over vegetation/ground cover before leaving the site.
 - The applicant has noted that they have discussed the proposed driveway with the Cambridge Grove HOA representatives but have received preliminary feedback that the HOA would not be interested in granting them a driveway easement.
- **Sam Furr Road Street Improvements:** A right turn lane into the facility is being required by NCDOT and is recommended by the results of the Traffic Impact Analysis. With the improvements added, it seems from the

site plan that the sidewalk and street trees will be pushed out of the existing right of way of Sam Furr Road and on to private property. Therefore easements may be required for these improvements from the Town of Huntersville and the Hampton Ridge Homeowners Association.

PART 3: TRANSPORTATION ISSUES

- A Traffic Impact Analysis (TIA) was completed for the site and accepted by Engineering Staff on 8/21/2020 (see acceptance email attached in the agenda packet). The TIA recommended a right turn lane entering the applicant's facility as well as constructing and/or striping an additional left turn lane from Old Statesville Road on to Sam Furr Road.
 - The rezoning plan note commits to the right turn lane, but only seemingly commits to lengthening a single left turn lane on Old Statesville Road. It is unclear of the intent of the note. Staff recommends the applicant update the rezoning plan note to match the recommendations accepted in the TIA.
- The site access of the development is currently proposed to be a "right in/right out" only on Sam Furr Road. Therefore vehicles traveling east on Sam Furr Road will need to complete a "U-turn" movement possibly at Knoxwood Drive or Old Statesville Road. The Traffic Impact Analysis is designed to study the impact of development on major intersections such as Rich Hatchet Road and Sam Furr Road. Therefore the left over at Sam Furr Road at Knoxwood Drive has not been reviewed through the TIA process. To review the safety and capacity at these locations, staff recommends the applicant provide the following:
 - Traffic counts at both the Cambridge Grove Drive and Knoxwood Drive left overs. Staff will then review to estimate the stacking potential at these left overs for accommodation of potential increases in traffic from the proposed development.
- Residents from the adjacent neighborhoods have expressed to staff their concern with the potential of "cut-through" traffic in the subdivisions to get to the proposed development (left over on to Cambridge Gove Drive, right on to Glencrest Drive, right on Hampton Crossing Drive, right on Sam Furr Road, right into the facility). Please see exhibits below. This movement is legal as all streets involved are public. An option to discourage cut through traffic as much as possible, although it would add more traffic to Cambridge Grove Drive, would be the following:
 - Work with the Cambridge Grove HOA to provide an access on Cambridge Grove Drive rather than on Sam Furr Road. Locating the driveway on Cambridge Grove Drive may reduce traffic from the proposed development utilizing neighborhood streets other than Cambridge Grove Drive to access the site. See the exhibit below.
 - If the Sam Furr driveway remains, modify the curb at the corner of Knoxwood and NC 73, if needed, to accommodate passenger vehicle U-turn movements. See staff recommendation above.

Potential Cut-through traffic:



Alternate Option:

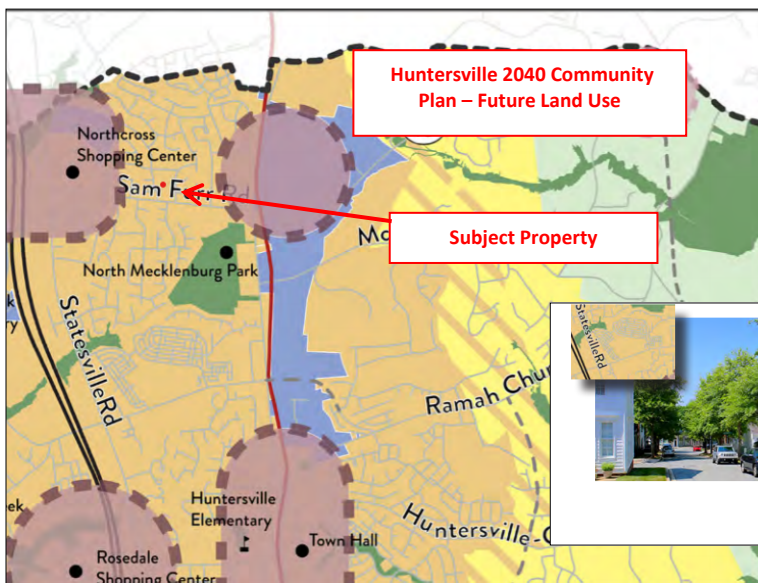


PART 4: REZONING CRITERIA

Article 11.4.7(d) of the Zoning Ordinance states that “in considering any petition to reclassify property, the Planning Board in its recommendation and the Town Board in its decision shall take into consideration any identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents”.

STAFF COMMENT – Staff finds the proposed use consistent with the following policies of the Huntersville 2040 Community Plan:

- **Policy LU5.1** - Allow more intense development only where transportation infrastructure and utilities already exist. STAFF COMMENT: The property fronts along Sam Furr Road which is a major thoroughfare that would be able to accommodate commercial development.
- **Policy LU-6**: Support a mix of land uses in key locations. STAFF COMMENT: Policy LU-6 encourages mixed uses including commercial in the Town Core land use area in certain situations. Therefore in some applications, a commercial day care facility would be appropriate in the Town Core. Please see the 2040 future land use map and description below.



Town Core

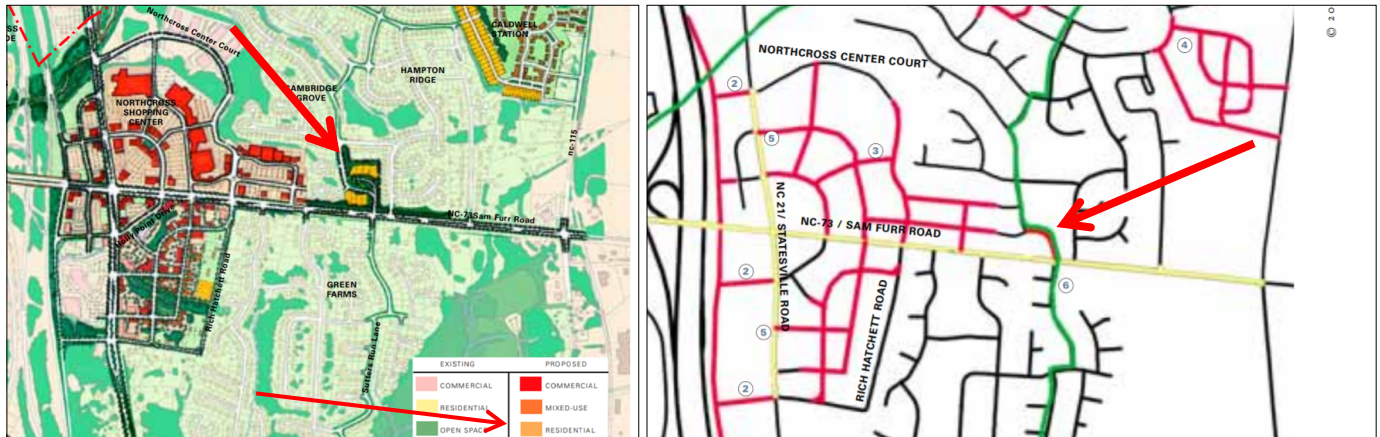
The Town Core designation includes a variety of neighborhoods containing a mix of residential housing types, including single family homes, townhomes and apartments. Their design is focused on traditional neighborhood planning principles, including short blocks, connected streets, streetscape standards, and other features that improve walkability. These areas are denser than the “Moderate Density” and “Residential Edge” character areas and may include non-residential development as specified in small area plans and at other sites that meet locational criteria.

STAFF COMMENT – Staff finds the proposed use not consistent with the following policies of the Huntersville 2040 Community Plan.

- **Policy LU6.2** – Commercial uses are encouraged in the Town Core and as described in the small area plan. STAFF COMMENT: The Sam Furr Road and Hwy 21 small area plan included a future land use recommendation for the property in question. The future land use map in the plan calls for this property to be residential. The small area plan also focused on providing both a street connection and pedestrian/bike connection through this property to Cambridge Grove Road. Therefore, although the 2040 plan encourages some commercial in the Town Core, staff recommends this application is not consistent with this policy due to the small area plan recommendation. Please see the future land use recommendation from the Sam Furr Road / Hwy 21 Plan below on page 6.
 - It should be noted the reason for the recommendation below dealt specifically with the design of Sam Furr Road. When the small area plan was written, it was envisioned that Sam Furr Road would have a

traffic light located at Sutters Run Lane. This is why the Town purchased property at this potential intersection, to accommodate the utilities of the future traffic signal. Considering this was a future intersection, it was envisioned in the small area plan it would be an appropriate location of a north/south street connection, along with bicycle and greenway accommodations. However Sam Furr Road in this area is now designed as a “Superstreet” concept by NCDOT. Therefore the traffic light at this intersection is no longer planned and the street connectivity design shown below to Sutters Run Lane is not likely. The property in question can still be developed residentially. However the single family development shown in the small area plan which connects Cambridge Grove Drive with Sutters Run Lane would be more difficult to achieve.

Sam Furr Road / HWY 21 Small Area Plan:



- **Policy LU6.3** - *Small scale, neighborhood serving commercial* and office uses may be allowed in Town Core and Moderate Density areas specified on the Future Land Use map at key locations if designed in a context sensitive manner. STAFF COMMENT: This policy emphasizes that the commercial located in the Town Core area is to be neighborhood based in size and scale. The size and width of the day care center building would be one of the largest in Huntersville, along with 250 children and 50 employees. The applicants are seeking a modification of 66% of the required buffer width in order to allow the building to fit on the property. Considering that the size and scope of the proposed use requires a buffer modification to be requested, staff does not recommend that this policy is being met. However if the applicant redesigns the site to be able to meet all required buffers, the application could be at that time consistent with this policy.
- **Policy LU 5.3** - *Support infill housing options near services, shopping, employment and transit stations.* STAFF COMMENT: The location of this property is on Sam Furr Road, within walking distance to the Northcross Shopping Center, employment opportunities, bus stops, and is surrounded by existing single family residential development. Staff therefore recommends that this property would make an ideal candidate for infill residential development. Considering that and the current recommendation of the Sam Furr Road/HWY 21 small area plan to develop this parcel residentially, staff recommends that the commercial rezoning application of this property would not be consistent with this policy.

Article 11 Section 11.4.7(e) of the Zoning Ordinance states that: “in considering any petition to reclassify property the Planning Board in its recommendation and the Town Board in its decision should consider:

1. **Whether the proposed reclassification is consistent with the overall character of existing development in the immediate vicinity of the subject property.**

STAFF COMMENTS:

- The rezoning application is for Highway Commercial Conditional District (HC-CD). The property is surrounded by single family residential neighborhoods, with residential uses to the south across Sam Furr Road as well. The closest commercial zoning to the subject property is the Northcross Village Shopping Center to the west of the Cambridge Grove residential subdivision (estimated 700 feet to the west of the subject property).
- Although the subject property is immediately surrounded by single family residential development, the corridor of Sam Furr Road in the immediate vicinity is a high density and traffic area, with commercial development further to the east and west of the subject site.
- Buffers and visual separation between uses can also assist in making uses blend in with the character of the existing neighborhoods. The proposed application has an excellent undisturbed buffer in the rear from the single family residential subdivision.
 - The minimum required 30 foot HC buffer is being provided to the east of the property adjacent to the Hampton Ridge residential lots.
 - The applicants are requesting modifications however to the 30 foot buffer requirements along the western property lines adjacent to the Cambridge Grove open space, as well as the western property line of the Town of Huntersville residentially zoned parcel. The buffers from these property lines would be reduced to 10 feet in width. The open space on the Cambridge Grove site would provide additional buffer however from Cambridge Grove Road.
- The commercial building proposed in the application is 16,000 sqft in size. This building will be one of the larger day care centers in Huntersville, and one of the largest commercial buildings in the immediate vicinity along Sam Furr Road. The building however is set back a greater distance from the road due to the driveway and town parcel in the front. This would assist in buffering the size of the building from the street.
- Due to the access configuration of the application, it is possible that customers may choose to cut through the residential subdivision to access this site (see transportation issues above in Part 3). While such a route will be legal and a viable option for patrons, it is not recommended to encourage cut through traffic for commercial uses through residential neighborhoods.
- Day Care facilities can be a commercial use that blend in well with residential uses. They are very similar to school uses which are permitted with conditions in all the residential zoning districts of the Huntersville Zoning Ordinance.
- Considering the information above, staff does not recommend that the application is currently consistent with the character of the single family residential development immediately adjacent to the site. If the application was amended to establish full buffers along all residential property lines, and take reasonable efforts to reduce cut through traffic through the residential neighborhood, the application could better blend in to the residential area immediately surrounding the property.

2. The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, transit service, parks and recreational facilities, police and fire protection, hospitals and medical services, schools, storm water drainage systems, water supplies, and wastewater and refuse disposal.

STAFF COMMENT:

- In regard to the roadway system, please see Part 2 above concerning the Traffic Impact Analysis.
- On March 18th, 2021 the Planning Department issued a "Determination of Adequacy (DOA)" for all applicable public facilities (Fire Vehicles, Fire Facilities, Police Facilities, and Police Vehicles, and Parks and Recreation Facilities) for the 16,000 sqft Day Care use. Please find the DOA letter attached in the agenda package.

- One of the adjacent property owners' concerns expressed to staff was that the storm water from the facility may worsen an existing off-site drainage issue in the Cambridge Grove neighborhood. The Huntersville storm water ordinance requires that the applicant accommodate a storm water pond that will hold the storm water volume of a minimum 10 year storm, and release it off site at a comparable speed to how it currently flows off site. In order to accommodate the concerns of the adjacent property owners, the applicants have agreed to design their pond to hold the volume of a 25 year storm. Therefore the applicants are increasing the size and capacity of their pond above and beyond the ordinance requirements to ensure the storm water system for the site is adequate.
 - Huntersville engineering is currently reviewing the conceptual storm water plan for the development to ensure compliance with all storm water requirements. Detailed engineering review of the proposed storm water plan would be done at permitting of the facility.
 - For consideration, the same requirements for storm water would be applicable and enforced for both residential and commercial development. A residential development with similar impervious numbers would have the same requirements in the ordinance.

3. Whether the proposed reclassification will adversely affect a known archeological, environmental, historical or cultural resource."

STAFF COMMENT:

- Staff has no findings to show that any archeological, environmental, historical or cultural resources will be negatively affected by the application.

PART 5: PUBLIC HEARING

The Public Hearing is scheduled for April 5th, 2021.

PART 6: STAFF RECOMMENDATION

Policy LU5.3 of the Huntersville 2040 Community Plan encourages infill residential near services, shopping, and employment. Staff recommends that because the subject site is appropriately located near such facilities on Sam Furr Road and is surrounded by single family residential development, the property in question would be a suitable candidate for medium density infill residential development.

However policies LU6.2 and LU6.3 of the Huntersville 2040 Community plan also encourages small scale, neighborhood oriented commercial in the Town Core land area when consistent with adopted small area plans. In addition, Day Care facilities are similar to school uses which can complement adjacent residential areas well. Therefore, staff could support the application with the following conditions/changes:

1. The HWY 21 / Sam Furr Small Area Plan is amended by the Town Board to call for the subject site to be zoned commercial.
2. The application is amended to redesign the Day Care use so that the required 30 foot undisturbed buffers are established along all residential properties.
3. Stacking counts for Cambridge Grove Drive and Knoxwood Drive are submitted, showing the increase in traffic and stacking at these left overs can be accommodated for.
4. Cut through traffic in the neighborhood is discouraged by the applicant to the extent possible.
5. Minor comments from Town staff be updated on the final rezoning plan.

However at this time due to the current recommendation of the HWY 21 / Sam Furr Small Area Plan, and the request to modify required buffers, staff does not support the rezoning application as it is not consistent with Policies LU6.2, LU6.3, and LU5.3 of the Huntersville 2040 Community Plan. It is not reasonable and in the public interest to rezone the property because the rezoning would establish a large commercial Day Care facility on the site that would not be consistent with ordinance requirements and with single family residential adjacent development.

PART 7: PLANNING BOARD RECOMMENDATION
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The Planning Board meeting is scheduled for April 27, 2021.

PART 8 CONSISTENCY STATEMENT – R21-01: Huntersville Community Day Care**Planning Board:**

Approve (Consistent w/ Plans)	Approve (Inconsistent w/ Plans and Plans Change___?)	Deny (Inconsistent w/ Plans)
In considering the proposed rezoning petition R21-01, the Huntersville Community Day Care the Planning Board recommends approval based on the amendment being consistent with <u>[insert applicable plan reference(s)]</u> It is reasonable and in the public interest to amend the Zoning Ordinance because...<u>[Explain]</u>	In considering the proposed rezoning petition R21-01, the Huntersville Community Day Care, the Planning Board recommends approval of the amendment but finds the request inconsistent with <u>[insert applicable plan reference(s)]</u>, therefore amends <u>[insert plan reference(s)]</u> AND detail the ways the policy or reference is to be amended]. The Planning Board took into account the following change in conditions in recommending approval to meet the development needs in Huntersville: <u>[List and explain the change in conditions]</u> It is reasonable and in the public interest to amend the approve the rezoning because...<u>[Explain]</u>	In considering the proposed rezoning petition R21-01, the Huntersville Community Day Care, the Planning Board recommends denial based on the amendment being <u>[consistent OR inconsistent]</u> with <u>[insert applicable plan reference(s)]</u>. It is not reasonable and in the public interest to amend the Zoning Ordinance because...<u>[Explain]</u>

Town Board:

Approve (Consistent w/ Plans)	Approve (Inconsistent w/ Plans and Plans Change___?)	Deny (Inconsistent w/ Plans)
In considering the proposed rezoning Petition R21-01, the Huntersville Community Day Care, the Town Board recommends approval based on the amendment being consistent with <u>[insert applicable plan reference(s)]</u> It is reasonable and in the public interest to amend the Zoning Ordinance because...<u>[Explain]</u>	In considering the proposed rezoning petition R21-01, the Huntersville Community Day Care, the Town Board recommends approval of the amendment but finds the request inconsistent with <u>[insert applicable plan reference(s)]</u>, therefore amends <u>[insert plan reference(s)]</u> AND detail the ways the policy or reference is to be amended]. The Town Board took into account the following change in conditions in recommending approval to meet the development needs in Huntersville: <u>[List and explain the change in conditions]</u> It is reasonable and in the public interest to amend the approve the rezoning because...<u>[Explain]</u>	In considering the proposed rezoning petition R21-01, the Huntersville Community Day Care, the Town Board recommends denial based on the amendment being <u>[consistent OR inconsistent]</u> with <u>[insert applicable plan reference(s)]</u>. It is not reasonable and in the public interest to amend the Zoning Ordinance because...<u>[Explain]</u>

SHEET LIST

Z01	COVER SHEET
Z02	SURVEY
Z02A	TREE SAVE PLAN
Z03	SITE PLAN
Z04	GRADING PLAN
SD01	SIGHT DISTANCE PROFILE
AT01	FIRETRUCK AUTOTURN
EX01	BUFFER EXHIBIT

REZONING SITE PLAN PACKAGE
PROPOSED

HUNTERSVILLE COMMUNITY PRESCHOOL/DAYCARE
HUNTERSVILLE, MECKLENBURG COUNTY, NC

EPM # 417498

PROPERTY OWNER:

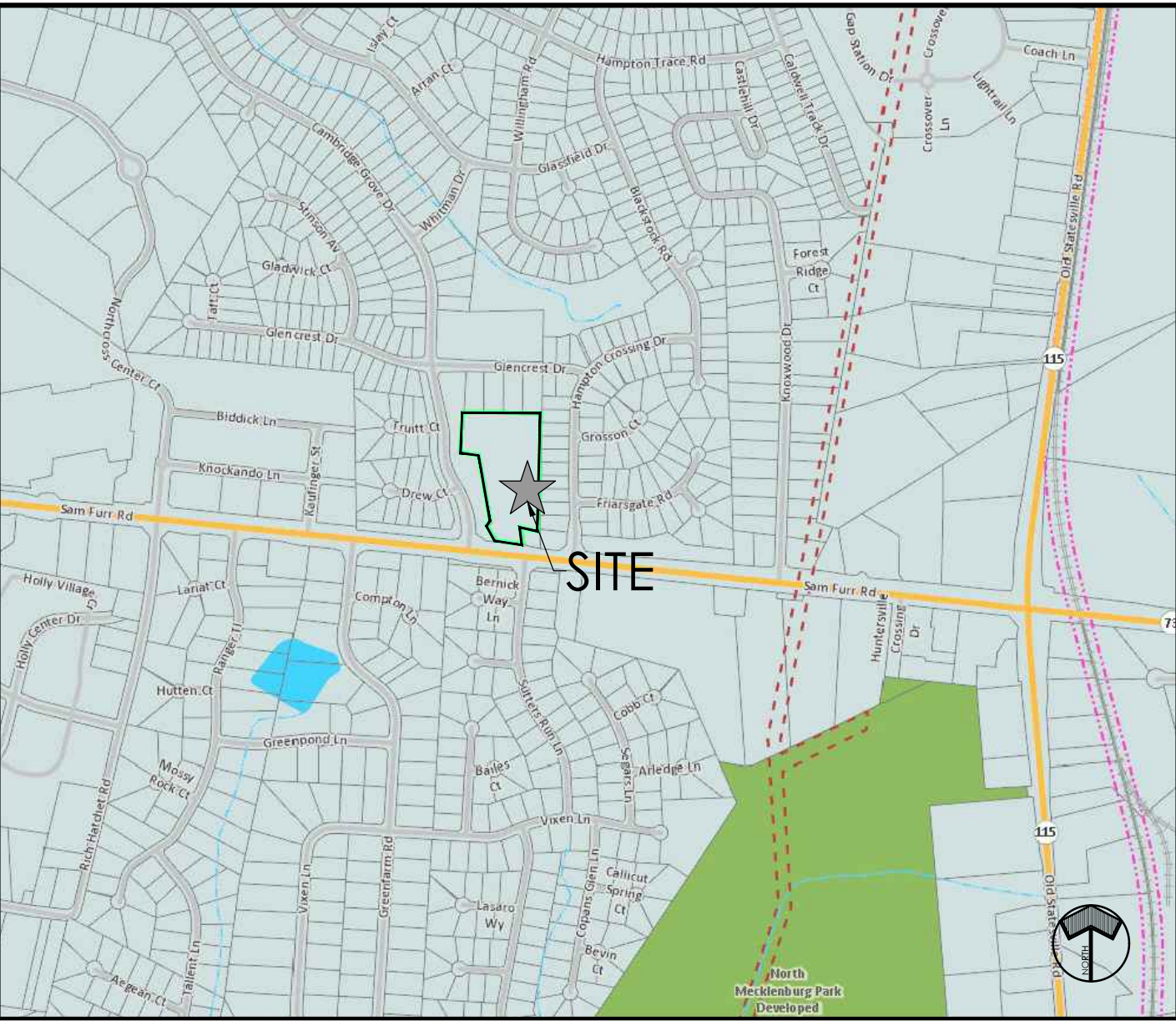
TIETSORT INVESTMENTS, LLLP
9707 BLACK ROAD
MIDLAND, NC 28107

DEVELOPER:

THE MONTGOMERY COMPANY, LLC
CONTACT: MATT MONTGOMERY
1919 AUGUSTA HWY, LEXINGTON, SC 29072
PH: (803)743-6980

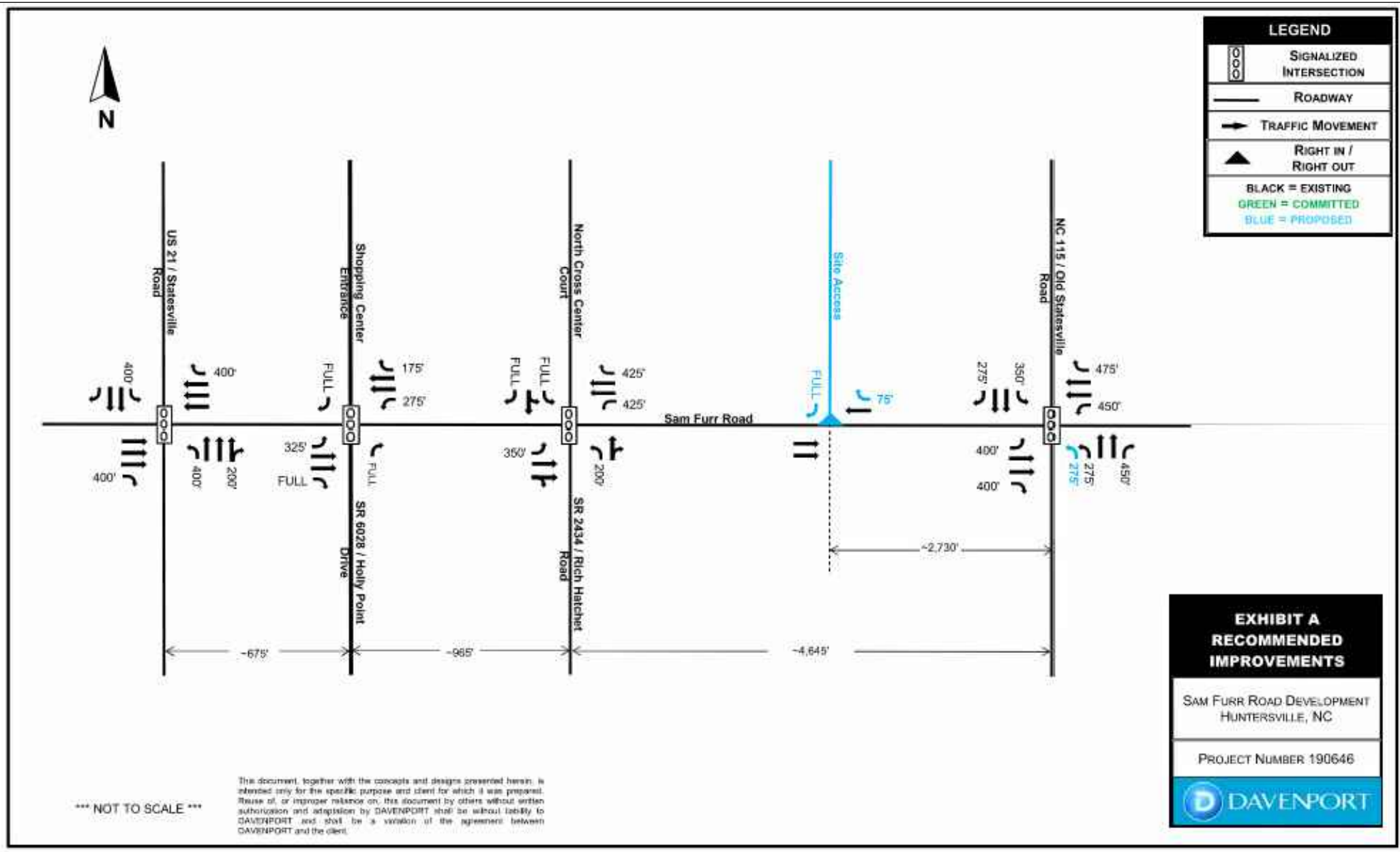
BUSINESS OWNER/FUTURE OWNER:

HUNTERSVILLE COMMUNITY PRESCHOOL
CONTACT: KYSHIA BRASSINGTON LINEBERGER
HUNTERSVILLE, NC
PH: (704)-641-6870



VICINITY MAP
SCALE: N.T.S.

TIA DIAGRAM



1. CONTRACTOR IS FULLY RESPONSIBLE FOR CONTACTING APPROPRIATE PARTIES AND ASSURING THAT EXISTING UTILITIES ARE LOCATED PRIOR TO BEGINNING CONSTRUCTION.
2. CONTRACTOR IS RESPONSIBLE FOR PLACING BARRICADES USING FLAGMEN, ETC., AS NECESSARY TO INSURE SAFETY TO THE PUBLIC.
3. ALL PAVEMENT CUTS, CONCRETE OR ASPHALT, ARE TO BE REPLACED ACCORDING TO STANDARDS OF THE DEPARTMENT OF TRANSPORTATION.
4. SHORING WILL BE ACCORDING TO OSHA TRENCHING STANDARDS PART 1926 SUBPART F, OR AS AMENDED.





HensonFoley

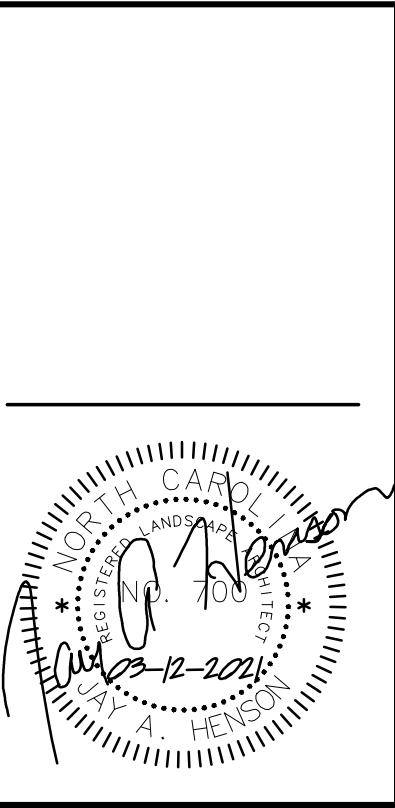
Landscape Architecture Civil Engineering

8712 Lindholm Dr Suite 202A, Huntersville, NC 28078

p: 704.875.1615 | 704.875.0959 | www.hensonfoley.com

NC ENGINEERING BOARD LICENSE #: C-3781

NC LANDSCAPE ARCHITECTURE BOARD LICENSE #: C-399



HUNTERSVILLE COMMUNITY PRESCHOOL/DAYCARE

PARCEL ID: 005311101

10205 SAM FURR RD, HUNTERSVILLE NC 28078

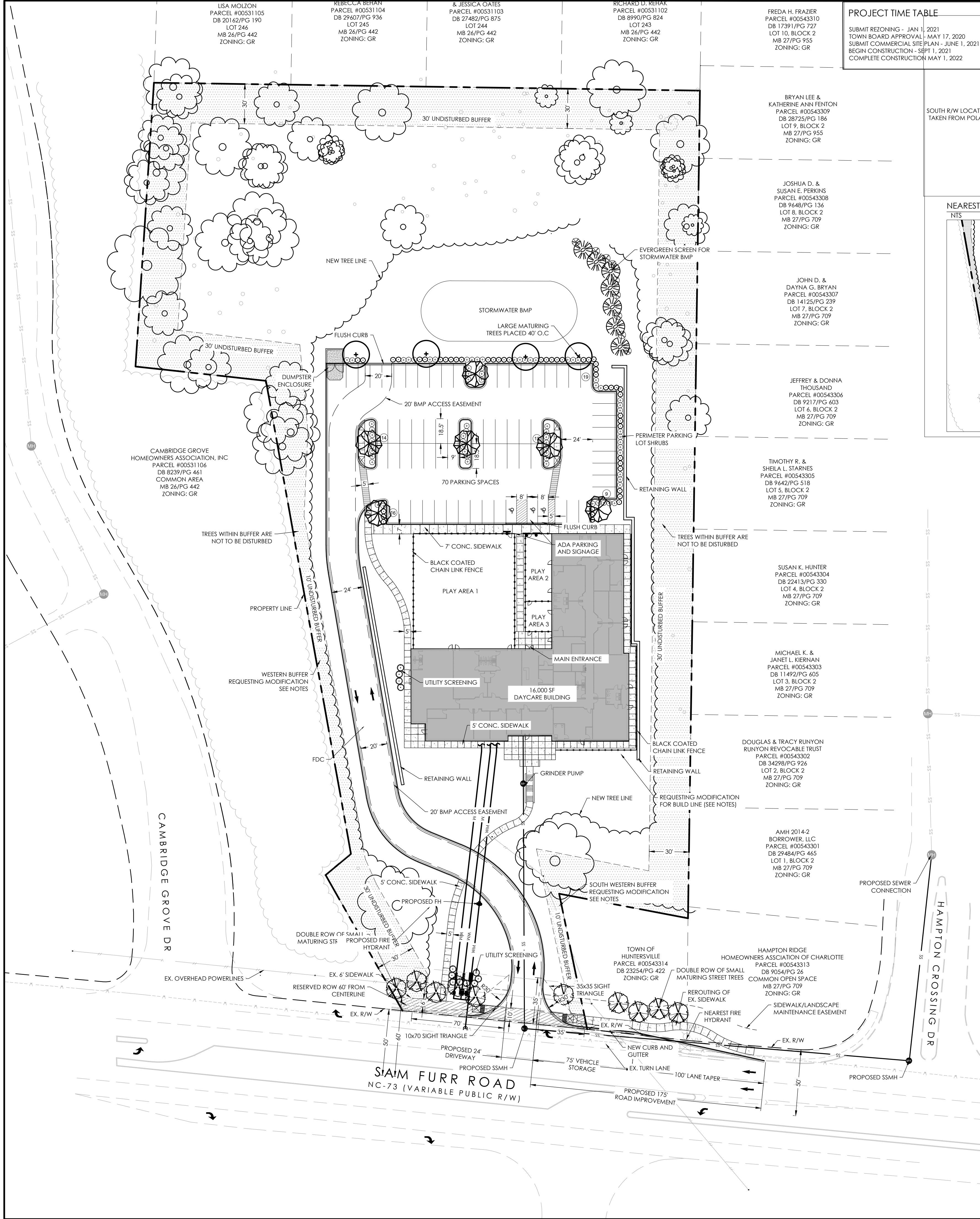
COVER

REVISIONS:	
2021/02/04 - EPM REZ. COMMENTS	
2021/03/12 - EPM REZ. COMMENTS	

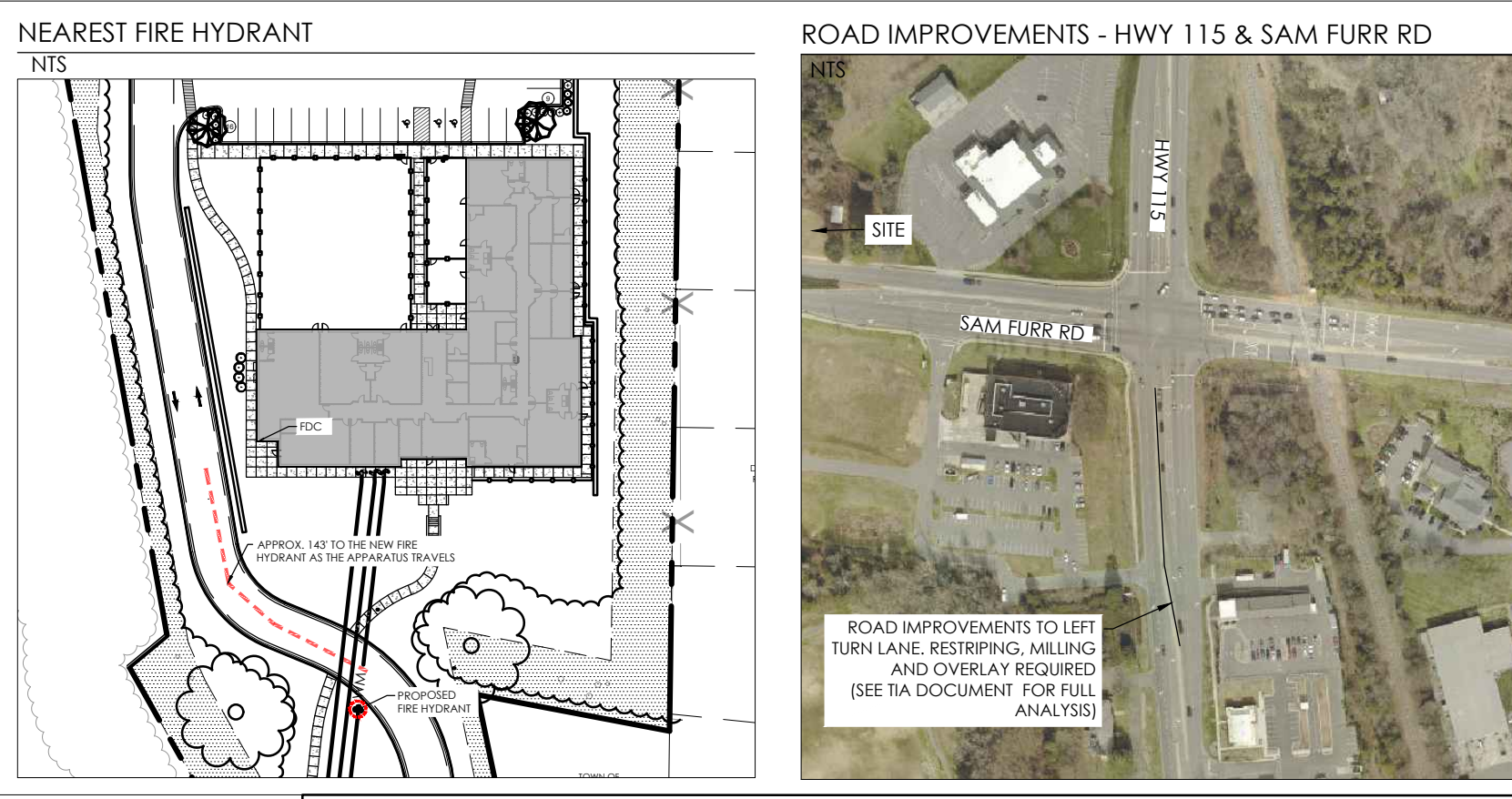
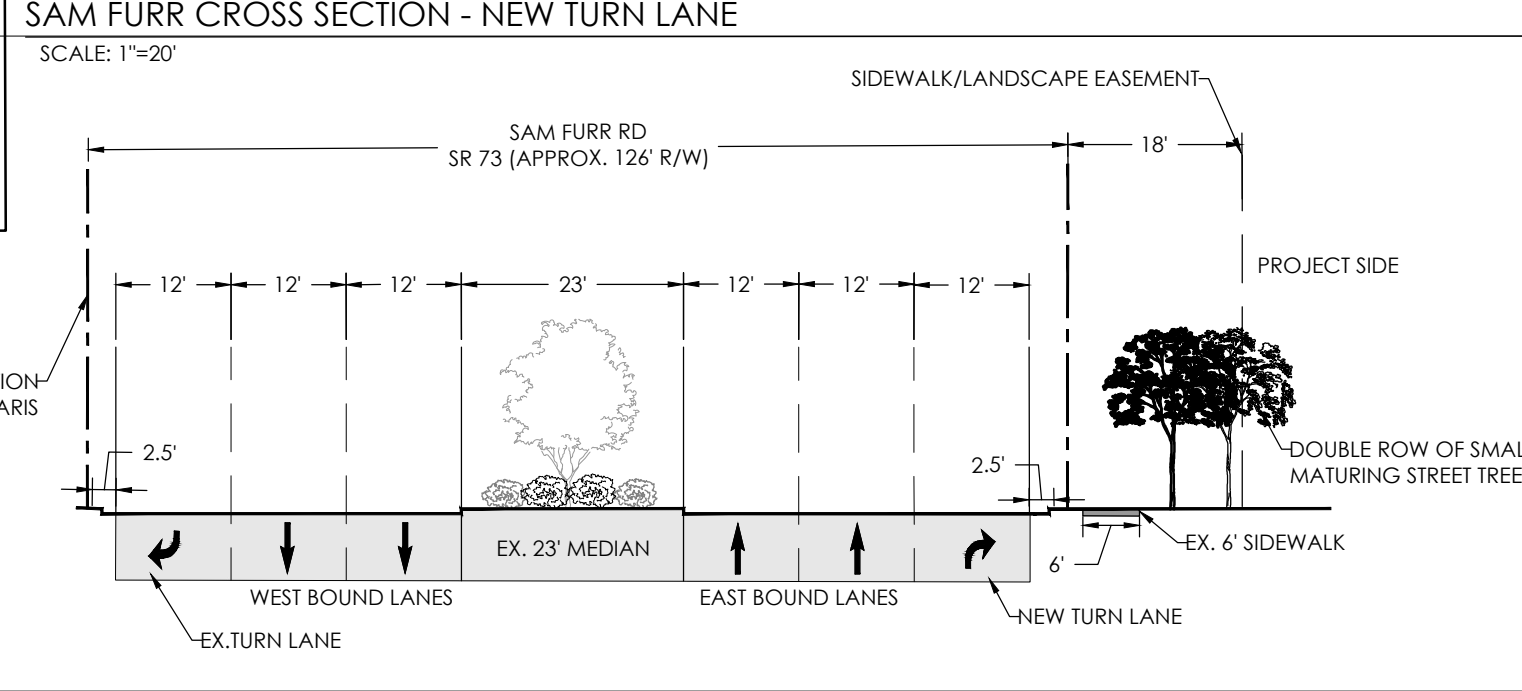
C01 - COVER.DWG	
PROJECT NUMBER:	220054
DATE: 12/01/2020	DRAWN BY: TSF
SHEET	OF
Z01	4



Z02A 4
SHEET OF



PROJECT TIME TABLE
SUBMIT REZONING - JAN 1, 2021
TOWN BOARD APPROVAL - MAY 17, 2020
SUBMIT COMMERCIAL SITE PLAN - JUNE 1, 2021
BEGIN CONSTRUCTION - SEPT 1, 2021
COMPLETE CONSTRUCTION MAY 1, 2022



SITE DATA	
LOCATION:	10205 SAM FURR RD (PIN #00531101) HUNTERSVILLE, MECKLENBURG COUNTY 28078
CURRENT ZONING:	GR
PROPOSED ZONING:	HC-CD
CURRENT USE:	SINGLE FAMILY RESIDENTIAL
PROPOSED USE:	DAY CARE CENTER
CONTACT:	HENSONFOLEY (JAY HENSON) 704-875-1615
BUILDING TYPE	HIGHWAY COMMERCIAL
ITEM	PROVIDED
LOT AREA	4.98 AC
FRONT BUILD TO LINE	
MIN. SIDE SETBACK	10' (WEST PROPERTY LINE) 30' (EAST PROPERTY LINE)
MIN. REAR SETBACK	30' UNDISTURBED BUFFER
MAX. BUILDING HEIGHT	
PROPOSED BUILDING HEIGHT	1 STORY (SEE ARCH. ELEVATIONS)
FEMA MAP NUMBER	3710464200J
FEMA EFFECTIVE DATE	03/02/2009
WATERSHED	MCDOWELL
SOIL TYPE	Ce82, He8

IMPERVIOUS SUMMARY			
ITEM	SQUARE FOOT	ACRES	PERCENTAGE OF TOTAL SITE
TOTAL SITE AREA	216928.80	4.98	N/A
EXISTING IMPERVIOUS	3,688 SF	0.08 AC	1.70 %
EXISTING IMPERVIOUS TO BE REMOVED	3,285 SF	0.08 AC	1.51 %
PROPOSED BUILDING (BUA)	16,000 SF	0.37 AC	7.38 %
PROPOSED ASPHALT (BUA)	36,080 SF	0.83 AC	16.63 %
PROPOSED CONCRETE (BUA)	15,765 SF	0.36 AC	7.27 %
TOTAL BUA	68,248 SF	1.57 AC	31.46 %
TOTAL PERVIOUS	148,680.80 SF	3.41 AC	68.54 %

GENERAL NOTES

SCHEMATIC NATURE OF REZONING PLAN

- THE PROPOSED IMPROVEMENTS SHOWN ON THE REZONING PLAN ARE SCHEMATIC IN NATURE. MINOR MODIFICATIONS TO THE PLAN MAY OCCUR DURING DESIGN, ENGINEERING AND CONSTRUCTION PHASES OF THE DEVELOPMENT. THE REMOVAL OF TREES AND VEGETATION TO ACCOMPLISH THE IMPROVEMENTS IS GENERALLY CONTEMPLATED AS SHOWN ON THIS REZONING PLAN.
- THIS IS A REZONING PLAN AND AS SUCH IT IS TO BE GRAPHICALLY REPRESENTATIVE OF WHAT IS PROPOSED. THE FINAL ENGINEERING PLAN WILL HAVE MINOR CHANGES, THE BUILDING LOCATION, SIZE, ORIENTATION, AND FEATURES MAY HAVE MINOR CHANGES BASED ON FINAL ENGINEER DESIGN, AS APPROVED BY STAFF.

USE AND COMPATIBILITY

- THE SITE IS LOCATED ALONG THE NORTH SIDE OF NC HWY 73 BETWEEN HWY 21 AND HWY 115. NC HWY 73 CONSISTS OF 6 LANES ALONG THE SITE FRONTAGE. (4 THROUGH LANES AND 2 DECAL LANES). NC HWY 73 IS A MAJOR EAST/WEST THOROUGHFARE WITH AVERAGE ANNUAL DAILY TRAFFIC COUNTS OF 27,000-32,500 (PER NCDOT ONLINE ARC GIS MAPPING). THE SITE IS IMMEDIATELY ADJACENT TO RESIDENTIAL PROPERTY AND IS WITHIN 800-900' OF A LARGE COMMERCIAL RETAIL CENTER AND OTHER HIGHWAY COMMERCIAL USES.
- THE PROPOSED USE IS A DAYCARE FACILITY. THE FACILITY WILL NOT REQUIRE THE USE OF THE ENTIRE 5 AC +/- TRACT. THEREFORE THE INTENSITY OF THE DEVELOPMENT WILL NOT BE MAXIMIZED. A PORTION OF THE SITE AS DEPICTED ON THE TREE SAVE PLAN WILL BE RESERVED AS UNDEVELOPED AND UNDISTURBED. THE HOURS OF OPERATION ARE AS SUCH THAT THE NOISE AND INTERRUPTION DURING THE EVENING HOURS WOULD BE MINIMIZED.
- THE DAY CARE FACILITY WILL HAVE APPROX. **250 STUDENTS AND 50 STAFF MEMBERS**. STAFF MEMBERS HAVE VARIOUS WORKING HOURS, WITH APPROXIMATELY 35 STAFF MEMBERS WORKING AT ONE TIME.
- NUMBER OF STUDENTS: 250 (125 FULL TIME AND 125 AFTER-SCHOOL) NUMBER OF STAFF: 50

PERMITTED USES

- THE PROPERTY MAY BE DEVELOPED FOR A DAY CARE FACILITY. THE FACILITY MUST MEET A PERMITTED BUILDING AND LOT TYPE FOR THE DISTRICT IN WHICH IT IS TO BE LOCATED. A PLAY SPACE MUST BE PROVIDED IN ACCORDANCE WITH THE REGULATIONS OF NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES. ANY OUTDOOR PLAY SPACE MUST BE ENCLOSED ON ALL SIDES BY BUILDING, AND/OR PERMITTED TYPES OF WALLS OR FENCES; IT MAY NOT INCLUDE DRIVEWAYS, PARKING AREAS, OR LAND OTHERWISE UNSUITED FOR CHILDREN'S PLAY SPACE. PLAY SPACE MAY NOT BE IN THE ESTABLISHED FRONT YARD ANY LABELING ON THE REZONING PLAN MAY BE AN INDICATION OF THE CURRENT INTENTION ON THE PART OF PETITIONER, BUT SHALL NOT RESTRICT THE PROPERTY IN A MANNER THAT CONFLICTS WITH THE PROVISIONS OF THESE DEVELOPMENT NOTES.

BUFFER AND SETBACK MODIFICATION REQUEST

- WESTERN BUFFER MODIFICATION REQUEST**
 - THE APPLICANT REQUESTS A MODIFICATION ON THE 30' BUFFER ALONG THE WESTERN PROPERTY LINE IN THE VICINITY OF THE BUILDING AS DEPICTED ON THE PLAN. DUE TO THE NCDOT DRIVEWAY RESTRICTIONS, THIS AREA WILL BE USED TO ACCESS THE REAR OF THE PROPERTY. THERE ARE NO ADJACENT RESIDENCES WITHIN THE AREA OF RELIEF AS IT IS COMMON OPEN SPACE WITH EXISTING VEGETATION. THE NEAREST RESIDENCE IS OVER 200' FROM THE PROPERTY LINE IN THIS AREA AND THE COMMON OPEN SPACE IS 4'-10' WIDE AND WOODED. THE APPLICANT AGREES TO ENHANCE THE BUFFER AS DEEMED NECESSARY WITH EVERGREEN SHRUBS/TREES TO FILL VISUAL GAPS.
- SOUTHEAST BUFFER ADJACENT TO PARCEL 00543314 MODIFICATION REQUEST**
 - DUE TO THE REQUIRED DRIVEWAY LOCATION, THE APPLICANT IS REQUESTING MODIFICATION AS SHOWN TO THE SOUTHEAST BUFFER. THE DRIVEWAY MUST BE LOCATED WHERE SHOWN WHICH MINIMIZES THE AMOUNT SPACE REMAINING FOR THE REQUIRED BUFFER. IF THE APPLICANT SHOULD PURCHASE THE ADJACENT PROPERTY, THE FULL 30' BUFFER WOULD BE PROVIDED WITHIN THE NEW PARCEL. THE APPLICANT IS PROVIDING THE MAXIMUM AMOUNT OF BUFFER AS PHYSICALLY POSSIBLE. THE APPLICANT AGREES TO ENHANCE THE BUFFER AS DEEMED NECESSARY WITH EVERGREEN SHRUBS/TREES TO FILL VISUAL GAPS.
- 15' BTL MODIFICATION REQUEST**
 - DUE TO THE REQUIRED LOCATION OF THE DRIVEWAY, THE ACCESS DRIVE PROHIBITS THE BUILDING FROM BEING LOCATED WITHIN THE 15' BTL. THE APPLICANT WILL SAVE THE LARGE OAK TREES AS DEPICTED ON THE TREE SAVE PLAN IN AN EFFORT TO ENHANCE THE STREETSCAPE APPEARANCE.

ACCESS

- THE NUMBER OF SITE ACCESS POINTS, DRIVEWAYS AND CONNECTIONS TO ROADS ARE SCHEMATIC IN NATURE. TO THE EXTENT PERMITTED BY APPLICABLE DRIVEWAY PERMIT REQUIREMENTS, FUTURE DRIVEWAYS, ACCESS POINTS AND ROAD CONNECTIONS MAY CROSS THE SETBACK AND SHALL NOT REQUIRE A REZONING OF THE PROPERTY, BUT SHALL OTHERWISE COMPLY WITH APPLICABLE DRIVEWAY PERMIT REQUIREMENTS.
- DUE TO THE STATE RATING SYSTEM, THERE WILL BE NO DROP OFF. PARENTS WILL PARK IN REAR AND WALK STUDENTS INTO BUILDING.

SIGNAGE

- ALL SIGNS SHALL COMPLY WITH THE TOWN OF HUNTERSVILLE CODE.

STREET IMPROVEMENTS

- APPLICANT AGREES TO INSTALL A 175' RIGHT TURN LANE WITH APPROPRIATE TAPERS ALONG SAM FURR ROAD AT DRIVEWAY.
- APPLICANT AGREES TO EXTEND THE LEFT TURN LANE WITHIN HWY 115 NORTH ONTO SAM FURR ROAD AS DEPICTED ON THIS SHEET. MILLING, OVERLAY, AND STRIPING WILL BE PROVIDED

HVAC / UTILITY EQUIPMENT

- HVAC WILL BE SPLIT SYSTEM WITH CONDENSER ON THE GROUND AND AIR HANDLER IN ATTIC SPACE.
- ALL BUILDING UTILITY EQUIPMENT SHALL BE LOCATED IN THE REAR YARD AND SCREENED FROM VIEW.
- ALL ROOFTOP EQUIPMENT WILL BE SCREENED FROM VIEW

PARKING

- BUILDING - 16,000 SF
- DAY CARE (16,000) 1 SPACE PER 500 SF
- SPACES REQUIRED = 32
- SPACES PROVIDED = 72
- SIDE YARD PARKING AREA SHALL NOT EXCEED 25% OF THE FRONTAGE LINE.
- REQUIRED ADA SPACES = 3
- PROVIDED ADA SPACES = 3
- THERE WILL BE NO DROP-OFF SO THERE WILL BE NO STACKING
- NO BUSES WILL BE USED FOR THIS DAYCARE FACILITY
- NO STACKING, PARKING OR QUEUEING WILL TAKE PLACE ON THE STREET OR PUBLIC RIGHT OF WAY.
- PARKING LOT WILL CONFORM WITH ARTICLE 6 OF THE TOWN OF HUNTERSVILLE ORDINANCE

WATER/ SEWER / UTILITIES

- WATER AVAILABLE ON SAM FURR RD
- SEWER AVAILABLE FROM EXISTING MH ON HAMPTON CROSSING DR
- UTILITIES FOR DEVELOPMENT MUST BE IN THE REAR YARD AND SCREENED FROM VIEW
- HVAC UNITS TO BE LOCATED ON THE ROOF (SCREENED FROM VIEW)
- ANY ROOFTOP EQUIPMENT WILL BE SCREENED FROM VIEW
- GARBAGE SERVICES WILL BE PROVIDED IN A DUMPSTER FACILITY ON SITE.

PAVEMENT/PLAYGROUND MATERIAL

- ALL PAVEMENT WILL SUPPORT AN 8,000 LB FIRE APPARATUS.
- THE BIG PLAYGROUND (PLAY AREA 1) SURFACE WILL BE CONCRETE FOR A BASKETBALL AREA AND THE TRICYCLE PATH AROUND THE PLAY UNIT AND A POUR AND PLAY SOFT SURFACE FOR THE REST OF THE PLAY UNIT.
- FOR THE INFANT AND TODDLER PLAY AREAS (PLAY AREA 1 AND 2) IT WILL BE A POUR AND PLAY SOFT SURFACE SURROUNDED BY FAKE TURF. NO MULCH

DUMPSTER ENCLOSURE

- DUMPSTER TO BE HIDDEN BY OPAQUE FENCE OR WALL OF SUFFICIENT HEIGHT TO SCREEN THE BIN. INSTALLATION WILL COMPLY WITH ARTICLE 6 OF ZONING ORDINANCE.

HOURS OF OPERATION

- THE HOURS OF OPERATION OF THE DAYCARE/SCHOOL ARE 7am to 6:30pm. PEAK HOURS ARE 7:30am TO 9am AND 5pm TO 6:30pm; HOWEVER, NOTE THAT THIS IS A FULL SERVICE CENTER. PARENTS CAN DROP OFF AND PICK UP ANY TIME THERE ARE NO SET HOURS.

LIGHTING

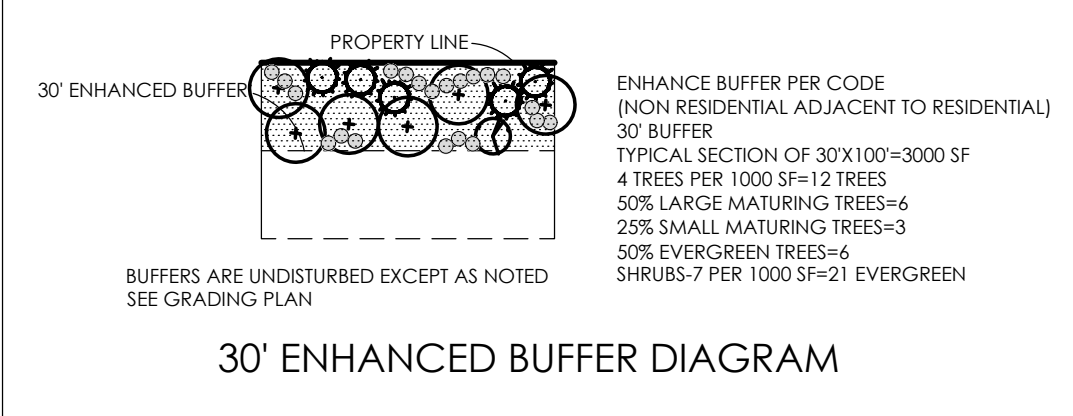
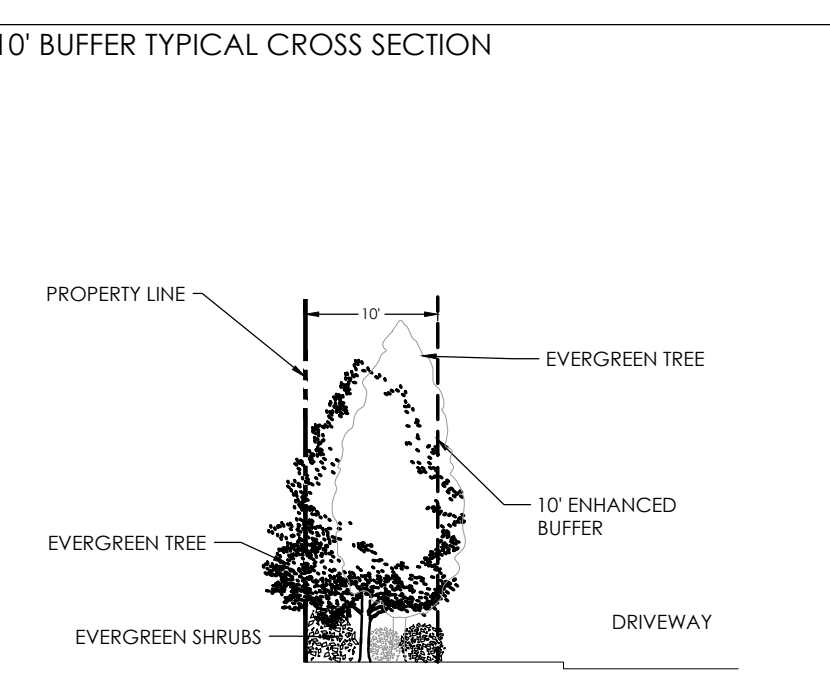
- THE LIGHTING FOR THIS PROJECT WILL MEET THE REQUIREMENTS OF 8.26.

ENVIRONMENTAL

- EROSION CONTROL PLANS WILL COMPLY WITH CURRENT ORDINANCES AND BE APPLIED FOR DURING THE COMMERCIAL SITE PLAN PROCESS.
- WATER QUALITY, POST CONSTRUCTION, AND STORM WATER MANAGEMENT WILL COMPLY WITH THE CURRENT ORDINANCES AND WILL BE APPLIED FOR DURING THE SITE PLAN PROCESS.
- ADDITIONAL STORMWATER WILL BE PROVIDED THAT EXCEEDS THE TOWN REQUIREMENTS. THE 25-YR STORM WILL BE DETAILED WITHIN THE BMP TO MEET CURRENT PEAK RUNOFF CONDITIONS.

BUFFERS/LANDSCAPING

- BUFFER YARDS SHALL BE PLANTED IN ACCORDANCE WITH ARTICLE 7.5 OF THE ZONING ORDINANCE. THE BUFFER WILL BE NATURAL, UNDISTURBED WOODED AREAS, AND SUPPLEMENTED IF AN OPAQUE BUFFER IS NOT CREATED WITH EXISTING VEGETATION PER ARTICLE 9.5 OF THE ORDINANCES.



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811 Know what's below. Call before you dig.

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Civil Engineering
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NC LANDSCAPE ARCHITECTURE BOARD LICENSE #: C-399

North Arrow
GRAPHIC SCALE 1"=40 FT.
Stamp: JAY HENSON, Professional Engineer, No. 37104, State of North Carolina, expires 12-31-2021

HUNTERSVILLE COMMUNITY PRESCHOOL/DAYCARE
PARCEL ID: 00531101
10205 SAM FURR RD, HUNTERSVILLE NC 28078

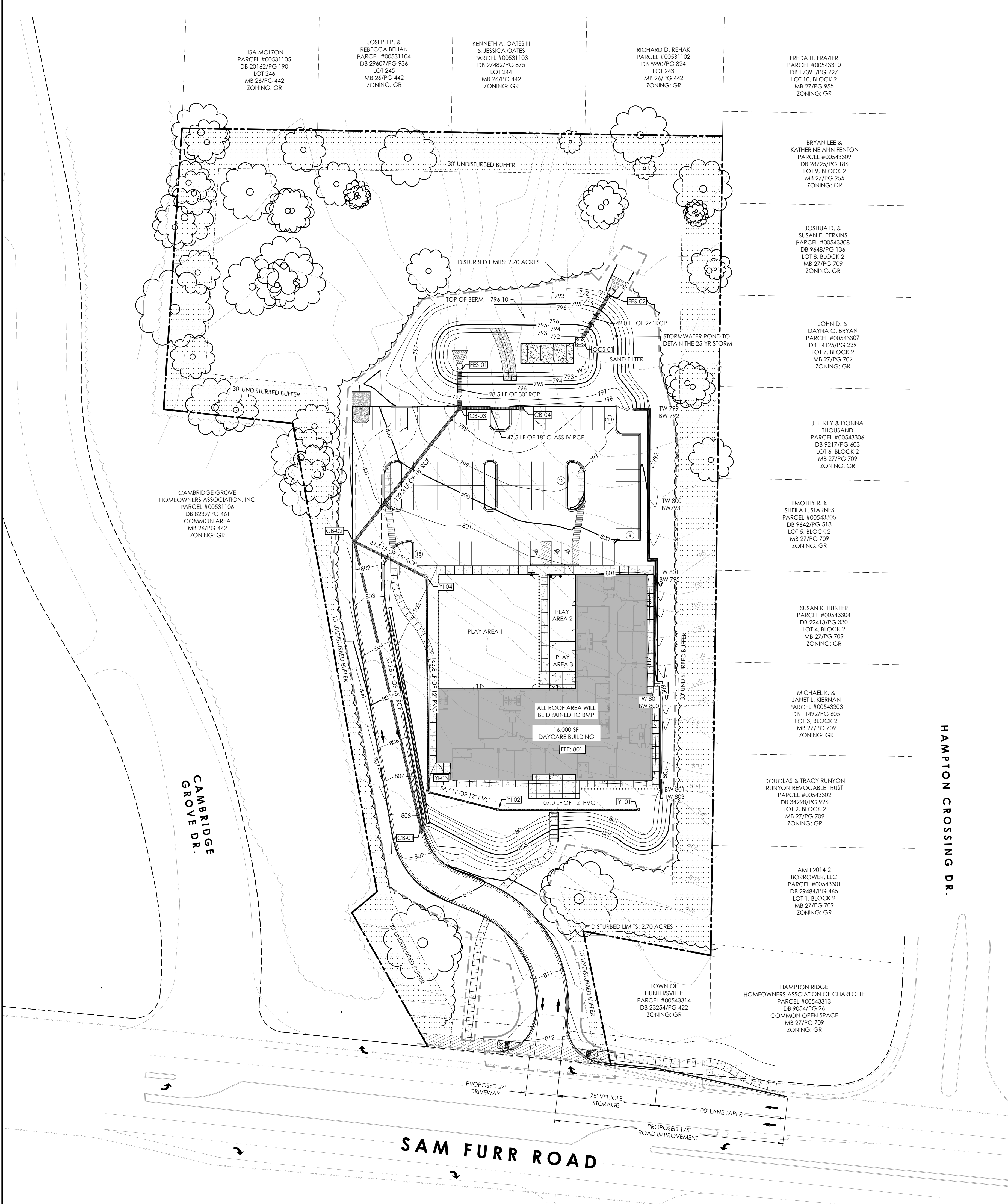
SITE PLAN

REVISIONS:

2021/02/04 - EPM REZ. COMMENTS
2021/03/12 - EPM REZ. COMMENTS

C03 SITE PLAN.DWG
PROJECT NUMBER: 220054
DATE: 12/01/2020 DRAWN BY: TSF

Z03 OF **4**



Structure Table	
Structure Name	Structure Details
CB-01	RM = 808.402 Pipe 4 INV OUT = 798.523
CB-02	RM = 801.600 Pipe 4 INV IN = 795.136 Pipe 5 INV IN = 794.886 Pipe 2 INV OUT = 794.886
CB-03	RM = 797.583 Pipe 2 INV IN = 793.082 Pipe 3 INV IN = 793.286 Pipe 1 INV OUT = 792.586
CB-04	RM = 797.417 Pipe 3 INV OUT = 793.831
FES-01	Pipe 1 INV IN = 792.529
FES-02	Pipe 9 INV IN = 789.580
OC5-01	RM = 792.375 Pipe 9 INV OUT = 790.000
YI-01	RM = 800.503 Pipe 8 INV OUT = 797.923
YI-02	RM = 800.936 Pipe 8 INV IN = 797.047 Pipe 7 INV OUT = 797.047
YI-03	RM = 801.005 Pipe 7 INV IN = 796.630 Pipe 6 INV OUT = 796.630
YI-04	RM = 802.036 Pipe 6 INV IN = 795.501 Pipe 5 INV OUT = 795.501

Pipe Table				
NAME	SIZE	LENGTH	SLOPE	MATERIAL
Pipe 1	30"	28.53'	0.20%	RCP
Pipe 2	18"	129.34'	1.39%	RCP
Pipe 3	18"	47.52'	1.15%	RCP
Pipe 4	15"	225.79'	1.50%	RCP
Pipe 5	15"	61.49'	1.00%	RCP
Pipe 6	12"	163.82'	0.69%	PVC
Pipe 7	12"	54.61'	0.80%	PVC
Pipe 8	12"	107.05'	0.80%	PVC
Pipe 9	24"	42.00'	1.00%	RCP

- GENERAL NOTES:
- ALL STORM WATER CATCH BASINS, INLETS, MANHOLES, ETC., SHALL BE PERMANENTLY LABELED AS "NO DUMPING, DRAINS TO RIVER" AND INCLUDE A FISH SYMBOL.
 - SOIL FILL (GEOTECH REPORT SHALL TAKE PRECEDENCE OVER THIS SPECIFICATION IF EXISTS.)
 - PLOW, SCARIFY, BENCH, OR BREAK UP SLOPED SURFACES STEEPER THAN 1 VERTICAL TO 4 HORIZONTAL SO FILL MATERIAL WILL BOND WITH EXISTING MATERIAL.
 - PLACE AND COMPACT FILL MATERIAL IN LAYERS TO REQUIRED ELEVATIONS AS FOLLOWS:
 - UNDER GRASS AND PLANTED AREAS, USE SATISFACTORY SOIL MATERIAL.
 - UNDER WALKS AND PAVEMENTS, USE SATISFACTORY SOIL MATERIAL.
 - UNDER STEPS AND RAMPS, USE ENGINEERED FILL.
 - UNDER BUILDING SLABS, USE ENGINEERED FILL.
 - UNDER FOOTINGS AND FOUNDATIONS, USE ENGINEERED FILL.
 - PLACE SOIL FILL ON SUBGRADES FREE OF MUD, FROST, SNOW, OR ICE.
 - SOIL MOISTURE CONTROL
 - REVISE PERCENTAGES IN THIS ARTICLE ACCORDING TO GEOTECHNICAL ENGINEER'S WRITTEN RECOMMENDATIONS.
 - UNIFORMLY MOISTEN OR AERATE SUBGRADE AND EACH SUBSEQUENT FILL OR BACKFILL SOIL LAYER BEFORE COMPACTION TO WITHIN 2 PERCENT OF OPTIMUM MOISTURE CONTENT.
 - DO NOT PLACE BACKFILL OR FILL SOIL MATERIAL ON SURFACES THAT ARE MUDDY, FROZEN, OR CONTAIN FROST OR ICE. REMOVE AND REPLACE, OR SCARIFY AND AIR DRY, OTHERWISE SATISFACTORY SOIL MATERIAL THAT EXCEEDS OPTIMUM MOISTURE CONTENT BY 2 PERCENT AND IS TOO WET TO COMPACT TO SPECIFIED DRY UNIT WEIGHT.
 - COMPACTION OF SOIL BACKFILLS AND FILLS
 - PLACE BACKFILL AND FILL SOIL MATERIALS IN LAYERS NOT MORE THAN 8 INCHES (200 MM) IN LOOSE DEPTH FOR MATERIAL COMPACTED BY HEAVY COMPACTION EQUIPMENT, AND NOT MORE THAN 4 INCHES (100 MM) IN LOOSE DEPTH FOR MATERIAL COMPACTED BY HAND-OPERATED TAMPERS.
 - PLACE BACKFILL AND FILL SOIL MATERIALS EVENLY ON ALL SIDES OF STRUCTURES TO REQUIRED ELEVATIONS, AND UNIFORMLY ALONG THE FULL LENGTH OF EACH STRUCTURE.
 - COMPACT SOIL MATERIALS TO NOT LESS THAN THE FOLLOWING PERCENTAGES OF MAXIMUM DRY UNIT WEIGHT ACCORDING TO ASTM D 698:
 - UNDER STRUCTURES, BUILDING SLABS, STEPS, AND PAVEMENTS, SCARIFY AND RECOMPACT TOP 12 INCHES (300 MM) OF EXISTING SUBGRADE AND EACH LAYER OF BACKFILL OR FILL SOIL MATERIAL AT 100 PERCENT.
 - UNDER WALKWAYS, SCARIFY AND RECOMPACT TOP 6 INCHES (150 MM) BELOW SUBGRADE AND COMPACT EACH LAYER OF BACKFILL OR FILL SOIL MATERIAL AT 95 PERCENT.
 - UNDER TURF OR UNPAVED AREAS, SCARIFY AND RECOMPACT TOP 6 INCHES (150 MM) BELOW SUBGRADE AND COMPACT EACH LAYER OF BACKFILL OR FILL SOIL MATERIAL AT 85 PERCENT.
 - FOR UTILITY TRENCHES, COMPACT EACH LAYER OF INITIAL AND FINAL BACKFILL SOIL MATERIAL AT 95 PERCENT.
 - GRADING
 - GENERAL: UNIFORMLY GRADE AREAS TO A SMOOTH SURFACE, FREE OF IRREGULAR SURFACE CHANGES. COMPLY WITH COMPACTION REQUIREMENTS AND GRADE TO CROSS SECTIONS, LINES, AND ELEVATIONS INDICATED.
 - PROVIDE A SMOOTH TRANSITION BETWEEN ADJACENT EXISTING GRADES AND NEW GRADES.
 - CUT OUT SOFT SPOTS, FILL LOW SPOTS, AND TRIM HIGH SPOTS TO COMPLY WITH REQUIRED SURFACE TOLERANCES.
 - SITE ROUGH GRADING: SLOPE GRADES TO DIRECT WATER AWAY FROM BUILDINGS AND TO PREVENT PONDING. FINISH SUBGRADES TO REQUIRED ELEVATIONS WITHIN THE FOLLOWING TOLERANCES:
 - TURF OR UNPAVED AREAS: PLUS OR MINUS 1 1/2 INCH (13 MM).
 - WALKS: PLUS OR MINUS 1 INCH (25 MM).
 - PAVEMENTS: PLUS OR MINUS 1/2 INCH (13 MM).
 - GRADING INSIDE BUILDING LINES: FINISH SUBGRADE TO A TOLERANCE OF 1/2 INCH (13 MM) WHEN TESTED WITH A 10-FOOT (3-M) STRAIGHTEDGE.
 - FIELD QUALITY CONTROL
 - TESTING AGENCY: OWNER WILL ENGAGE A QUALIFIED GEOTECHNICAL ENGINEERING TESTING AGENCY TO PERFORM TESTS AND INSPECTIONS.
 - ALLOW TESTING AGENCY TO INSPECT AND TEST SUBGRADES AND EACH FILL OR BACKFILL LAYER. PROCEED WITH SUBSEQUENT EARTH MOVING ONLY AFTER TEST RESULTS FOR PREVIOUSLY COMPLETED WORK COMPLY WITH REQUIREMENTS.
 - FOOTING SUBGRADE: AT FOOTING SUBGRADES, AT LEAST ONE TEST OF EACH SOIL STRATUM WILL BE PERFORMED TO VERIFY DESIGN BEARING CAPACITIES. SUBSEQUENT VERIFICATION AND APPROVAL OF OTHER FOOTING SUBGRADES MAY BE BASED ON A TESTED SUBGRADE WITHIN TESTED SUBGRADE WHEN APPROVED BY ARCHITECT.
 - TESTING AGENCY WILL TEST COMPACTION OF SOILS IN PLACE ACCORDING TO ASTM D 1556, ASTM D 2167, ASTM D 2922, AND ASTM D 2937, AS APPLICABLE. TESTS WILL BE PERFORMED AT THE FOLLOWING LOCATIONS AND FREQUENCIES:
 - PAVED AND BUILDING SLAB AREAS: AT SUBGRADE AND AT EACH COMPACTED FILL AND BACKFILL LAYER, AT LEAST ONE TEST FOR EVERY 2000 SQ. FT. (186 SQ. M) OR LESS OF PAVED AREA OR BUILDING SLAB, BUT IN NO CASE FEWER THAN THREE TESTS.
 - FOUNDATION WALL BACKFILL: AT EACH COMPACTED BACKFILL LAYER, AT LEAST ONE TEST FOR EVERY 100 FEET (30 M) OR LESS OF WALL LENGTH, BUT NO FEWER THAN TWO TESTS.
 - TRENCH BACKFILL: AT EACH COMPACTED INITIAL AND FINAL BACKFILL LAYER, AT LEAST ONE TEST FOR EVERY 150 FEET (46 M) OR LESS OF TRENCH LENGTH, BUT NO FEWER THAN TWO TESTS.
 - WHEN TESTING AGENCY REPORTS THAT SUBGRADES, FILLS, OR BACKFILLS HAVE NOT ACHIEVED DEGREE OF COMPACTION SPECIFIED, SCARIFY AND MOISTEN OR AERATE, OR REMOVE AND REPLACE SOIL MATERIALS TO DEPTH REQUIRED; RECOMPACT AND RETEST UNTIL SPECIFIED COMPACTION IS OBTAINED.

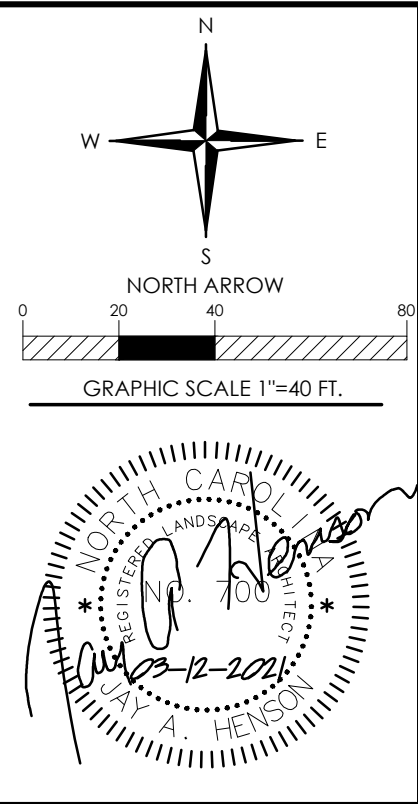
- GENERAL NOTES:
- APPROVAL OF THIS PLAN IS NOT AN AUTHORIZATION TO GRADE ADJACENT PROPERTIES. WHEN FIELD CONDITIONS WARRANT OFF-SITE GRADING, PERMISSION MUST BE OBTAINED FROM THE AFFECTED OWNERS.
 - THE DEVELOPER SHALL MAINTAIN EACH STREAM, CREEK, OR BACKWASH CHANNEL IN AN UNOBSTRUCTED STATE AND SHALL MAINTAIN THE CHANNEL AND BANKS OF THE STREAM ALL DEBRIS, LOGS, TIMBER, JUNK AND OTHER ACCUMULATIONS.
 - COMMUNITY ENCROACHMENT LINE MUST BE MARKED AND MAINTAINED ON SITE UNTIL FINAL GRADING IS COMPLETED.
 - ANY CONSTRUCTION OR USE WITHIN THE AREAS DELINEATED AS FLOODWAY DISTRICT FRINGE BOUNDARY LINE OR FLOODWAY DISTRICT ENCROACHMENT BOUNDARY LINE IS SUBJECT TO THE RESTRICTIONS IMPOSED BY THE FLOODWAY REGULATIONS OF THE TOWN OF HUNTERVILLE AND MECKLENBURG COUNTY.
 - THE MECKLENBURG COUNTY ENGINEERING DEPARTMENT HAS NOT REVIEWED THE STRUCTURAL STABILITY OF ANY RETAINING WALLS ON THE SITE AND DOES NOT ASSUME RESPONSIBILITY FOR THEM.
 - NON-STANDARD ITEMS (I.E.: PAVERS, IRRIGATION SYSTEMS, ETC.) IN THE RIGHT-OF-WAY REQUIRE A RIGHT-OF-WAY ENCROACHMENT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION BEFORE INSTALLATION.
 - ALL ROOF DRAINS TO CONNECT TO UNDERGROUND STORM DRAINAGE SYSTEM.

SAND FILTER SUMMARY CHART				
PEAK CONTROL STORM EVENT	PRE-DEVELOPMENT RUNOFF	POST-DEVELOPMENT RUNOFF	POST-ROUTING RUNOFF	ELEVATION
TOP OF DAM				796.10
50YR-24HR	8.64 CFS	25.21 CFS	21.23 CFS	795.50
25YR-24HR	2.94 CFS	14.40 CFS	2.89 CFS	794.72
10YR-24HR	1.57 CFS	11.14 CFS	1.40 CFS	794.23
2YR-24HR	0.62 CFS	8.27 CFS	0.55 CFS	793.84
1YR-24HR	0.11 CFS	5.81 CFS	0.20 CFS	793.42
BMP		REQUIRED	PROVIDED	ELEVATION
CPV		7,971 CU.FT.	8,470 CU.FT.	794.10
WQV		5,701.2 CU.FT.	5,920 CU.FT.	793.50
SAND FILTER		581.8 S.F.	600 S.F.	TOP 791.50
SAND FILTER SIZE MAX ALLOWABLE BUA				68,796 SF

- CONTRACTOR IS FULLY RESPONSIBLE FOR CONTACTING APPROPRIATE PARTIES AND ASSURING THAT EXISTING UTILITIES ARE LOCATED PRIOR TO BEGINNING CONSTRUCTION.
- CONTRACTOR IS RESPONSIBLE FOR PLACING BARRICADES USING FLAGMEN, ETC., AS NECESSARY TO INSURE SAFETY TO THE PUBLIC.
- ALL PAVEMENT CUTS, CONCRETE OR ASPHALT, ARE TO BE REPLACED ACCORDING TO STANDARDS OF THE DEPARTMENT OF TRANSPORTATION.
- SHORING WILL BE ACCORDING TO OSHA TRENCHING STANDARDS PART 1926 SUBPART F, OR AS AMENDED.



HensonFoley
Landscape Architecture
Civil Engineering
8712 Lindholm Dr Suite 202A, Huntersville NC 28078
p: 704.875.1615t: 1 704.875.0959 | www.hensonfoley.com
NC ENGINEERING BOARD LICENSE #: C-3781
NC LANDSCAPE ARCHITECTURE BOARD LICENSE #: C-399

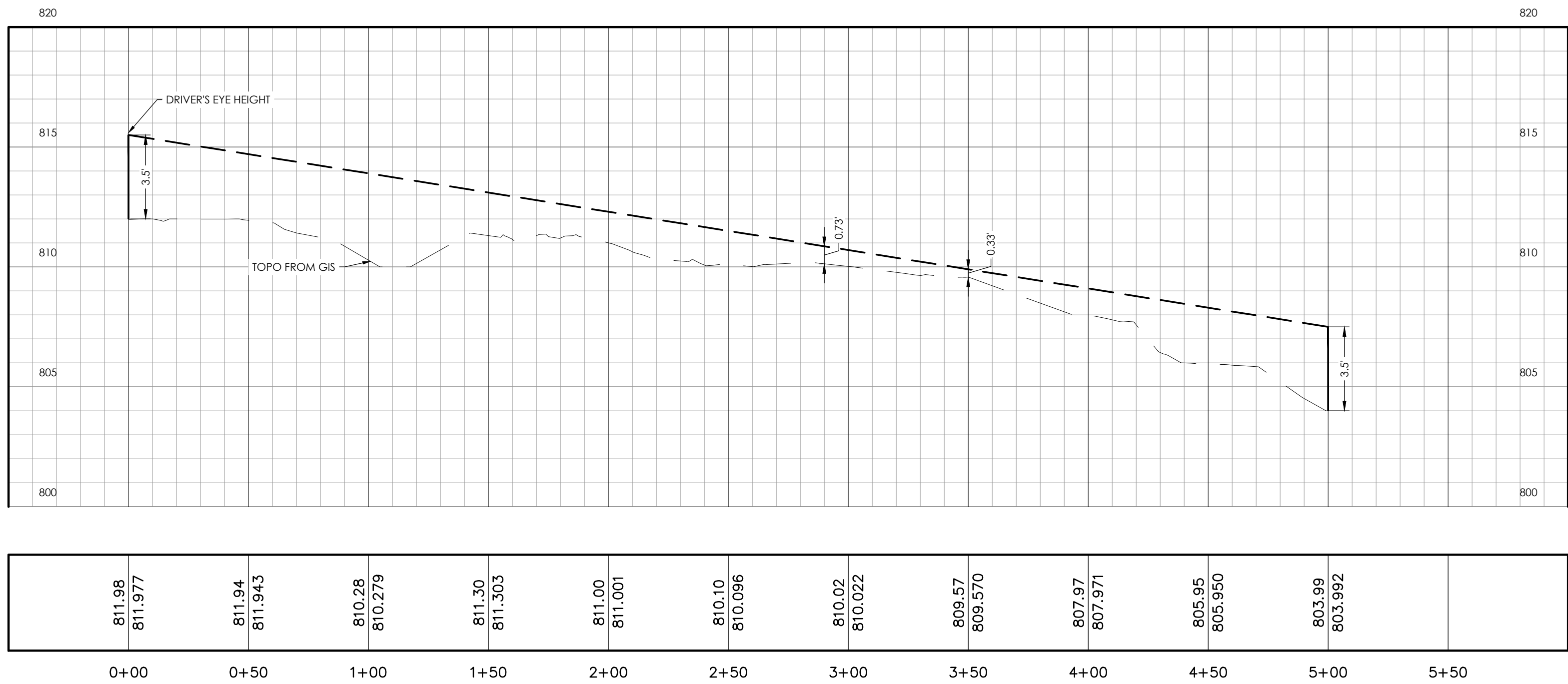


HUNTERSVILLE COMMUNITY PRESCHOOL/DAYCARE
PARCEL ID: 00531101
10205 SAM FURR RD, HUNTERSVILLE NC 28078
GRADING PLAN

REVISIONS:

2021/02/04 - EPM REV. COMMENTS
2021/03/12 - EPM REV. COMMENTS

C06 GRADING PLAN.DWG
PROJECT NUMBER: 220054
DATE: 12/01/2020 DRAWN BY: TSF
Z04 OF **4**
SHEET



SIGHT DISTANCE PROFILE
H: 1" = 40'
V: 1" = 4'

1. CONTRACTOR IS FULLY RESPONSIBLE FOR CONTACTING APPROPRIATE PARTIES AND ASSURING THAT EXISTING UTILITIES ARE LOCATED PRIOR TO BEGINNING CONSTRUCTION.
2. CONTRACTOR IS RESPONSIBLE FOR PLACING BARRICADES USING FLAGMEN, ETC., AS NECESSARY TO INSURE SAFETY TO THE PUBLIC.
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4. SHORING WILL BE ACCORDING TO OSHA TRENCHING STANDARDS PART 1926 SUBPART P, OR AS AMENDED.





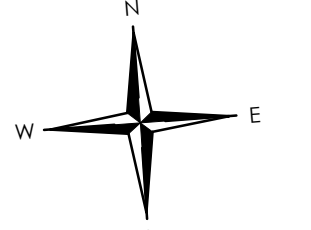
HensonFoley

Landscape Architecture Civil Engineering

8712 Lindholm Dr Suite 202A, Huntersville NC 28078

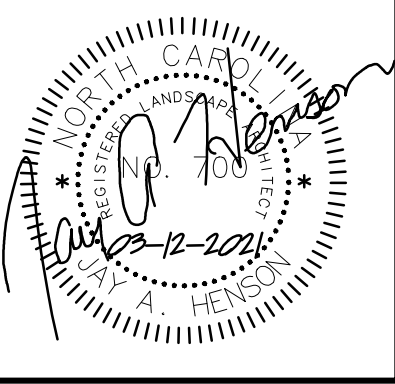
p: 704.875.1615 | 704.875.0959 | www.hensonfoley.com

NC ENGINEERING BOARD LICENSE #: C-3781
NC LANDSCAPE ARCHITECTURE BOARD LICENSE #: C-399



NORTH ARROW

GRAPHIC SCALE 1"=40 FT.



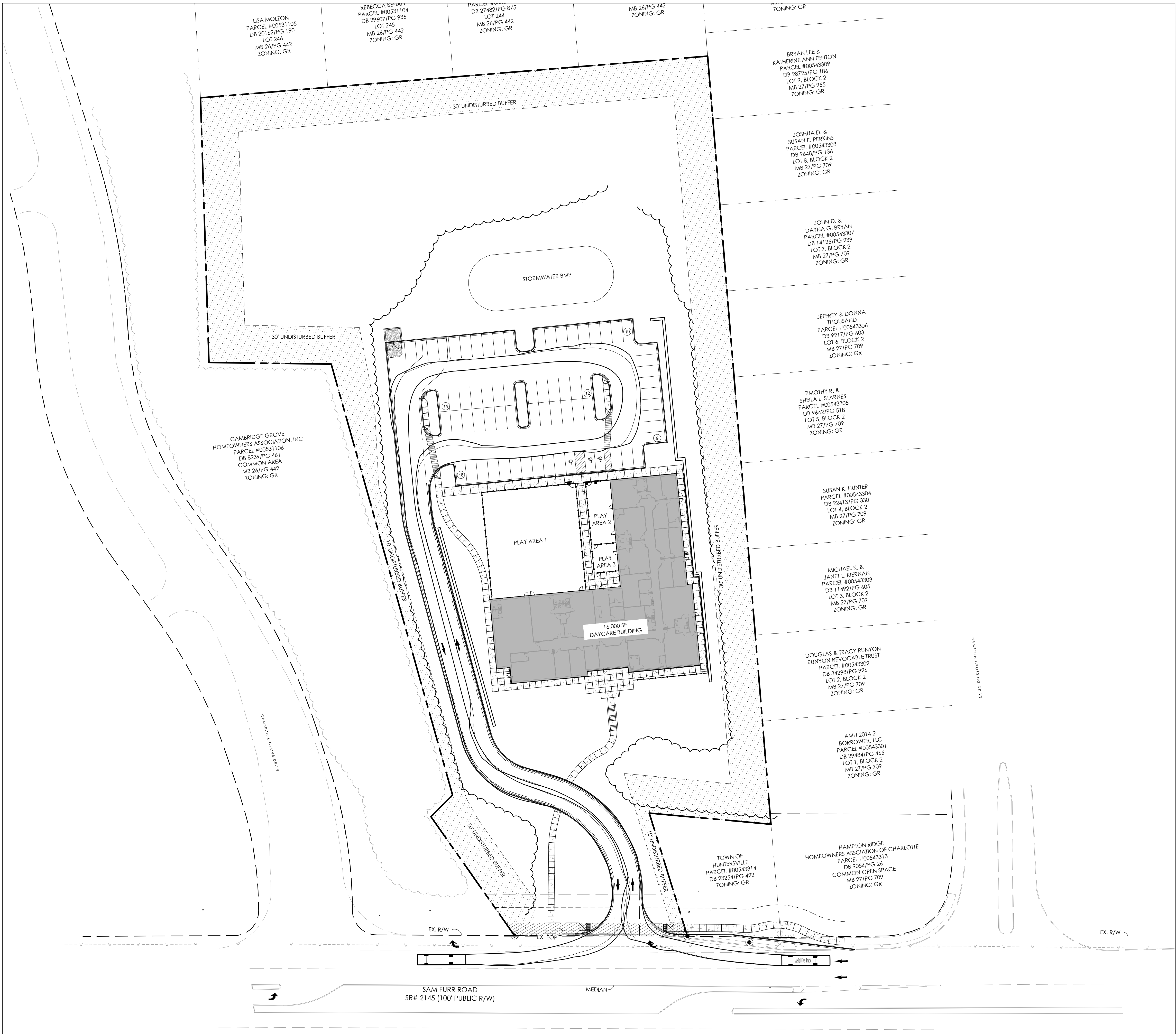
HUNTERSVILLE COMMUNITY PRESCHOOL/DAYCARE

PARCEL ID: 00531101
10205 SAM FURR RD, HUNTERVILLE NC 28078

SIGHT DISTANCE PROFILE

REVISIONS:	
2021/02/04 - EPM REV. COMMENTS	
2021/03/12 - EPM REV. COMMENTS	

SD01 SIGHT DISTANCE PROFILE.DWG	
PROJECT NUMBER:	220054
DATE: 12/01/2020	DRAWN BY: TSF
SD01	01
SHEET	OF



- CONTRACTOR IS FULLY RESPONSIBLE FOR CONTACTING APPROPRIATE PARTIES AND ASSURING THAT EXISTING UTILITIES ARE LOCATED PRIOR TO BEGINNING CONSTRUCTION.
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- SHORING WILL BE ACCORDING TO OSHA TRENCHING STANDARDS PART 1926 SUBPART F, OR AS AMENDED.



HUNTERSVILLE COMMUNITY PRESCHOOL/DAYCARE

PARCEL ID: 00531101
10205 SAM FURR RD, HUNTERSVILLE NC 28078

FIRETRUCK AUTOTURN

REVISIONS:

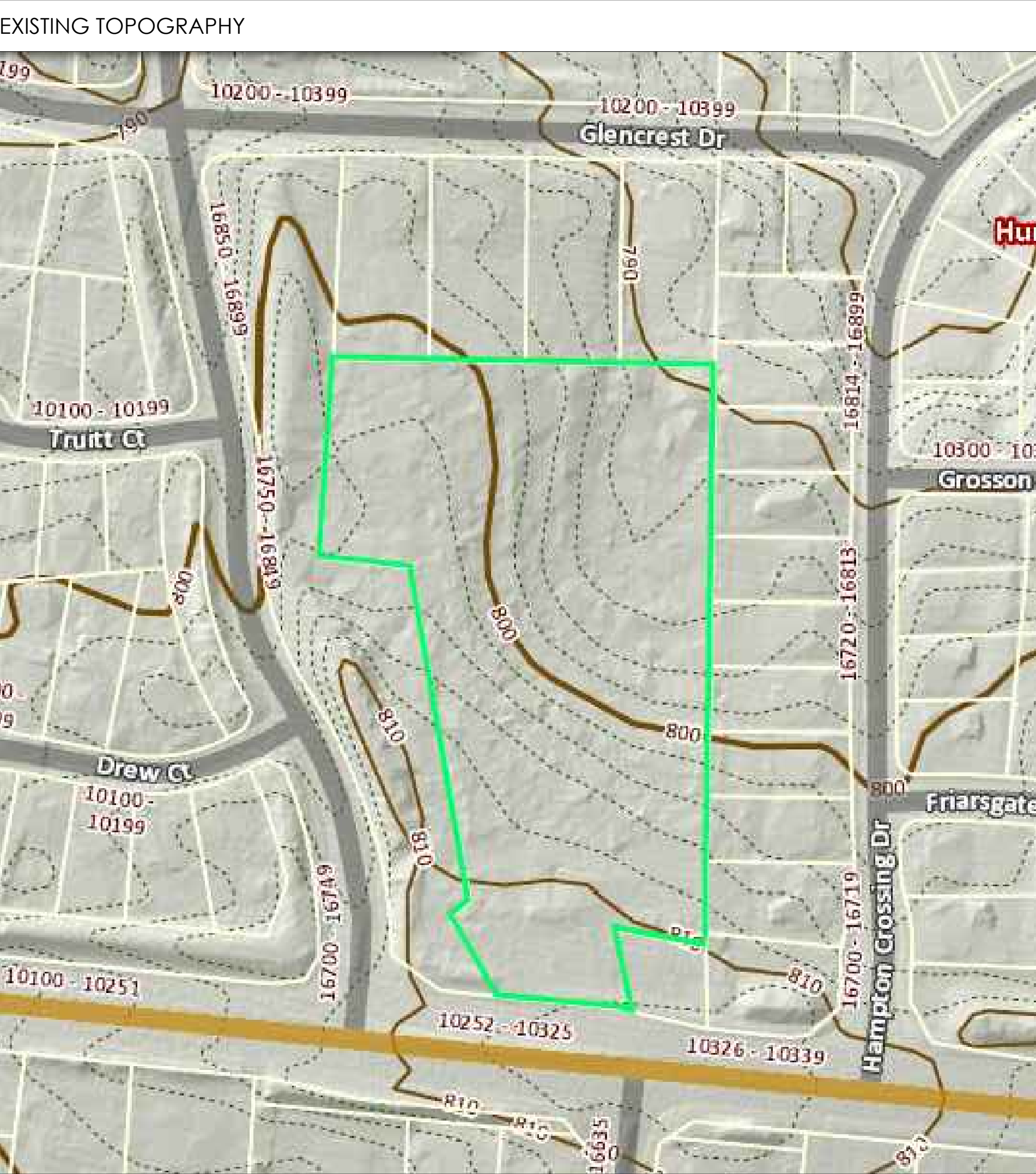
2021/02/04 - EPM REV. COMMENTS
2021/03/12 - EPM REV. COMMENTS

AT01 FIRETRUCK AUTOTURN.DWG

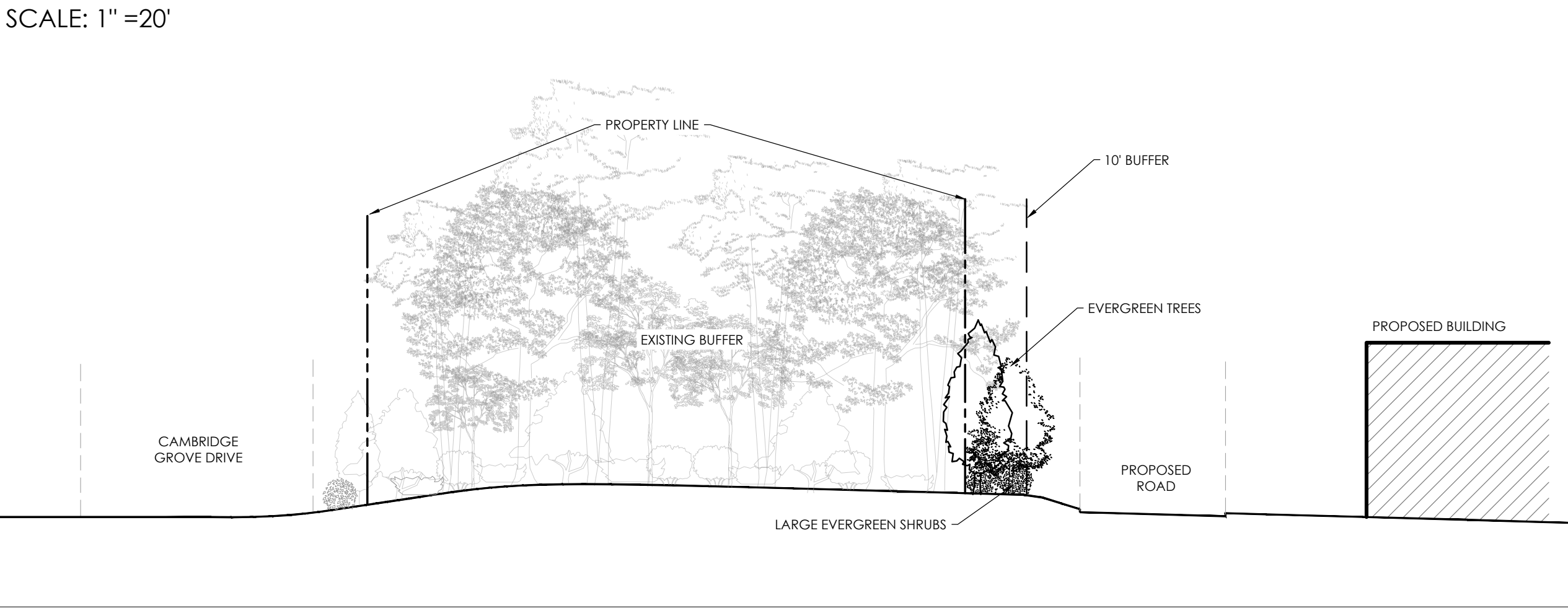
PROJECT NUMBER: 220054

DATE: 12/01/2020 DRAWN BY: TSF

SD01 01
SHEET OF



SECTION A
SCALE: 1" = 20'



EXISTING BUFFER PICTURES



1. CONTRACTOR IS FULLY RESPONSIBLE FOR CONTACTING APPROPRIATE PARTIES AND ASSURING THAT EXISTING UTILITIES ARE LOCATED PRIOR TO BEGINNING CONSTRUCTION.
2. CONTRACTOR IS RESPONSIBLE FOR PLACING BARRICADES USING FLAGMEN, ETC., AS NECESSARY TO INSURE SAFETY TO THE PUBLIC.
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4. SHORING WILL BE ACCORDING TO OSHA TRENCHING STANDARDS PART 1926 SUBPART F, OR AS AMENDED.



HensonFoley
Landscape Architecture
Civil Engineering
8712 Lincolnton Dr Suite 202A, Huntersville NC 28078
p: 704.875.1615 | www.hensonfoley.com
NC ENGINEERING BOARD LICENSE #: C-3781
NC LANDSCAPE ARCHITECTURE BOARD LICENSE #: C-399

N
W E
S
0 25 50 100
NORTH ARROW
GRAPHIC SCALE 1"=50 FT.

DAVID HENSON
Landscape Architect
No. 12-12-12

HUNTERSVILLE COMMUNITY PRESCHOOL/DAYCARE

PARCEL ID: 00531101

10205 SAM FURR RD, HUNTERSVILLE NC 28078

BUFFER EXHIBIT

REVISIONS:

2021/02/04 - EPM REV. COMMENTS
2021/03/12 - EPM REV. COMMENTS

EX01 BUFFER EXHIBIT.DWG
PROJECT NUMBER: 220054
DATE: 12/01/2020 DRAWN BY: TSF

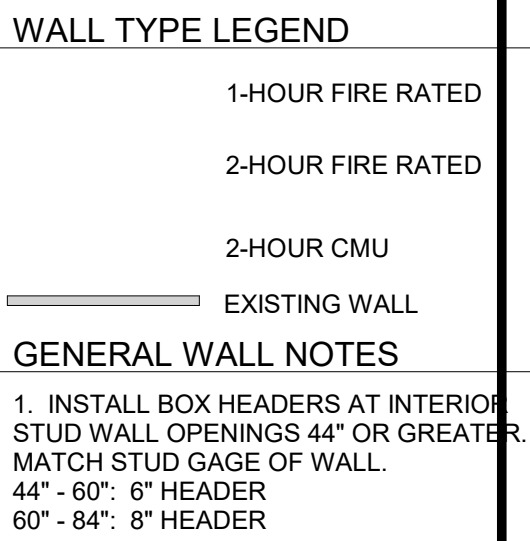
SD01	01
SHEET	OF

3.10.2021

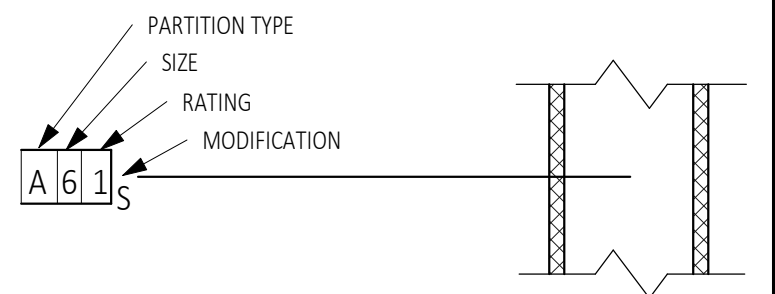
FLOOR PLAN

-002

A1.1



SEE T1.2 FOR PARTITION TYPES

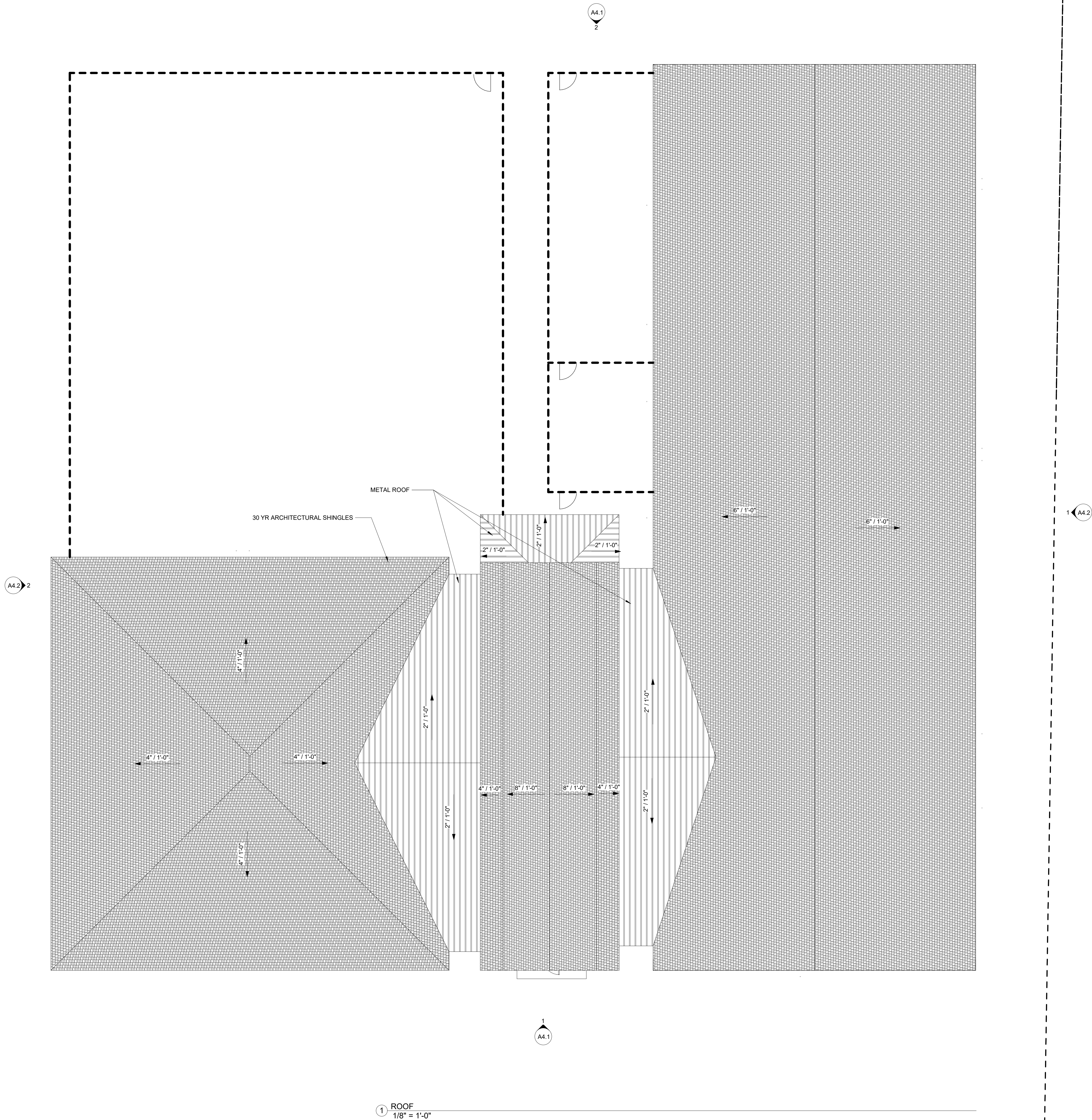


MODIFICATIONS

- A 6" ABOVE CEILING FOR STUD WALL - BRACE TO STRUCTURE ABOVE
- B STUD TO DECK - STOP GYPSUM AT 6" ABOVE CEILING
- C STUD TO ROOF STRUCTURE - GYPSUM BOARD RUN FULL HEIGHT CORRIDOR/PRESIDENT'S OFFICE SIDE OF WALL, STOP 6" ABOVE CEILING OPPOSITE SIDE
- D STUD TO ROOF STRUCTURE - GYPSUM BOARD RUN FULL HEIGHT
- M MOISTURE RESISTANT GYP. BD TO 4'-0" A.F.F.
- S SOUND ATTENUATION FULL HEIGHT OF WALL.
- XX* PARTIAL HEIGHT WALL

1 FLOOR PLAN
1/8" = 1'-0"

3/15/2021 11:18:37 AM
C:\Users\Bobbitt\OneDrive\Documents\Huntersville Preschool\21-002.dwg
Huntersville Preschool - Huntersville, SC



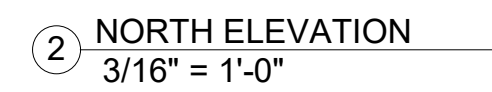
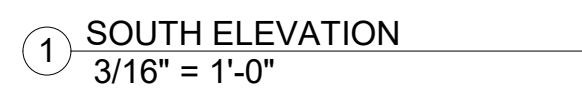
3.10.2021

ELEVATIONS
BOBBITT DESIGN BUILD

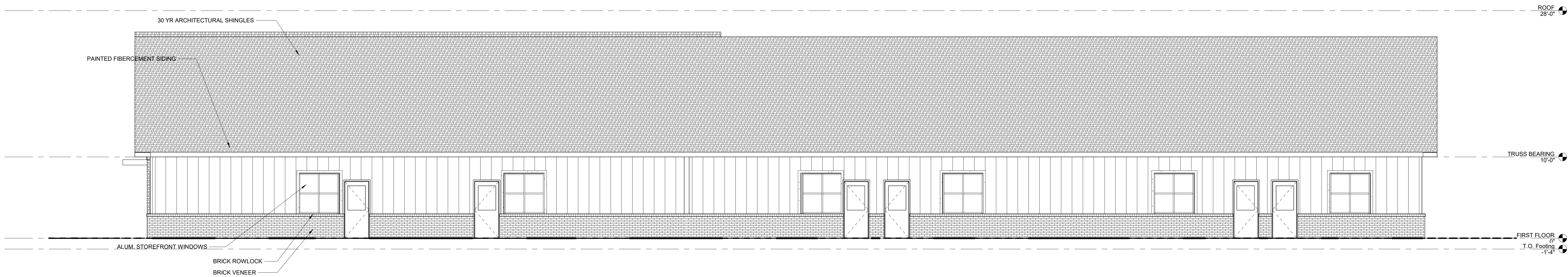
21-002

A4.1

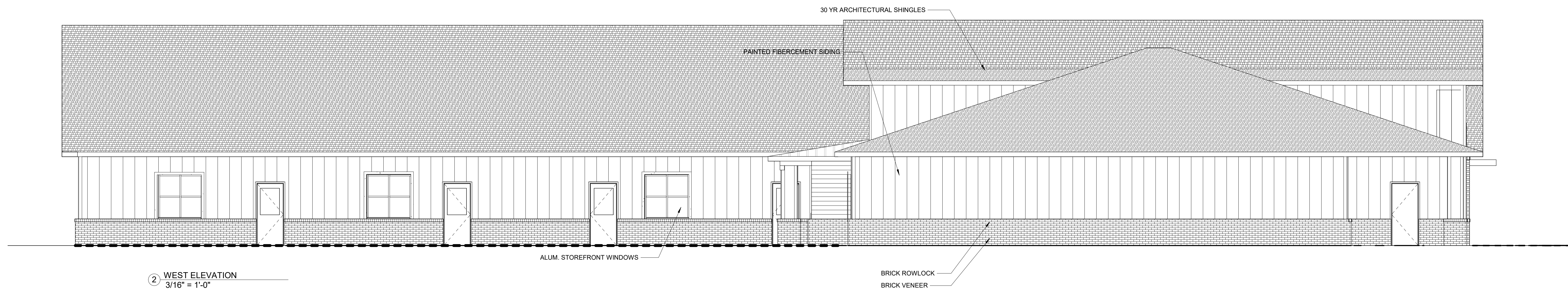
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3/10/2021 11:18:37 AM
H:\Users\Bobbitt\OneDrive\Documents\Huntersville Preschool\Huntersville Preschool.dwg
3/10/2021 11:18:37 AM



1 EAST ELEVATION
3/16" = 1'-0"



2 WEST ELEVATION
3/16" = 1'-0"



3 3D View 2



Traffic Impact Analysis (TIA) Application for Determination of TIA Need

Article 14.2 of the Zoning Ordinance requires that a Traffic Impact Analysis (TIA) be performed for any residential subdivision, multifamily site plan, or non-residential development, or portion thereof, which is expected to create one hundred (100) or more peak hour vehicle trips or 1,000 or more daily trips.

In order to determine whether a TIA will be required for your proposed development, please fill out the form below and submit to the Planning Department. A "Determination of TIA Need" will be made within 10 working days.

Applicant: HensonFoley

Project Name: Huntersville Community Preschool/Daycare

Project Address: 16,000 sf daycare center

Project Description (including square footage for each proposed land use):
16,000 sf daycare center

Applicant

Printed Name HensonFoley Phone 704-875-1615

☐ Corporation ☐ Limited Liability Company ☐ Trust ☒ Partnership ☐ Other: _____

Signature Jay P. Henson

Title Partner Email jay@hensonfoley.com

Contact Information

Town of Huntersville Engineering Department
(704) 766 - 2220

For Town Staff Use Only

Project File # _____

Date Submitted 1/29/2021

Daily Trips Anticipated 762

Peak Hour Trips Anticipated AM 176 PM 178

TIA Required (Yes/No) Yes

Date of Determination: 1/29/2021

Comments: Determination made based on a 16,000 sq ft daycare

From: Stephen Trott
Sent: Wednesday, March 17, 2021 2:06 PM
To: Bradley Priest
Cc: Benjamin Brill
Subject: FW: [External] RE: 190646 Sam Furr Road Development

Brad,

See below.

Stephen Trott, PE
Director of Engineering
Town of Huntersville, NC
704-766-2017

From: Stephen Trott
Sent: Friday, August 21, 2020 3:59 PM
To: Dionne Brown <DBrown@davenportworld.com>
Cc: Frank Amenya <famenya@davenportworld.com>; Taylor, Wendy A <wataylor1@ncdot.gov>; Wagner, Leah P <lwagner@ncdot.gov>; Tagliaferri, Anthony <atagliaferri@ncdot.gov>; Benjamin Brill <bbrill@huntersville.org>; Bradley Priest <bpriest@huntersville.org>
Subject: RE: [External] RE: 190646 Sam Furr Road Development

Dionne,

The TIA is acceptable as a final version. Two hard copies of the study are needed. Those can be either mailed to PO Box 664, Huntersville, NC 28070 or delivered to 105 Gilead Road, Suite 300, Huntersville, NC 28078.

Based on the results and improvements identified in the study, the following improvements will be recommended to be the responsibility of the developer to the Town Board as part of the rezoning process:

NC 115 at NC 73

- Construct a second northbound left-turn lane on NC 115 with 275 feet of storage (modify signal phasing as needed to meet NCDOT requirements)

NC 73 at site entrance

- Construct a westbound right-turn lane on NC 73 with 75 feet of storage

Stephen Trott, P.E.
Director of Engineering
Town of Huntersville, NC
704-766-2220

From: Dionne Brown <DBrown@davenportworld.com>
Sent: Friday, August 14, 2020 9:07 AM
To: Stephen Trott <strott@huntersville.org>
Cc: Frank Amenya <famenya@davenportworld.com>; Taylor, Wendy A <wataylor1@ncdot.gov>; Wagner, Leah P <lwagner@ncdot.gov>; Benjamin Brill <bbrill@huntersville.org>; Bradley Priest <bpriest@huntersville.org>; Tagliaferri, Anthony <atagliaferri@ncdot.gov>
Subject: RE: [External] RE: 190646 Sam Furr Road Development

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello All,

Attached you will find the revised TIA to address the comments.

Will you all require hard copies? If so, please let me know how many and where to send.

If you have any questions, please let me know.

Thank you



Dionne Brown, PE | Project Manager I
DAVENPORT
4600 Marriott Drive, Suite 350 | Raleigh, NC 27612
t (919) 324-1665 ext: 24402
[website](#) | [map](#) | [email](#)

From: Stephen Trott <strott@huntersville.org>
Sent: Tuesday, July 28, 2020 11:13 AM
To: Dionne Brown <DBrown@davenportworld.com>
Cc: Frank Amenya <famenya@davenportworld.com>; Andrew Hayes <AHayes@davenportworld.com>; Taylor, Wendy A <wataylor1@ncdot.gov>; Wagner, Leah P <lwagner@ncdot.gov>; Benjamin Brill <bbrill@huntersville.org>; Bradley Priest <bpriest@huntersville.org>; Tagliaferri, Anthony <atagliaferri@ncdot.gov>
Subject: RE: [External] RE: 190646 Sam Furr Road Development

Dionne,

As it has been a few months since the last correspondence on the project, I am following up with you on the status of submission of a revised TIA to address the comments.

Is this project still moving forward?

Stephen Trott, PE
Director of Engineering
Town of Huntersville, NC

704-766-2220

From: Tagliaferri, Anthony <atagliaferri@ncdot.gov>
Sent: Tuesday, April 14, 2020 10:43 AM
To: Dionne Brown <DBrown@davenportworld.com>; Stephen Trott <strott@huntersville.org>
Cc: Frank Amenya <famenya@davenportworld.com>; Andrew Hayes <AHayes@davenportworld.com>; Taylor, Wendy A <wataylor1@ncdot.gov>; Wagner, Leah P <lwagner@ncdot.gov>; Benjamin Brill <bbrill@huntersville.org>; Bradley Priest <bpriest@huntersville.org>
Subject: RE: [External] RE: 190646 Sam Furr Road Development

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Dionne,

The plans were created by developers and the signal upgrades will be funded by developers. They have designed the new signal plans but they have not reached the point of their developments where these improvements have been required nor have they constructed them yet.

Thanks,

Tony Tagliaferri, PE
Division 10 Traffic Engineer
North Carolina Department of Transportation

704 983 4400 Office
atagliaferri@ncdot.gov

From: Dionne Brown <DBrown@davenportworld.com>
Sent: Tuesday, April 14, 2020 9:42 AM
To: Stephen Trott <strott@huntersville.org>; Tagliaferri, Anthony <atagliaferri@ncdot.gov>
Cc: Frank Amenya <famenya@davenportworld.com>; Andrew Hayes <AHayes@davenportworld.com>; Taylor, Wendy A <wataylor1@ncdot.gov>; Wagner, Leah P <lwagner@ncdot.gov>; Benjamin Brill <bbrill@huntersville.org>; Bradley Priest <bpriest@huntersville.org>
Subject: [External] RE: 190646 Sam Furr Road Development

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Thank you Stephen for the comments that I will address.

Tony, question for you, NCDOT has "upgraded" signal plans for US 21 at NC 73 and NC 115 at NC 73 available on the website. Do you know why there would be upgraded plans if there is not a project on the books? These plans have dual left northbound turn lanes. I have attached the plans.



Dionne Brown, PE | Project Manager I
DAVENPORT
4600 Marriott Drive, Suite 350 | Raleigh, NC 27612
t (919) 324-1665 ext: 24402
[website](#) | [map](#) | [email](#)

From: Stephen Trott <strott@huntersville.org>
Sent: Tuesday, April 7, 2020 11:25 AM
To: Dionne Brown <DBrown@davenportworld.com>
Cc: Frank Amenya <famenya@davenportworld.com>; Andrew Hayes <AHayes@davenportworld.com>; wataylor1@ncdot.gov; lwagner@ncdot.gov; Tagliaferri, Anthony <atagliaferri@ncdot.gov>; Benjamin Brill <bbrill@huntersville.org>; Bradley Priest <bpriest@huntersville.org>
Subject: RE: 190646 Sam Furr Road Development

Dionne,

After review of the TIA submitted on 3/23/20, I have the following comments:

- The TIA indicates that there are currently dual northbound left-turn lanes on NC 115 at NC73. Only one northbound left-turn lane exists today. As this improvement is not under construction nor in a funded Town or NCDOT project, it needs to be removed from current and future year analysis. This will change all analysis results at this intersection. (Note: if the ICU percentage of an intersection warrants mitigation per Article 14 of the Zoning Ordinance, identification of the improvement to mitigate the intersection is required.)
- ICU percentages in table 5.2 should show the ICU value to the first decimal place.
- Traffic counts for the morning and afternoon periods per the Town TIA Manual and scoping package were to be from 6-9am and 4-7pm. Traffic count data in the Appendix only included from 7-9am and 4-6pm. If this data was the only data collected, and due to the pandemic, cannot be recounted, the reduced duration is allowable in this case.
- Include the NCDOT turn lane warrant graph analysis for the site driveway.
- Recommend the use of actual lane widths, truck percentages (if captured in the counts), speed limits in the analysis.
- There is an inconsistency in the turn lane storage length recommendation for the right turn lane at the site driveway.

Please address the above comments and submit a revised TIA for review.

Thank you.

Stephen Trott, P.E.
Director of Engineering
Town of Huntersville, NC
704-766-2220

From: Dionne Brown <DBrown@davenportworld.com>
Sent: Monday, March 23, 2020 10:31 AM
To: Stephen Trott <strott@huntersville.org>; Bradley Priest <bpriest@huntersville.org>; Benjamin Brill

<bbrill@huntersville.org>; Tagliaferri, Anthony <atagliaferri@ncdot.gov>; lwagner@ncdot.gov;
wataylor1@ncdot.gov

Cc: Frank Amenya <famenya@davenportworld.com>; Andrew Hayes <AHayes@davenportworld.com>

Subject: 190646 Sam Furr Road Development

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello All,

Attached you will find the FINAL TIA and synchro files for the proposed development for your review.

Please let me know if you will still require hard copies for submittals.



Dionne Brown, PE | Project Manager I
DAVENPORT
4600 Marriott Drive, Suite 350 | Raleigh, NC 27612
t (919) 324-1665 ext: 24402
[website](#) | [map](#) | [email](#)

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Huntersville Community Daycare/Preschool
Neighborhood Meeting
2/10/2021

The meeting was called to order at 6PM by Kyshia Lineberger, Project Owner. Also in attendance were Jay Henson, HensonFoley and Matt Montgomery, Project Director. Approximately 7 people attended in-person and 50 on line.

Ms. Lineberger gave a presentation of the school and her past schools with 20 years of experience.

Most of the questions centered on the stormwater run-off on the property and how it would be handled by the detention pond. Several homeowners already have water problems and are looking for solutions.

Below are a few questions that were asked and they were addressed:

-A site in Ballantyne was used as an example of runoff that impacted other properties-primarily sediment runoff during grading. **Response: The Ballantyne site was not designed by HensonFoley nor was it within the Town of Huntersville. It would be speculative to comment on those issues. Landforms on site and at discharge points are different for each site.**

-Will the building and parking lot drain across the the property onto the neighbors. **Response: The building and parking lot are designed to capture the runoff in an underground system and discharged into the pond. The pond controls the stormwater release rate to the existing conditions. In addition, curbing, roof drains, and a "bowl" shaped parking lot direct water away from the adjacent properties and into the pond. The pond will discharge into the existing drainage swale to the Northeast, across the grass to the north, and into a large storm drainage pipe to the north.**

-What measures or criteria will be used for the storm drainage system? **Response: The Town of Huntersville will require the 2 year, 10 year storm to be detained at the existing release rate. The 50 year storm will need to be designed to pass through the dam without erosion. Also, water quality measures are required (sand filter) to allow infiltration into the existing soil. The sand filter removes particles/pollutants from the parking lot. As an additional measure, the owner has agreed to exceed the requirements and enlarge the pond to detain the 25 year storm.**

-Can the pond be shifted slightly westward to give additional buffer. **Response: Yes, the owner has agreed to accommodate this request.**

-Can the owner add additional landscaping on the east side of the pond? **Response: Yes, the owner has agreed to provide additional screening.**

Other questions about traffic and drop off/pick up patterns were addressed by Jay Henson. Ms. Lineberger explained this was not like a regular school with a set start and end time. The drop offs are spread over a 2 ½ hour period and the same in the afternoon/evening. This type of system eliminates the drop off and stacking issues.

-Can the owner do something to help with cut through traffic? ***Response: The owner has agreed to mention this request at the parent meetings. In addition, the owner will provide handouts to parents as well as a sign on site to remind parents to limit access through the neighborhoods. It was also mentioned that the hope would be for some of the families in those neighborhoods to utilize the preschool.***

-Safety of the property also was considered for after hours and weekends. A gate to close the parking lot was suggested.

The meeting was adjourned at 8:00 pm .

OWNER LAST		OWNER FIRST	
TIETSORT INVESTMENTS LLLP I			
OWNER LAST		OWNER FIRST	
ACKER		KEVIN R	
AMH NC PROPERTIES LP			
BARNES		RODERICK	
BEHAN		JOSEPH P	
BELLUS		RICHARD J	
BHANDERI		HITESH S	
BRYAN		JOHN D	
C & E INVESTMENTS LLC			
COUSEN		ALLEN B	
ERSLK		DONNA J	
FASSIL		MARTHA T	
FENTON		BRYAN LEE	
FKH SFR PROPCO A LP			
FOX		ANGELA C	
FRAZIER		FREDA H	
GANIM		YASEIN	
HATCHER		GENE	
HINE		RACHEL	
HUNTER		SUSAN K	
KINCER		MARK ALLEN	
LAMBERT		THOMAS CRAVEN	
LE		HIEP PHUOC	
LOVE		KENNETH SR	
NERVI		AARON	
OATES		KENNETH A III	
PAWLOWSKA		DAGMARA KATARZYNA	
PERKINS		JOSHUA D	
PERNSTICH		ANDREA	
PINKSTON		RAYMOND MICHAEL	
PROGRESS RESIDENTIAL BORROWER 3 LLC			
REHAK		RICHARD D	
RUNYON		DOUGLAS J	
SANDERS		S	
SIFFORD		JAMES H	
SLAVIK		MICHAEL F	
STARNES		TIMOTHY R	
THOUSAND		JEFFREY	
TOMPKINS		MARCUS E	
TOWN OF HUNTERSVILLE			
OWNER LAST		OWNER FIRST	
CALDWELL STATION HOMEOWNERS ASSOCIATION INC		ASSOC INC	
CAMBRIDGE GROVE HOMEOWNERS		HOMEOWNERS ASSOCIATION IN	
HAMPTON AT NORTHCROSS		ASSOCIATION OF CHARLOTTE	
HAMPTON RIDGE HOMEOWNERS			

PROPERTY IN REZONING			
CO-OWNER FIRST	CO-OWNER LAST	MAILING ADDRESS	CITY
		9707 BLACK RD	MIDLAND

PROPERTIES WITHIN 250' OF REZONING

CO-OWNER FIRST	CO-OWNER LAST	MAILING ADDRESS	CITY
HEIDI	ACKER	10120 TRUITT CT	HUNTERSVILLE
		30601 AGOURA RD SUITE 200	AGOURA HILLS
MIA F	BARNES	10305 BERNICK WAY LN	HUNTERSVILLE
REBECCA	BEHAN	10214 GLENCREST DR	HUNTERSVILLE
ROSEANN M	BELLUS	16838 HAMPTON CROSSING DR	HUNTERSVILLE
DIPTI	BHANDERI	16634 SUTTERS RUN LN	HUNTERSVILLE
DAYNA G	BRYAN	16813 HAMPTON CROSSING DR	HUNTERSVILLE
		999 GREEN ST UNIT 1505	SAN FRANCISCO
MARLENE B	COUSEN	16820 HAMPTON CROSSING DR	HUNTERSVILLE
		10119 DREW CT	HUNTERSVILLE
		10121 TRUITT CT	HUNTERSVILLE
KATHERINE ANN	FENTON	16825 HAMPTON CROSSING DR	HUNTERSVILLE
	C/O FIRSTKEY HOMES LLC	1850 PARKWAY PL STE 900	MARIETTA
		10308 GLENCREST DR	HUNTERSVILLE
		16831 HAMPTON CROSSING DR	HUNTERSVILLE
YASMEEN	WAHDAN	16724 HAMPTON CROSSING DR	HUNTERSVILLE
AMY	HATCHER	16806 HAMPTON CROSSING DR	HUNTERSVILLE
JOHN GEORGE	DAHLSTRAND	16725 HAMPTON CROSSING DR	CORNELIUS
		16731 HAMPTON CROSSING DR	HUNTERSVILLE
ANN P	KINCER	16626 SUTTERS RUN LN	HUNTERSVILLE
	WANDA HUDSON	10332 SAM FURR RD	HUNTERSVILLE
		10315 BERNICK WAY LN	HUNTERSVILLE
CYNTHIA M	LOVE	16812 HAMPTON CROSSING DR	HUNTERSVILLE
		10116 TRUITT CT	HUNTERSVILLE
JESSICA	OATES	10222 GLENCREST DR	HUNTERSVILLE
		10206 GLENCREST DR	HUNTERSVILLE
SUSAN E	PERKINS	16819 HAMPTON CROSSING DR	HUNTERSVILLE
		10316 GLENCREST DR	HUNTERSVILLE
NATALIE	PINKSTON	16826 HAMPTON CROSSING DR	HUNTERSVILLE
		PO BOX 4090	SCOTTSDALE
		10230 GLENCREST DR	HUNTERSVILLE
TRACY L	RUNYON	16719 HAMPTON CROSSING DR	HUNTERSVILLE
B	SANDERS	16730 HAMPTON CROSSING DR	HUNTERSVILLE
EVANGELINE T	SIFFORD	10309 BERNICK WAY LN	HUNTERSVILLE
LISA R	SLAVIK	222 CLARK RD	PLYMOUTH
SHEILA L	STARNES	16801 HAMPTON CROSSING DR	HUNTERSVILLE
DONNA	THOUSAND	16807 HAMPTON CROSSING DR	HUNTERSVILLE
KENDALL C	TOMPKINS	10111 DREW CT	HUNTERSVILLE
		PO BOX 664	HUNTERSVILLE

HOUSING ASSOCIATIONS WITHIN 2,000' OF REZONING

CO-OWNER FIRST	CO-OWNER LAST	MAILING ADDRESS	CITY
		919 NORLAND RD	CHARLOTTE
	C/O P G DEVELOPMENT	10590 INDEPENDENCE POINTE PKWY	MATTHEWS
		PO BOX 1320	HUNTERSVILLE
		5250 77 CENTER DR STE 350	CHARLOTTE

STATE ZIPCODE	
NC	28107

STATE ZIPCODE	
NC	28078
CA	91301
NC	28078
NC	28078
NC	28078
NC	28078
NC	28078
CA	94133
NC	28078
NC	28078
NC	28078
NC	28078
GA	30067
NC	28078
NC	28078
NC	28078
NC	28078
NC	28078
NC	28078
NC	28078
NC	28078
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NC	28078
NC	28078
NC	28078
NC	28078
NC	28078
NC	28078
NC	28078
NC	28078
NC	28078
NC	28078
AZ	85261
NC	28078
NC	28078
NC	28078
NC	28078
MA	02360
NC	28078
NC	28078
NC	28078
NC	28078

STATE ZIPCODE	
NC	28203
NC	28105
NC	28070
NC	28217



PO BOX 664 | HUNTERSVILLE NORTH CAROLINA 28070

PUBLIC HEARING

Date: April 5, 2021
Time: 6:00 pm
Location: Huntersville Recreation Center 11836 Verhoeff Drive
(please view meeting agenda posted prior to meeting for current COVID-19 restrictions)

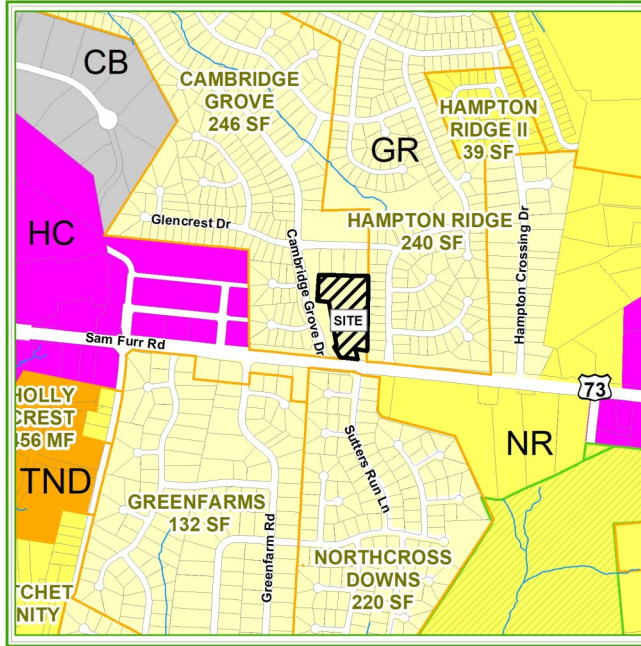
Applicant: The Montgomery Company, LLC
Project: R21-01 Huntersville Community Preschool/Daycare

Public Meeting Dates

Meeting Type	Purpose	Date & Time
Neighborhood Meeting	Informational	February 10, 2021
PUBLIC HEARING	Public Meeting	April 5, 2021 @ 6 pm
Planning Board	Recommendation	April 27, 2021 @ 6:30 pm
Town Board	Approval/Denial	May 17, 2021 @ 6 pm *

* Tentative—check www.huntersville.org for latest dates

PUBLIC NOTICE DATE APRIL 5, 2021 | R21-01 HUNTERSVILLE COMMUNITY PRESCHOOL/DAYCARE
NOTICE OF PUBLIC HEARING FOR REZONING REQUEST



Zoning Map Legend:

GR = General Residential Site = Location for rezoning
CB = Corporate Business NR = Neighborhood Residential
HC = Highway Commercial
TND = Traditional Neighborhood Development

An application has been submitted to rezone the 'Site' surrounded by Sam Furr Road and Cambridge Grove Drive.

CURRENT ZONING is General Residential (GR).

PROPOSED ZONING is Highway Commercial—Conditional District (HC-CD) to permit a day care center.

A public hearing will be held both in person at the Huntersville Recreation Center located at 11836 Verhoeff Drive Huntersville NC 28078, and virtually via livestream at <https://www.facebook.com/HuntersvilleNCTownGovernment>. The Board of Commissioners will participate remotely. The public is invited to attend and comment: 1) In person at the Huntersville Recreation Center, or 2) by email to the Clerk at jpiereson@huntersville.org (until 24 hours after the close of the public hearing).

The Town Clerk may be reached by email at jpiereson@huntersville.org or by phone at 708-766-2202. In person attendance will be limited in accordance with the state of emergency restrictions in place as of the date of this hearing.

FOR ADDITIONAL INFORMATION

Contact: Brad Priest, Principal Planner

Phone: 704-766-2214

Email: bpriest@huntersville.org

Online: www.huntersville.org - search: **R21-01**

THANK YOU for your legal submission!

Your legal has been submitted for publication. Below is a confirmation of your legal placement. You will also receive an email confirmation.

ORDER DETAILS**Order Number:****IPL0015886****Order Status:**

Submitted

Classification:

Legals & Public Notices

Package:

CLT - Legal Ads

Final Cost:

78.20

Payment Type:

Account Billed

User ID:

IPL0021908

PREVIEW FOR AD NUMBER IPL00158860**NOTICE OF PUBLIC HEARING**

The public is put on notice that the Town of Huntersville will hold a public hearing on Monday, April 5, 2021 on the following petition. This public hearing will be held virtually or in person at the Huntersville Recreation Center located at 11836 Verhoeff Drive Huntersville NC 28078. COVID-19 protocols will be in place for an in-person meeting, details regarding this will be available one week prior to the meeting, as published on the meeting agenda.

#R21-01, a conditional rezoning request by Tietsoort Investments LLLP I to rezone 10205 Sam Furr Road (Tax ID 00531101) from GR to HC-CD to develop a Day Care Center.

#TA21-04, a request by the Huntersville Board of Commissioners to amend Article 7.4.2 of the Huntersville Zoning Ordinance to establish an administrative staff review of tree mitigation applications.

The public is invited to attend the hearing and comment on the proposed changes. Substantial changes may occur to the request based on comments. For further information please contact the Planning Dept. at 704-875-7000, or go to www.huntersville.org.

W00000000

Publication Dates

[<< Click here to print a printer friendly version >>](#)

ACCOUNT INFORMATION

TOWN OF HUNTERSVILLE/ADMINISTRATOR IP
TOWN CLERK PO BOX 664
HUNTERSVILLE, NC 28078
704-875-6541
ccook@huntersville.org
TOWN OF HUNTERSVILLE/ADMINISTRATOR

TRANSACTION REPORT**Date**

11:06 AM - Mon, Mar 22, 2021

Amount:

78.20

SCHEDULE FOR AD NUMBER IPL00158860

Wed Mar 24, 2021
The Charlotte Observer
Wed Mar 31, 2021
The Charlotte Observer



General Application

INCOMPLETE SUBMISSIONS WILL NOT BE ACCEPTED. PLEASE CHECK ALL ITEMS CAREFULLY.

1. Application Type

Please indicate the type of application you are submitting. In addition to the application, the submission process for each application type can be found at <https://www.huntersville.org/528/Permits-Process>

- ☒ Change of Use
- ☐ Commercial Site Plan
- ☐ Conditional Rezoning
- ☐ General Rezoning
- ☐ Master Signage Program
- ☐ Special Use Permit
- ☐ Revision to
Original Project # _____
- ☐ Other _____

- SUBDIVISION CATEGORIES: Per the Huntersville Subdivision Ordinance
- ☐ Sketch Plan
 - ☐ Preliminary Plan
 - ☐ Final Plat (Includes Minor Subdivision)
 - ☐ Exempt Subdivision
 - ☐ Final Plat Revision
 - ☐ Farmhouse Cluster

2. Project Data

Date of Application 11/24/2020

Name of Project Sam Furr Daycare Phase # (if subdivision) _____

Project Address 10205 Sam Furr Rd, Huntersville NC 28078

Parcel Identification Number(s) (PIN) 00531101

Current Zoning District GR Proposed District (for rezoning only) HC-CD

Property Size (acres) 4.98 acres Street Frontage (feet) 146 feet

Current Land Use Single Family Residential

Proposed Land Use(s) Daycare Facility

Is the project within Huntersville's corporate limits?
Yes ☒ No ☐ If no, does the applicant intend to voluntarily annex? _____

3. Description of Request

Explain the nature of this request. If a separate sheet is necessary, please attach to this application.
We would like to rezone this property to development a Daycare Facility. This would include a 16,000 sf building, associated parking, and stormwater detention pond.

4. Site Plan Submittals

Consult the particular type of *Review Process* for the application type selected above. These can be found at <https://www.huntersville.org/528/Permits-Process>.

5. Outside Agency Information

Other agencies may have applications and fees associated with the land development process. The Review Process list includes plan documents needed for most town and county reviewing agencies. For major subdivisions, commercial site plans, and rezoning petitions please enclose a copy of the Charlotte-Mecklenburg Utility Willingness to Serve letter for the subject property.

6. Applicant

Printed Name The Montgomery Company, LLC Phone 803-743-6980
☐ Corporation ☒ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

☒ By signature below, I hereby acknowledge, as/on behalf of (circle one) the applicant my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable for Special Use Permits and Subdivisions)

Signature [Signature]
 Title Developer Email mattm@montgomery-co.com
 Address of Applicant 1919 Augusta Hwy, Lexington, SC 29071

7. Property Owner (if different than applicant)

*Printed Name TIESSORT INVESTMENTS LLC 1 Phone 704-622-3679
☐ Corporation ☒ Limited Liability Company ☐ Trust ☐ Partnership ☒ Other: LLP

☐ By signature below, I hereby acknowledge, as/on behalf of (circle one) the owner my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable for Special Use Permits and Subdivisions)

→ Signature [Signature] Printed Name DAVEN TIESSORT
 Title Owner Email DT1948@BELL SOUTH.NET
 Address of Property Owner 9707 BLACK ROAD, MIDLAND, NC 28107
 * Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this application MUST be accompanied by a notarized Limited Power of Attorney signed by the property owner (s), specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.

8. Development/Design Firm Contact Information

<u>THE MONTGOMERY COMPANY</u>	<u>Matt Montgomery</u>	<u>803-743-6980</u>	<u>MATTM@MONTGOMERY-CO.COM</u>
Development Firm	Name of Contact	Phone	Email
<u>Henson Foley Design</u>	<u>Jay Henson</u>	<u>704-8751615</u>	<u>jay@hensonfoley.com</u>
Design Firm	Name of Contact	Phone	Email

Contact Information

Town of Huntersville	Phone:	704-875-7000
Planning Department	Fax:	704-992-5528
PO Box 664	Physical Address:	105 Gilead Road, Third Floor
Huntersville, NC 28070	Website:	https://www.huntersville.org/228/Planning-Department



Adequate Public Facilities (APF) Application

Section I: Background Information

Unless otherwise exempt by the terms of the Adequate Public Facilities Ordinance (APFO), this APF Application shall be completed and approved prior to the submission of an application for any of the following "development proposals," which are defined by Section 13.3 of the Town Zoning Ordinance to include the following applications for development:

- apartment building or attached house site plans involving twenty (20) or more dwelling units
- subdivisions involving more than twenty (20) lots
- nonresidential developments or uses of 10,000 square feet or more of floor area or creating fifty (50) or more peak hour vehicle trips or 500 or more daily vehicle trips, whichever is less; and
- developments meeting any one of the thresholds above, which requires any one of the following
 - a special use permit
 - any overlay district for which a site specific development plan is required under the provisions of this ordinance
 - a conditional zoning district
 - a subdivision sketch plan or a preliminary plan when required by the subdivision ordinance
 - a final plat when no sketch plan or preliminary plan is required

Note: Please refer to Article 14, Zoning Ordinance, to determine whether a separate Traffic Impact Assessment is required to be submitted with an application for the Development Proposal.

Pursuant to Section 13.6.2, Zoning Ordinance, a Pre-Submittal Meeting with the Zoning Administrator is required prior to submitting this application form. However, it is recommended that the Applicant become familiar with the requirements of this Application and of Article 13, Zoning Ordinance, prior to the Pre-Submittal Meeting.

No application for a Development Proposal shall be accepted by the Town, until a Determination of Adequacy has been issued by the Zoning Administrator, pursuant to Article 13 of the Zoning Ordinance and other applicable Town Laws.

The APFO tests the capacity of three (3) Public Facilities to determine whether each is sufficient to absorb the impacts of the Development Proposal when it submitted. They are:

- Law Enforcement
- Parks and Recreation; and
- Fire Protection

To Be Completed By Town Planning Department Staff	
Date Received:	
Application Complete:	☐ Yes ☐ No
Received By:	

Section II: Development Project Information

Please provide the following information:

Name of Applicant:

Address of Applicant:

Name of Property Owner:

Address of Subject Property:

Zoning – Current:

Zoning – Proposed:

Applicant Phone Number(s):

Subject Property Parcel ID(s):

Number of Phases:

Total Area (Square Feet):

If this Development Proposal will be phased, please see Section III below.

Number of Phases Included in this APF Request:

Total Project Area Included in this APF Request:

Number of Phases Included in TIA Request (if applicable):

Total Project Area Included in TIA Request (if applicable):

Phases not included in initial calculations for APF and TIA will be subject to APF & TIA requirements prior to development of those phases

Has any property adjacent to or within 300 feet of the Subject Property been developed by the Applicant or Property Owner since November 20, 2007? If so, please describe the nature, extent, and timing of that development and its location.

N/A

Describe in detail the nature of the proposed land use. Please address such matters as whether goods or services are to be sold or provided, any special transportation characteristics, the use of all enclosed and unenclosed portions of the property, and the square footage to be allocated to each land use. Space has been provided for indicating the extent of each proposed new land use as well as for a narrative description. Please attach additional pages as needed.

Non-Residential Land Uses Proposed

Square Feet Gross Floor Area

Daycare Facility

16,000 sf

Residential Land Uses Proposed (Indicate Single/Multi-Family)

Number of New Dwelling Units

Section III: Phasing

If the Proposed Development is to be completed pursuant to a Phasing Schedule, please indicate when each phase is to be completed and the extent of development proposed for each use within each Phase. Describe when approvals are expected to be sought including preliminary subdivisions, site plans, rezonings, building permits, and certificates of occupancy. Attached additional pages if needed.

N/A

Section IV: Past of Proposed Public Facility Contributions

Please describe any past or proposed dedication, construction, or funding provided by the applicant or the property owner in order to address the impacts of the Proposed Development on Public Facility capacity. Please explain the nature and timing of such contributions and whether or to what extent they will mitigate the impacts of the Proposed Development on Public Facility Capacity.

If the applicant is proposing a Mitigation Plan, as described in Article 13, Zoning Ordinance, where capacity of one or more Public Facility is not otherwise adequate to support the demand resulting from a Proposed Development, please include a draft Mitigation Plan with this Application.

Applicant

Printed Name The Montgomery Company, LLC Phone 803-743-6980

☐ Corporation ☒ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature [Signature]

Title Developer Email mattm@montgomery-co.com

Address of Applicant 1919 Augusta Hwy, Lexington, SC 29072

Property Owner (if different than applicant)

Printed Name TIETSOFT INVESTMENTS LLC 1 Phone 704-622-3679

☐ Corporation ☒ Limited Liability Company ☐ Trust ☐ Partnership ☒ Other: LLC

Signature [Signature]

Title Owner Email DT1948@BELL-SOUTH.NET

Address of Property Owner 9707 BUCK ROAD, MIDLAND, NC 28107

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Brad Priest, Principal Planner

Date: April 5, 2021

Subject: Conduct public hearing on Petition #TA21-04, a request by the Huntersville Town Board to amend Article 7.4.2 F of the Huntersville Zoning Ordinance to create an administrative staff review for tree mitigation plans. (*Brad Priest*)

EXPLAIN REQUEST:

TA21-04 is a text amendment request made by the Huntersville Town Board to amend Article 7.4.2 F of the Huntersville Zoning Ordinance. The purpose of the amendment is to create an administrative staff review for tree mitigation plans.

ACTION RECOMMENDED:

Consider holding a public hearing for TA21-04 on April 5th, 2021.

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. TA21-04 - Tree Mitigation Process - PH Staff Report - 4 5 21
2. Draft Ordinance - 3 25 21
3. Legal Ad Confirmation
4. Text Amendment Application

TA 21-04 – Tree Mitigation Approval Process

PART 1: DESCRIPTION

TA21-04 is a text amendment request made by the Huntersville Town Board to amend Article 7.4.2 F of the Huntersville Zoning Ordinance. The purpose of the amendment is to create an administrative staff review for tree mitigation plans.

PART 2: BACKGROUND

On October 19th, 2020 the Town Board approved TA20-01, a text amendment that clarified and increased tree save mitigation requirements for specimen tree save. At the meeting the Town Board asked staff to discuss with the Huntersville Ordinance Advisory Board (HOAB) to consider with the newly amended text, whether or not it would be advisable to modify the ordinance to allow tree mitigation requests to be processed by staff rather than the Planning Board. On November 5th, 2020 the HOAB recommended that tree mitigation requests be administrative. On January 15th, 2021 the Town Board directed staff to draft language and start the text amendment process to make tree mitigation an administrative process.

PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN

- EOS 4.2: Regularly evaluate and revise tree mitigation options to further town goals. COMMENT: The proposed text amendment is an appropriate procedural complement to the specific tree save mitigation requirements approved in TA20-01. With objective standards for mitigation applications now clearly located in the ordinance, it eliminates the need for public board review.
- EV 1.4: Review development standards to support business growth. Support efforts to improve efficiency and responsiveness of development review process for development proposals. COMMENT: Removing the need to get on public board agendas, the proposed text amendment will save time and resources for applicants endeavoring to achieve land development plan approvals.

PART 4: STAFF RECOMMENDATION

Planning staff recommends approval of the proposed text amendment application. Please see the drafted text below and the proposed amendment ordinance included in the agenda packet. Removed language is struck out, new language is **bold underline**.

Article 7.4.2 F – Footnote #2

Where circumstances prevent locating the required tree plantings or preservation standards on site ~~and approval by the Planning Board is granted~~, the developer may mitigate protected tree canopy removal by planting new trees on the site whose canopy equals that of the canopy to be removed (new tree canopy credits are described above). If site conditions are not conducive for healthy tree replacement plant on site, the developer may contribute to a Tree Fund/Bank set up by the town for the planting and maintenance of such trees elsewhere in the community. A combination of planting and contribution in lieu of planting is acceptable. The amount of contribution is based on the total cost of the required mitigation trees plus that of

their installation. **Planning staff will be responsible for reviewing and approving all tree mitigation plans consistent with the mitigation standards of this section.**

PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD

The Huntersville Ordinances Advisory Board (HOAB) is scheduled to review the proposed text on April 1st, 2021. Staff will update the HOAB recommendation at the scheduled public hearing.

PART 6: PUBLIC HEARING

The Public Hearing is scheduled for April 5th, 2021.

PART 7: PLANNING BOARD RECOMMENDATION

The Planning Board is scheduled to consider this text amendment on April 27th, 2021.

PART 8: ATTACHMENTS AND ENCLOSURES

- Draft Language Ordinance
- Text Amendment Application

PART 9: STATEMENT OF CONSISTENCY – TA21-01

Planning Department	Planning Board	Board of Commissioners
APPROVAL: In considering the proposed amendment TA21-01, to amend Article 7.4.2 F to make tree save mitigation an administrative process, the Planning Staff recommends approval of the application based on the amendment being consistent with policies EOS 4.2 and EV 1.4 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it allows staff to efficiently and effectively review and enforce tree save standards without delaying the review process for businesses and developers.	APPROVAL: In considering the proposed amendment TA21-01, to amend Article 7.4.2 F to make tree save mitigation an administrative process, the Planning Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)	APPROVAL: In considering the proposed amendment TA21-01, to amend Article 7.4.2 F to make tree save mitigation an administrative process, the Town Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)
	DENIAL: In considering the proposed amendment TA21-01, to amend Article 7.4.2 F to make tree save mitigation an administrative process, the Planning Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>. It is not reasonable and in the public interest to amend the Zoning Ordinance because....(Explain)	DENIAL: In considering the proposed amendment TA21-01, to amend Article 7.4.2 F to make tree save mitigation an administrative process, the Town Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>. It is not reasonable and in the public interest to amend the Zoning Ordinance because....(Explain)

**AN ORDINANCE TO AMEND ARTICLE 7.4.2 OF THE ZONING ORDINANCE TO MAKE TREE SAVE
MITIGATION AN ADMINISTRATIVE PROCESS**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 7.4.2 (F) footnote [2] of the **Zoning Ordinance** is hereby amended as follows:

- Where circumstances prevent locating the required tree plantings or preservation standards on site ~~and approval by the Planning Board is granted~~, the developer may mitigate protected tree canopy removal by planting new trees on the site whose canopy equals that of the canopy to be removed (new tree canopy credits are described above). If site conditions are not conducive for healthy tree replacement plant on site, the developer may contribute to a Tree Fund/Bank set up by the town for the planting and maintenance of such trees elsewhere in the community. A combination of planting and contribution in lieu of planting is acceptable. The amount of contribution is based on the total cost of the required mitigation trees plus that of their installation. **Planning staff will be responsible for reviewing and approving all tree mitigation plans consistent with the mitigation standards of this section.**

Section 2. That this ordinance shall become effective May 17, 2021.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: April 1, 2021

PUBLIC HEARING DATE: April 5, 2021

PLANNING BOARD MEETING: April 27, 2021

TOWN BOARD DECISION: May 17, 2021

THANK YOU for your legal submission!

Your legal has been submitted for publication. Below is a confirmation of your legal placement. You will also receive an email confirmation.

ORDER DETAILS**Order Number:****IPL0015886****Order Status:**

Submitted

Classification:

Legals & Public Notices

Package:

CLT - Legal Ads

Final Cost:

78.20

Payment Type:

Account Billed

User ID:

IPL0021908

PREVIEW FOR AD NUMBER IPL00158860**NOTICE OF PUBLIC HEARING**

The public is put on notice that the Town of Huntersville will hold a public hearing on Monday, April 5, 2021 on the following petition. This public hearing will be held virtually or in person at the Huntersville Recreation Center located at 11836 Verhoeff Drive Huntersville NC 28078. COVID-19 protocols will be in place for an in-person meeting, details regarding this will be available one week prior to the meeting, as published on the meeting agenda.

#R21-01, a conditional rezoning request by Tietsoort Investments LLLP I to rezone 10205 Sam Furr Road (Tax ID 00531101) from GR to HC-CD to develop a Day Care Center.

#TA21-04, a request by the Huntersville Board of Commissioners to amend Article 7.4.2 of the Huntersville Zoning Ordinance to establish an administrative staff review of tree mitigation applications.

The public is invited to attend the hearing and comment on the proposed changes. Substantial changes may occur to the request based on comments. For further information please contact the Planning Dept. at 704-875-7000, or go to www.huntersville.org.

W00000000

Publication Dates

[<< Click here to print a printer friendly version >>](#)

ACCOUNT INFORMATION

TOWN OF HUNTERSVILLE/ADMINISTRATOR IP
TOWN CLERK PO BOX 664
HUNTERSVILLE, NC 28078
704-875-6541
ccook@huntersville.org
TOWN OF HUNTERSVILLE/ADMINISTRATOR

TRANSACTION REPORT**Date**

11:06 AM - Mon, Mar 22, 2021

Amount:

78.20

SCHEDULE FOR AD NUMBER IPL00158860

Wed Mar 24, 2021
The Charlotte Observer
Wed Mar 31, 2021
The Charlotte Observer



Text Amendment Application

Date of Application 2/1/21

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

☐ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

☒ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Article 7.4.2 (F) Footnote #2 Article(s): _____ Section(s): _____

See attached Ordinance Exhibit

Current Ordinance

See attached Ordinance Exhibit

Proposed Text

Reason for Proposed Change

Purpose of the amendment is to change tree mitigation from a Planning Board approval process to a staff/administrative process.

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Applicant

Printed Name Huntersville Board of Commissioners

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature Bradley D. Priest Date 2/1/21

Title Principal Planner

Email bpriest@huntersville.org

Address of Applicant 105 Gilead Road – Third Floor. PO Box 664 Huntersville, NC 28070

Property Owner (if different than applicant)

* Printed Name N/A

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____ Date _____

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

Contact Information

**Town of Huntersville
Planning Department**
PO Box 664
Huntersville, NC 28070

Phone: 704-875-7000
Fax: 704-875-6546
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: 2/1/21

Staff Initials: BP

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Kevin Fox, Director

Date: April 5, 2021

Subject: Conduct public hearing on the modification to system cost components of the Storm Water Service Charge and proposed increases to the minor system component of the Storm Water Service Charge to be levied within Huntersville. *(Kevin Fox)*

EXPLAIN REQUEST:

In order to meet the challenges of increased costs associated with Storm Water Management and to provide greater investment into the environment through project delivery, we recommend a modification to system cost components of the Storm Water Service Charge, and an increase to the minor system component of the storm water service charge to be levied on properties within the Town.

ACTION RECOMMENDED:

FINANCIAL IMPLICATIONS:

Stormwater Fund

ATTACHMENTS:

1. Stormwater Current Fees
2. New Fees
3. FeeComparisonCounty

Stormwater Fees

- Four Residential Tiers – Impervious area
 - Tier I - 0 to 1999 sq. ft.
 - Tier II - 2000 to 2999 sq. ft.
 - Tier III - 3000 to 4999 sq. ft.
 - Tier IV - 5,000 or more
- Huntersville Rates
 - Tier I - \$3.14 per month - (\$1.42 Town Portion)
 - Tier II - \$4.27 per month
 - Tier III - \$4.80 per month
 - Tier IV - \$6.03 per month } (\$2.12 Town Portion)
 - Commercial - \$56.29 per month per acre
- Huntersville SW Revenues = \$840,000 +/-



Stormwater Fees

- Propose to charge uniform fee per Square foot of impervious area
- Current fee is between 8.4 and 3.1 hundredths of a cent per sq. ft.
- Propose to increase fee to 9 hundredths of a cent per sq. ft.
- Results: Increases Revenue by approx. \$250k/year
- Tier I – 0-1999 sq ft of impervious – Increase bill by \$0.10/month
- Tier II – 2000-2999 sq ft of impervious – Increase bill by \$0.09/month
- Tier III – 3000-4999 sq ft of impervious – Increase bill by \$1.19/month
- Tier IV – 5000+ sq ft of impervious – Increase bill by \$4.00/month



Comparison of FY21 Storm Water Fees Across Mecklenburg County

Tier	Amount of Impervious Surface Area	<i>county fee + municipal fee + billing processing fee*</i>	<i>Monthly Total Fee</i>	<i>Change from FY20</i>
<i>City of Charlotte</i>				
Tier I:	Up to 1,999 sq. ft.	77¢ + \$5.85 + 95¢	\$7.57	No Change
Tier II:	2,000 to 2,999 sq. ft.	\$1.20 + \$8.62 + 95¢	\$10.77	No Change
Tier III:	3,000 to 4,999 sq. ft.	\$1.73 + \$12.76 + 95¢	\$15.44	No Change
Tier IV:	5,000 sq. ft. or more	\$2.96 + \$21.11 + 95¢	\$25.02	No Change
	All Others (Per Acre)	\$20.00 + \$152.35 + 95¢	\$173.30	No Change
<i>Town of Cornelius</i>				
Tier I	Up to 1,999 sq. ft.	77¢ + \$1.42 + 95¢	\$3.14	No Change
Tier II	2,000 to 2,999 sq. ft.	\$1.20 + \$2.12 + 95¢	\$4.27	No Change
Tier II	3,000 to 4,999 sq. ft.	\$1.73 + \$2.12 + 95¢	\$4.80	No Change
Tier IV	5,000 sq. ft. or more	\$2.96 + \$2.12 + 95¢	\$6.03	No Change
	All Others (Per Acre)	\$20.00 + \$35.34 + 95¢	\$56.29	No Change
<i>Town of Davidson (Most residential customers invoiced semiannually but shown as monthly fee for comparison.)</i>				
Tier I	Up to 1,999 sq. ft.	77¢ + \$1.76 + 95¢	\$3.48	No Change
Tier II	2,000 to 2,999 sq. ft.	\$1.20 + \$2.61 + 95¢	\$4.76	No Change
Tier III	3,000 to 4,999 sq. ft.	\$1.73 + \$3.71 + 95¢	\$6.39	No Change
Tier IV	5,000 sq. ft. or more	\$2.96 + \$7.32 + 95¢	\$11.23	No Change
	All Others (Per Acre)	\$20.00 + \$43.50 + 95¢	\$64.45	No Change
<i>Town of Huntersville</i>				
Tier I	Up to 1,999 sq. ft.	77¢ + \$1.42 + 95¢	\$3.14	No Change
Tier II	2,000 to 2,999 sq. ft.	\$1.20 + \$2.12 + 95¢	\$4.27	No Change
Tier III	3,000 to 4,999 sq. ft.	\$1.73 + \$2.12 + 95¢	\$4.80	No Change
Tier IV	5,000 sq. ft. or more	\$2.96 + \$2.12 + 95¢	\$6.03	No Change
	All Others (Per Acre)	\$20.00 + \$35.34 + 95¢	\$56.29	No Change

Tier	Amount of Impervious Surface Area	<i>county fee + municipal fee + billing processing fee*</i>	<i>Monthly Total Fee</i>	<i>Change from FY20</i>
<i>Town of Matthews</i>				
Tier I	Up to 1,999 sq. ft.	77¢ + \$1.67 + 95¢	\$3.39	No Change
Tier II	2,000 to 2,999 sq. ft.	\$1.20 + \$2.58 + 95¢	\$4.73	No Change
Tier III	3,000 to 4,999 sq. ft.	\$1.73 + \$3.64 + 95¢	\$6.32	No Change
Tier IV	5,000 sq. ft. or more	\$2.96 + \$5.98 + 95¢	\$9.89	No Change
	All Others (Per Acre)	\$20.00 + \$43.56 + 95¢	\$64.51	No Change
<i>Town of Mint Hill</i>				
Tier I	Up to 1,999 sq. ft.	77¢ + \$1.42 + 95¢	\$3.14	No Change
Tier II	2,000 to 2,999 sq. ft.	\$1.20 + \$2.12 + 95¢	\$4.27	No Change
Tier III	3,000 to 4,999 sq. ft.	\$1.73 + \$2.12 + 95¢	\$4.80	No Change
Tier IV	5,000 sq. ft. or more	\$2.96 + \$2.12 + 95¢	\$6.03	No Change
	All Others (Per Acre)	\$20.00 + \$35.34 + 95¢	\$56.29	No Change
<i>Town of Pineville</i>				
Tier I	Up to 1,999 sq. ft.	77¢ + \$1.41 + 95¢	\$3.13	No Change
Tier II	2,000 to 2,999 sq. ft.	\$1.20 + \$2.04 + 95¢	\$4.19	No Change
Tier III	3,000 to 4,999 sq. ft.	\$1.73 + \$2.91 + 95¢	\$5.59	No Change
Tier IV	5,000 sq. ft. or more	\$2.96 + \$5.32 + 95¢	\$9.23	No Change
	All Others (Per Acre)	\$20.00 + \$37.46 + 95¢	\$58.41	No Change
<i>Unincorporated Mecklenburg County (Some accounts are invoiced semiannually but shown as monthly fee for comparison.)</i>				
Tier I	Up to 1,999 sq. ft.	77¢ + \$1.17 + 95¢	\$2.89	No Change
Tier II	2,000 to 2,999 sq. ft.	\$1.20 + \$1.74 + 95¢	\$3.89	No Change
Tier III	3,000 to 4,999 sq. ft.	\$1.73 + 2.47 + 95¢	\$5.15	No Change
Tier IV	5,000 sq. ft. or more	\$2.96 + \$4.88 + 95¢	\$8.79	No Change
	All Others (Per Acre)	\$20.00 + 29.00 + 95¢	\$49.95	No Change

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Kevin Fox, Director

Date: April 5, 2021

Subject: Consider adopting Resolution authorizing modification to system cost components of the Storm Water Service Charge to be levied in Huntersville. *(Kevin Fox)*

EXPLAIN REQUEST:

In order to meet the challenges of increased costs associated with Stormwater management and to provide greater investment into the environment through project deliver, we recommend a modification to system cost components of the stormwater service charge, and an increase to the minor system component of the storm water service charge to be levied on properties within the Town.

ACTION RECOMMENDED:

Adopt Resolution

FINANCIAL IMPLICATIONS:

Stormwater Fund

ATTACHMENTS:

1. Resolution-4.5.2021 Stormwater Fee EAS



**RESOLUTION OF THE TOWN OF HUNTERSVILLE AUTHORIZING MODIFICATION TO SYSTEM
COST COMPONENTS OF THE STORMWATER SERVICE CHARGES TO BE LEVIED IN
HUNTERSVILLE**

WHEREAS, on May 17, 1993, the Mecklenburg County Board of Commissioners adopted the “Mecklenburg County Storm Water Management Plan,” which set forth guiding principles and a financial plan for the operation of the comprehensive storm water management program in Mecklenburg County (the “Plan”); and

WHEREAS, the Plan requires the use of a rate structure based on impervious area and a base charge for fixed and administrative costs sufficient to cover such costs; and

WHEREAS, on July 1, 2002, Mecklenburg County and the Town of Huntersville (the “Town”) entered into an “AMENDED AND RESTATED STORM WATER MANAGEMENT PROGRAM INTERLOCAL AGREEMENT” (hereinafter the “Agreement”) to address the operation and maintenance of the storm water drainage system within the incorporated limits of the Town; and

WHEREAS, on April 5, 2021, the Town of Huntersville Board of Commissioners held a public hearing on proposed increases to the minor system component of the storm water service charges to be levied on properties within the Town; and

NOW THEREFORE, BE IT RESOLVED BY THE TOWN OF HUNTERSVILLE BOARD OF COMMISSIONERS AS FOLLOWS:

1. The minor system component of the storm water service charge to be levied on properties subject to the service charge within the incorporated limits of the Town is modified to include the following rates beginning on July 1, 2021:
 - \$ 1.52 per month for single family residences with less than 2,000 square feet of impervious area (Tier I)
 - \$ 2.21 per month for single family residences with 2,000 to 2,999 square feet of impervious area (Tier II)
 - \$ 3.31 per month for single family residences with 3,000 to 4,999 square feet of impervious area (Tier III)
 - \$ 6.12 per month for single family residences with 5,000 or more square feet of impervious area (Tier IV)
 - \$ 39.20 per month for each acre of impervious surfaces for all other residential or non-residential land, and a pro rata share of each portion thereof.

2. The Board hereby authorizes the Town Manager, acting on advice of counsel, to take any actions necessary to effectuate the provisions of this Resolution, including notifying Mecklenburg County of the modifications contained in this Resolution.
3. This Resolution shall be effective as of the date it is adopted.

Adopted this 5th day of April, 2021.

ATTEST:

TOWN OF HUNTERSVILLE

Town Clerk

Town Mayor

APPROVED AS TO FORM:

Town Attorney

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: David Hill, Principal Planner

Date: April 5, 2021

Subject: Consider decision on Petition #TA21-02, a request to consider the repeal of Chapter 13 of the Town Zoning Ordinance, the Adequate Public Facilities Ordinance (APFO), and related references contained in the Zoning and Subdivision Ordinances. *(Dave Hill)*

EXPLAIN REQUEST:

Proposed adoption of Text Amendment TA21-02, repealing the APFO and related references.

ACTION RECOMMENDED:

Adoption of TA21-02, repealing Article 13 and amending Article 11 of the Zoning Ordinance and amending Section 6 of the Subdivision Ordinance.

FINANCIAL IMPLICATIONS:

Adoption of TA21-02 may result in a cost savings with regard to Town staff resources.

ATTACHMENTS:

1. TA 21-02 BOC 04-05-2021 Staff Analysis
2. Attachment A - APFO Text Amendment Application 01-25-2021
3. Attachment B - APFO Repeal and Zoning Text Amendment
4. Attachment C - APFO Subdivision Ordinance Amendment

TA21-02 Repeal of the Adequate Public Facilities Ordinance and Related References

PART 1: DESCRIPTION

TA21-02 is a text amendment repealing the Adequate Public Facilities Ordinance (APFO) and related references. Two ordinances are proposed to accomplish this: (1) repeal of Article 13 and amendment of Article 11 of the Zoning Ordinance; and (2) amendment of Section 6 of the Subdivision Ordinance. Approval of TA21-02 is recommended by Planning staff, was prepared at the direction of the Planning Board, and was recommended for approval by the Ordinance Advisory Board.

PART 2: BACKGROUND

The purpose of the APFO is to prevent the approval of development proposals if the service capacity of the Town's Police, Fire, or Parks & Recreation departments fall below certain capacity levels and to provide a capital facilities planning tool. When a new development application is submitted to the Planning Department, the proposed project is subject to approval of a 'Determination of Adequacy' that calculates the impact of additional households or floor space on Level of Service standards established on a Town-wide basis.

At the time of adoption (2007), the APFO served a useful purpose. The Town's population had grown from about 25,000 to about 38,000 between 2000 and 2006, and with projections showing continuing rapid growth, the addition of a tool to address potentially overwhelming service demand made sense. However, Huntersville has consistently improved capital capacity of Police, Fire, and Parks & Recreation services, and these departments have improved the efficiency and effectiveness of their operations.

Specific reasons the APFO should be repealed include:

1. The Level of Service (LOS) standards contained in the ordinance are intentionally set as minimum thresholds meant to delay or deny a development application should extreme service capacity problems arise. The fact that this "stopgap" measure has never been triggered in the 13 years since the APFO was adopted indicates that the Town has responded favorably to service demands, even in the face of rapid growth.
2. The database required for administration of the APFO is cumbersome and expensive to maintain. On two occasions (2009 and 2010), the Town hired consultants to update APFO data. Planning staff will continue to maintain a detailed development database even if the APFO is repealed, but related tasks will be less complicated and more useful for departments that use the data.
3. Huntersville Police, Fire, and Parks & Recreation staff representatives provided input regarding the impact of the APFO on their capital facilities planning and budgeting. None of the affected departments rely on the APFO as guide to plan service programs or related budget proposals. Instead, they use professionally accredited programs, comparable city studies, citizen surveys, and frequent review sessions (including budget review) with the Town Board to determine appropriate capital improvements and service levels.
4. The APFO sets minimum LOS thresholds tied to 6 capital facility standards with the specific intent to deny or delay development proposals. This is a simplistic system that doesn't allow discretion, nor does it recognize the complexities of service delivery for the affected departments. For example, the Police Department responds to far more service calls for the Walmart Superstore than it does for any other retail business (or combination of businesses) with the same amount of floor space.
5. The Town Manager and Board of Commissioners employ a budget review and adoption process that allows better flexibility and more comprehensive treatment of public facilities than does the APFO.

The Ordinance Advisory Board asked for more detailed information about how affected departments plan for capital facilities in the absence of the APFO. Police, Fire, and Parks & Recreation representatives provided the following input:

- None of them use the APFO LOS thresholds to determine service delivery needs.
- They employ other professionally accepted service delivery standards
- All of them spend considerable time with elected officials and citizens to discuss improvement priorities and long-term budget strategies.
- The Police Department is accredited through CALEA (Commission on Accreditation for Law Enforcement Agencies) and complies with over 400 law enforcement standards.
- The Fire Department follows the National Fire Protection Association Handbook, the National Fire Protection Association Standards, and Office of the North Carolina Fire Marshal's Office requirements.
- The Huntersville 2030 Comprehensive Parks, Recreation + Open Space Master Plan (adopted 09/21/2020) contains a specific chapter devoted to Levels of Service + Benchmarking (Pages 101-113) and contains a Capital Improvement Plan (pages 131-133).

APFO Review Process To-Date

- Feb 2019** The Huntersville Planning Board requested an examination of the calculations, methodology and requirements for the Adequate Public Facility Ordinance.
- April 2019** The Town Board Commissioners approved the Planning Board's request.
- May 2019** Three Planning Board members met with Town Planning staff to discuss how the APFO examination would be performed.
- Jan 2020** The Planning Board received a detailed APFO presentation and reviewed comments from affected departments. Staff recommended rescission of the APFO.
- May 2020** The Planning Board recommended starting the process to rescind the APFO, including all references to the APFO in any Town-related regulations.
- Nov 2020** The Ordinance Advisory Board reviewed basic APFO requirements and functions, and discussed the pros and cons of the ordinance.
- Jan 2021** The Ordinance Advisory Board recommended rescission of the APFO and related references, and requested additional explanation of how the Town will account for public facilities in the future.
- Mar 2021** The Planning Board recommended adoption of Text Amendment TA21-02 during its March 23, 2021 Regular Meeting.

PART 3: HUNTERSVILLE 2040 COMMUNITY PLAN CONSISTENCY

The following are examples of relevant polices from the 2040 Huntersville Community Plan that may be incorporated into the Board's statement of consistency for approval or denial of the request. The Infrastructure and Public Services Policy Recommendations are proactive and more comprehensive than the services addressed in the APFO.

Adequate Public Facilities statement (Page 90)

Setting benchmarks and monitoring performance can help maintain and communicate the achievements and service levels of public infrastructure access and service provision. Respondents to surveys for this plan indicated that excellent public services were valued. Interdepartmental coordination, including outside public service providers (water, sewer, electric, etc.), is important so that new development does not stretch existing budgets and resources beyond levels acceptable to the public. A coordinated approach can identify metrics to monitor that serve as indicators for maintaining high-quality facilities and services.

Policy PS-1: Work with partners to provide and maintain public facilities required to offer residents and property owners with quality municipal services, consistent with progressive government practices and sound fiscal policy.

Policy PS-3: Coordinate with police and fire departments to ensure adequate resources to provide public safety services to desired development.

Policy PS-4: Plan for long-term personnel, facility, and equipment needs of the Fire Department.

Policy PS-8: Provide public services to new development in a fiscally responsible manner.

Policy EOS 8.1: Implement the 2030 Comprehensive Parks, Recreation & Open Space Master Plan.

Policy EOS-10: Improve bicycle and pedestrian facilities throughout Town.

PART 4: STAFF RECOMMENDATION

Staff recommends:

- Adoption of the two draft ordinances prepared for Text Amendment TA21-02:
 - An Ordinance repealing Article 13 and amending Article 11 of the Huntersville Zoning Ordinance; and
 - An Ordinance to amend Section 6 of the Huntersville Subdivision Ordinance.

The draft ordinances make changes to the same Town development regulations affected by the original 2007 APFO ordinance.

PART 5: PUBLIC HEARING

The Public Hearing took place March 1, 2021. No public comments were offered.

PART 6: PLANNING BOARD RECOMMENDATION

The Planning Board considered Text Amendment TA21-02 on March 23, 2020. The Board made the recommendation to adopt TA21-02 by unanimous vote, 9-0.

PART 7: ATTACHMENTS

Attachment A: Text Amendment Application

Attachment B: Proposed Zoning Ordinance Repeal & Amendment

Attachment C: Proposed Subdivision Ordinance Amendment

PART 8: CONSISTENCY STATEMENTS

Planning Department	Planning Board	Board of Commissioners
APPROVAL: In considering the proposed Text Amendment TA21-02, repealing Article 13 and amending Article 11 of the Zoning Ordinance and amending Section 6 of the Subdivision Ordinance, Planning staff finds the repeal and amendment of the above referenced articles and sections consistent with Policies PS-1, PS-3, PS-4, PS-8, EOS 8.1, and EOS-10. It is reasonable and in the public interest to approve Text Amendment 21-02 because the Town has, over time, established procedures to address capital facility needs that are more comprehensive and detailed than the Level of Service measures contained in the Adequate Public Facilities Ordinance.	APPROVAL: In considering the proposed Text Amendment TA 21-02, repealing Article 13 and amending Article 11 of the Zoning Ordinance and amending Section 6 of the Subdivision Ordinance, the Planning Board recommends approval based on the amendment being consistent with 2040 Plan Policies PS-1, PS-3, PS-4, PS-8, EOS 8.1, and EOS-10. It is reasonable and in the public interest to approve TA 21-02 because the Town's needs for adequate public facilities are met through other governmental/budgetary processes, so the APFO is redundant and an unnecessary burden on limited resources.	APPROVAL: In considering the proposed Text Amendment TA21-02, repealing Article 13 and amending Article 11 of the Zoning Ordinance and amending Section 6 of the Subdivision Ordinance, the Planning Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> It is reasonable and in the public interest to approve Text Amendment TA21-02 because...(Explain)
DENIAL: N/A.	DENIAL: N/A.	DENIAL: In considering the proposed Text Amendment TA21-02, repealing Article 13 and amending Article 11 of the Zoning Ordinance and amending Section 6 of the Subdivision Ordinance, the Planning Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>. It is not reasonable and in the public interest to amend the Zoning Ordinance because....(Explain)



Text Amendment Application

Date of Application January 25, 2021

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

 New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

 X Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Subdivision Ord. Article(s): Section(s): 6

Zoning Ordinance - Articles 11.6 and 13

Current Ordinance

A proposed resolution is attached that provides specific language that will amend Huntersville Subdivision and Zoning Ordinances.

Proposed Text

The intent is to rescind the Adequate Public Facilities Ordinance (APFO) and related references.

Reason for Proposed Change

The Huntersville Planning Board and Ordinance Advisory Board have reviewed background information provided by Town staff regarding APFO rescission.

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Applicant

Printed Name Dave Hill

☐ Corporation

☐ Limited Liability Company

☐ Trust

☐ Partnership

☒ Other: Town of Huntersville

Signature _____ Date January 25, 2021

Title Sr. Planner Email dhill@huntersville.org

Address of Applicant Town Center, 3rd Floor, Huntersville, NC

Property Owner (if different than applicant)

* Printed Name N/A

☐ Corporation

☐ Limited Liability Company

☐ Trust

☐ Partnership

☐ Other: _____

Signature _____ Date _____

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.

Contact Information

Town of Huntersville
Planning Department
PO Box 664
Huntersville, NC 28070

Phone: 704-875-7000
Fax: 704-875-6546
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: _____

Staff Initials: _____

AN ORDINANCE AMENDING SECTION 6 OF THE SUBDIVISION ORDINANCE AND ARTICLES 11 AND 13 OF THE ZONING ORDINANCE

BE IT ORDAINED by the Town Board of Huntersville, North Carolina, as follows:

SECTION 1: Section 6.200(19) of the Huntersville Subdivision Ordinance shall be amended to read as follows:

19. Impact of Development on Public Facilities

When reviewing certain subdivisions, the town shall consider the impacts the proposed development will have on public facilities in light of the requirements of Section 6.300(13) and ~~Article 13 and~~ Article 14 of the Town Zoning Ordinance, as applicable. The developer shall demonstrate the proposed subdivision does not adversely affect the health, safety and welfare of the community, and where applicable, the developer may provide mitigation measures to minimize adverse impacts. Examples of mitigation measures include altering development layout and plans, providing improvements at nearby intersections to address impacts of that development (not existing deficiencies), and providing street connections to adjoining property for safe and efficient movement of traffic, as further provided in Section 6.300(13) and Articles ~~13 and~~ 14 of the Zoning Ordinance.

SECTION 2: Section 6.300(13) of the Huntersville Subdivision Ordinance shall be amended to read as follows:

13. ~~Adequate Public Facilities Applications;~~ Traffic Impact Assessments; Physical Analysis.
 1. ~~an Adequate Public Facilities Application for certain subdivisions, as required under Article 13 of the Town Zoning Ordinance, which is hereby incorporated by this reference;~~
 2. a Traffic Impact Assessment for certain subdivisions, as required by Article 14 of the Town Zoning Ordinance, which is hereby incorporated by this reference.
 3. for developments of twenty (20) or more residential units or equivalent traffic generation a Physical Analysis (type of units expected including number of bedrooms, projected values, size and timing of phases, etc.).

SECTION 3: Section 6.850 of the Huntersville Subdivision Ordinance shall be amended to read as follows:

6.850 ~~ADEQUATE PUBLIC FACILITIES AND~~ TRAFFIC IMPACT ASSESSMENTS

Where required, an ~~Adequate Public Facilities Application and~~ Traffic Impact Assessment shall be provided by the applicant, in accordance with Articles ~~13 and~~ 14 of the Town Zoning Ordinance, which are incorporated by this reference.

SECTION 4: Article 11.6 of the Huntersville Zoning Ordinance shall be amended to read as follows:

11.6 Zoning Compliance

.1 Zoning Compliance

- a) A completed application form for a Zoning Permit shall be submitted by filing a copy of the application in the office of the appropriate Zoning Administrator.
- b) The Administrator shall approve the Zoning Permit unless he finds, after reviewing the application and consulting with the applicant that:
 - 1) the requested Permit is not within his jurisdiction according to the Permitted Uses; or,
 - 2) the application is incomplete; or,
 - 3) if completed as proposed in the application, the development will not comply with one (1) or more requirements of this Ordinance (not including those requirements for which a variance has been granted); or
 - 4) if required under Article 13, no Determination of Adequacy has been issued by the Zoning Administrator; or
 - 5) if required under Article 14, no Traffic Impact Assessment has been approved by the Town.

.2 Site Plans; Adequate Public Facilities; and Traffic Impact Assessment

- a) Site plans shall be required from applicants prior to issuance of any Permit (building, zoning, special use permit, variance) if deemed necessary by the Zoning Administrator to determine zoning compliance. If required by Articles 13 or 14, an Adequate Public Facilities Determination of Adequacy and Traffic Impact Assessment shall be submitted with the residential or nonresidential site plan.

SECTION 5: The Huntersville Zoning Ordinance shall be amended to delete Article 13 in its entirety.

SECTION 6: Conflict

In the event of any conflict between the provisions of this Ordinance and any other provision, law, ordinance, or regulation of the Town, the more restrictive provision shall apply.

SECTION 7. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decisions of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 8. Effective Date.

This Ordinance shall become effective upon the date of adoption.

PLANNING BOARD MOTION: Recommended starting the process to rescind the APFO, 9-0.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: Recommended rescission of the APFO and related references on January 7, 2021, 8-0.

PUBLIC HEARING DATE: March 1, 2021

PLANNING BOARD MEETING: March 23, 2021

TOWN BOARD DECISION: April 19, 2021

AN ORDINANCE REPEALING ARTICLE 13 AND AMENDING ARTICLE 11 OF THE HUNTERSVILLE ZONING ORDINANCE

BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Article 13 of the Huntersville Zoning Ordinance is repealed, and Article 11 of the Huntersville Zoning Ordinance is amended as follows:

Section 1. Article 13 of the Zoning Ordinance entitled “Adequate Public Facilities Ordinance (APF)” is repealed in its entirety.

Section 2. Section 11.6 of the Huntersville Zoning Ordinance shall be amended to read as follows:

11.6 Zoning Compliance

.1 Zoning Compliance

- a) A completed application form for a Zoning Permit shall be submitted by filing a copy of the application in the office of the appropriate Zoning Administrator.
- b) The Administrator shall approve the Zoning Permit unless he finds, after reviewing the application and consulting with the applicant that:
 - 1) the requested Permit is not within his jurisdiction according to the Permitted Uses; or,
 - 2) the application is incomplete; or,
 - 3) if completed as proposed in the application, the development will not comply with one (1) or more requirements of this Ordinance (not including those requirements for which a variance has been granted); or
 - 4) ~~if required under Article 13, no Determination of Adequacy has been issued by the Zoning Administrator; or~~
 - 5) 4) if required under Article 14, no Traffic Impact Assessment has been approved by the Town.

.2 Site Plans; Adequate Public Facilities; and Traffic Impact Assessment

- a) Site plans shall be required from applicants prior to issuance of any Permit (building, zoning, special use permit, variance) if deemed necessary by the Zoning Administrator to determine zoning compliance. If required by Articles ~~13 or 14, an Adequate Public Facilities Determination of Adequacy and~~ Traffic Impact Assessment shall be submitted with the residential or nonresidential site plan.

Section 3. Effective Date.

This Ordinance shall become effective upon the date of adoption.

PLANNING BOARD: Recommended starting the process to repeal the APFO on 5/26/2020, 9-0.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: Recommended APFO repeal on 1/7/2021, 8-0.

PUBLIC HEARING DATE: March 1, 2021

PLANNING BOARD MEETING: March 23, 2021

TOWN BOARD DECISION: April 5, 2021

AN ORDINANCE TO AMEND SECTION 6 OF THE HUNTERSVILLE SUBDIVISION ORDINANCE

BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 6 of the Subdivision Ordinance is hereby amended as follows:

Section 1. Section 6.200(19) shall be amended to read as follows:

19. Impact of Development on Public Facilities

When reviewing certain subdivisions, the town shall consider the impacts the proposed development will have on public facilities in light of the requirements of Section 6.300(13) and ~~Article 13 and~~ Article 14 of the Town Zoning Ordinance, as applicable. The developer shall demonstrate the proposed subdivision does not adversely affect the health, safety and welfare of the community, and where applicable, the developer may provide mitigation measures to minimize adverse impacts. Examples of mitigation measures include altering development layout and plans, providing improvements at nearby intersections to address impacts of that development (not existing deficiencies), and providing street connections to adjoining property for safe and efficient movement of traffic, as further provided in Section 6.300(13) and ~~Articles 13 and~~ 14 of the Zoning Ordinance.

Section 2. Section 6.300(13) shall be amended to read as follows:

13. ~~Adequate Public Facilities Applications; Traffic Impact Assessments; Physical Analysis.~~
- ~~1. an Adequate Public Facilities Application for certain subdivisions, as required under Article 13 of the Town Zoning Ordinance, which is hereby incorporated by this reference;~~
 2. 1. a Traffic Impact Assessment for certain subdivisions, as required by Article 14 of the Town Zoning Ordinance, which is hereby incorporated by this reference.
 - ~~3. 2. for developments of twenty (20) or more residential units or equivalent traffic generation a Physical Analysis (type of units expected including number of bedrooms, projected values, size and timing of phases, etc.).~~

Section 3. Section 6.850 shall be amended to read as follows:

6.850 ADEQUATE PUBLIC FACILITIES AND TRAFFIC IMPACT ASSESSMENTS

Where required, an ~~Adequate Public Facilities Application and~~ Traffic Impact Assessment shall be provided by the applicant, in accordance with ~~Articles 13 and~~ 14 of the Town Zoning Ordinance, which are incorporated by this reference.

Section 4. Effective Date.

This Ordinance shall become effective upon the date of adoption.

PLANNING BOARD: Recommended starting the process to repeal the APFO on 5/26/2020, 9-0.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: Recommended APFO repeal on 1/7/2021, 8-0.

PUBLIC HEARING DATE: March 1, 2021

PLANNING BOARD MEETING: March 23, 2021

TOWN BOARD DECISION: April 5, 2021

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Lora Mastrofrancesco, Transportation Engineer/Project Manager

Date: April 5, 2021

Subject: Consider adopting Resolution to acquire right-of-way and easements necessary for the construction of the adopted and funded Ranson Road Project. (*Lora Mastrofrancesco*)

EXPLAIN REQUEST:

Acquire Right of Way and Easements necessary for the construction of the adopted and funded Ranson Road Project.

ACTION RECOMMENDED:

To Adopt Resolution of the Town of Huntersville to Acquire Right of Way and Easements necessary for the construction of Ranson Road Project.

FINANCIAL IMPLICATIONS:

95-5700-0550-20002

ATTACHMENTS:

1. Ranson Rd - ROW Resolution Document- 3.29.2021



RESOLUTION OF THE TOWN OF HUNTERSVILLE TO ACQUIRE RIGHT OF WAY AND EASEMENTS NECESSARY FOR THE CONSTRUCTION OF THE ADOPTED AND FUNDED RANSON ROAD PROJECT

Whereas the Town of Huntersville has determined that the acquisition of fee title right of way, and easements is necessary to the delivery of the project;

Whereas the Town of Huntersville finds that such title, rights of way and easements, including existing public rights of way and easements, are for a public use and necessary for the construction of the project;

Whereas, the statutory powers of the Town of Huntersville include the power to acquire real property (N.C.G.S. §160A-11 and §160A-240.1), including the power of eminent domain (N.C.G.S. Chapter 40);

Whereas, to meet said defined project delivery schedule, property acquisition process should begin no later than September, 2021;

Whereas the Town of Huntersville's proposed property acquisition process for the project will comply with applicable federal and state requirements; and

Whereas the Town of Huntersville has certified that the parcels ("the Property"), represented on Exhibit A, are needed for the project; now therefore, be it

RESOLVED THAT RANSON ROAD PROJECT,

1. the Board of Commissioners approves and authorizes the acquisition of the necessary fee title, rights-of-way and easements affecting the parcels described on Exhibit A at a price not to exceed that determined by the appraisals described in the Proposal for Real Estate Acquisition Services by AECOM Technical Services of North Carolina, Inc., February 24th, 2021, and permitted Administrative Adjustments for Right-of-Way Acquisition, and no further action is required by this Board to authorize the acquisition.
2. in the event any of the parcels or interest therein cannot be acquired by negotiations at the price authorized above, the Town Manager may institute and pursue acquisition by the process of Eminent Domain according to the procedures contained in Chapter 40A, including (but not limited to) giving notice of intent to the property owner, executing and filing a complaint and declaration of taking and depositing the necessary appraised value amount with the Clerk of Superior Court of Mecklenburg County.

3. the Board hereby authorized the Town Manager, acting on advice of counsel, to take any actions necessary to effect the provisions of this Resolution; and
4. this Resolution shall be effective as of the date its adoption.

Adopted this 5th day of April, 2021.

ATTEST:

TOWN OF HUNTERSVILLE

Town Clerk

Town Mayor

APPROVED AS TO FORM:

Town Attorney

EXHIBIT A - PARCEL INDEX
RANSON ROAD

PARCEL #	PARCEL ID #	PROPERTY OWNER NAME
1	009-081-27	Josue J & Sandra L. Zaragoza
2	009-081-64	Josue J & Sandra L. Zaragoza
3	017-142-71	Huntson Reserve Homeowner's Association Inc.
4	017-142-45	Homeowner's Association Stone Hollow II
5	017-143-11	Homeowner's Association Stone Hollow II
6	009-081-06	Mauricio W. West Roman Catholic D/Chilt Diocesan Administrator
7	017-142-28	Harold W Hester Jr & Julie R Hester
8	017-142-29	John W Bales Jr & Melinda I. Bales
9	017-143-87	Association Stone Hollow Homeowner's
10	009-091-10	Mauricio W. West Administrator

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Emily Sloop, Town Attorney

Date: April 5, 2021

Subject: Consider decision on an Ordinance to Amend Chapter 33 of the Huntersville Code of Ordinances, Entitled "Emergency Management." (*Emily Sloop*)

EXPLAIN REQUEST:

ACTION RECOMMENDED:

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

1. Amendment to Chapter 33 Regarding Emergency Management

**AN ORDINANCE TO AMEND CHAPTER 33 OF THE
HUNTERSVILLE CODE OF ORDINANCES, ENTITLED “EMERGENCY
MANAGEMENT”**

Section 1. **BE IT ORDAINED** by the Board of Commissioners of the Town of Huntersville, North Carolina, that Chapter 33, Section 33.02, Power of municipality to deal with state of emergency, is hereby amended as follows:

Sec. 33.02 – Power of municipality to deal with state of emergency.

- (A) The Mayor of the Town of Huntersville, ~~or his or her designee~~ the Mayor Pro Tem when the Mayor is unavailable, has authority to determine and proclaim the existence of state of emergency and to impose certain prohibitions and restrictions as appropriate at a particular time. The Board shall be notified within 24 hours of the declaration of the state of emergency.
- (B) The prohibitions and restrictions authorized by this chapter include:
- (1) Restriction of movements of people in public places;
 - (2) Operation of offices, business establishments and other places to which people may travel or at which they may congregate;
 - (3) The possession, transportation, sale, purchase and consumption of alcoholic beverages;
 - (4) Possession, transportation, sale, purchase, storage and use of dangerous weapons and substances and gasoline;
 - (5) Activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency;
 - (6) Restrictions on increases in price of goods to prevent price gouging.
- (C) The Mayor, or the Mayor Pro Tem when the Mayor is unavailable, is authorized to end a declared state of emergency when circumstances warrant or at the direction of the Board.

Section 2. Effective Date.

This ordinance shall become effective upon the date of adoption.

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Emily Sloop, Town Attorney

Date: April 5, 2021

Subject: Consider adopting Policy on Public Comment Periods and Public Hearings. (*Emily Sloop*)

EXPLAIN REQUEST:

ACTION RECOMMENDED:

Approval

FINANCIAL IMPLICATIONS:

None

ATTACHMENTS:

1. Public Comment Policy EAS JG 3-17-21



Town of Huntersville Board of Commissioners Public Comment and Public Hearing Policy

1. Purpose.

The purpose of this Policy is to provide for public comments in a fair, consistent, and informative manner in accordance with the requirements of Sections 160A-81 and 160A-81.1 of the North Carolina General Statutes, which authorize the Board of Commissioners (the “Board”) to adopt rules governing the conduct of public hearings and public comment periods. The Town of Huntersville recognizes the importance of receiving comments from the public. The purpose of public hearings and public comment periods is to give the public an opportunity to express their views, comments, or opinions to the Board of Commissioners. It is a time for the Board of Commissioners to listen to the public. The following rules have been established to maintain order and decorum during public hearings and public comment periods. Furthermore, these rules are designed to ensure fairness to each speaker by establishing rules in advance that will be applied equally to each speaker.

2. Procedure.

- a) Persons desiring to address the Board during a public comment period or a public hearing shall list their full name, address, telephone number, and subject matter to be discussed on the speaker sign-up sheet as provided by the Town Clerk prior to the beginning of the meeting. Once the meeting has begun, a person may not sign up to speak.¹
- b) For public comment periods and public hearings other than public zoning hearings, persons who have signed up to speak shall be allowed to speak for up to three (3) minutes. The Mayor, or the presiding officer in the absence of the Mayor, shall have the discretion to shorten the allotted speaking time depending on the number persons registered to speak and in consideration of the length of the agenda. Speakers may not yield their time to another person. Speakers shall not use or provide any technological presentations, including, but not limited to, videos or PowerPoint presentations.
- c) Public zoning hearings. At hearings involving amendments to the zoning ordinance or zoning map, the time allotted for speakers is set forth below:
 - i. The Petitioner, or their designated representative, shall be allowed 15 minutes to present. Any questions by the Board members shall not be counted against the time limit for the Petitioner.

¹ When the Board elects to permit remote public participation, whether by telephonic or emailed comments, remote public speakers must contact the Town Clerk and provide the information required by this paragraph no later than 3:00 pm on the date of the scheduled Board meeting.

The Petitioner shall be allowed to use PowerPoint presentations, but shall not use any other technology, including videos, for his or her presentation.

- ii. Any other person who has signed up to speak, whether as a proponent or opponent of the Petitioner, shall have 3 minutes each. Speakers may not yield their time to another person. Speakers shall not use or provide any technological presentations, including, but not limited to, videos or PowerPoint presentations. Depending on the number of speakers signed up to speak regarding a petition, the Mayor, or the presiding officer in the absence of the Mayor, shall have the discretion to shorten the allotted speaking time to 2 minutes per speaker.
- iii. At the discretion of the Mayor, or the Mayor Pro Tem in the absence of the Mayor, the Petitioner shall be allowed up to 3 minutes for closing statements.
- d) In order to conduct public business in an efficient and productive manner, speakers are encouraged to avoid duplicative and repetitive comments.
- e) The provisions of this Policy shall not apply to speakers addressing Board on awards and recognitions or for staff or other individuals expressly invited to address the Board on a matter.
- f) For any matter, the time allotted to any speaker in this Policy may be extended by the Mayor, or the Mayor Pro Tem in the absence of the Mayor, in his or her sole discretion.
- g) Speakers shall be civil and courteous in their language and presentation. Insults, personal attacks, accusations, profanity, vulgar language, inappropriate gestures, or other inappropriate behavior will not be tolerated.
- h) In order to provide for the maintenance of order and decorum in the conduct of the meeting, the Mayor may declare "out-of-order" any person who fails to comply with this policy. The Mayor, or the Mayor Pro Tem in the absence of the Mayor, shall caution any such person to abide by the provisions of this policy. Refusal to do so shall be grounds for removal of the speaker from the meeting.

Adopted this __ day of _____, 2021.

John Aneralla, Mayor, Town of Huntersville

ATTEST:

Janet Pierson, Clerk to the Board

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Pattie Ellis

Date: April 5, 2021

Subject: Consider approving Revised Fund Balance Policy. *(Pattie McGinnis)*

EXPLAIN REQUEST:

At the March 15, 2021 Board meeting, there was a Board consensus to lower the Fund Balance policy from 45% to 40%. Attached is the revised policy stating that all general fund balance (excluding Tourism Fund, Powell Bill Fund and Storm Water Fund, which are restricted for specific purposes) exceeding 40% of the current year original budget appropriation shall be earmarked for capital reserve purposes.

ACTION RECOMMENDED:

Approve Fund Balance policy.

FINANCIAL IMPLICATIONS:

None

ATTACHMENTS:

1. April 5 - Updated Financial Policy

Town of Huntersville

Financial Policies

A. Revenue Policy

1. As provided by the North Carolina Local Budget and Fiscal Control Act, Estimated revenue from the Ad Valorem Tax levy will be budgeted as follows:
 - (a) Assessed valuation shall be estimated based on historical trends and growth patterns in a conservative manner.
 - (b) The estimated rate of collection of the levy shall not exceed the rate of the preceding fiscal year.
 - (c) The tax rate shall be set each year based on the cost of providing general government services.
2. The Town will set fees that will maximize user charges in lieu of Ad Valorem Taxes for services that can be individually identified and where the costs are directly related to the level of service:
 - (a) To the extent possible, user charge fees for all enterprise activities will be sufficient to financial all operation, capital and debt service costs for said services.
 - (b) Recreational programs will be funded from user charges for all programs for which it is practical to charge. User charges should represent at least 10% of operating costs of the total recreational budget.
 - (c) To the extend practical, any general town service which is of a higher level to or benefits specific recipients shall be supported by user fees designed to recover costs from such recipients.
 - (d) Where user fees are based on cost recovery, said costs shall be reviewed annually and fees adjusted as practicable.
3. The Town will project revenues for five years and will update the projections annually.
4. The Town will estimate revenues as close as possible within the guidelines provided by the North Carolina Local Budget and Fiscal Control Act.

B. Operating Budget Policy

1. Current operating revenues will be sufficient to support current operating expenditures. Fund balance appropriated shall not exceed an amount that management can reasonably expect to save during the year.
2. Debt or bond financing will not be used to finance current expenditures. Fund balance should not be used to fund current year expenditures except as stated above. If appropriating fund balance to balance budget, the amount shall be what can be expected to be saved (i.e. 2-5%) during the year by carefully monitoring expenditures.
3. The Town will prepare a five-year operating budget projection which will include projections of annual growth plus allowances for operating costs of new capital facilities.

4. The Town will maintain a minimum street and sidewalk reserve fund equivalent to 1.5 times the prior year's Powell Bill distribution to provide for upgrading the Town's street, sidewalk, and storm drainage systems.
5. The Town's support of nonprofit corporations and similar entities is outlined in a separate Resolution Adopting Policies and Guidelines for Appropriating Funds for Groups and Organizations Carrying Out Public Purposes.
6. It is the Town's policy that all general fund balance (excluding the Tourism Fund, Powell Bill Fund and Stormwater Fund, which are restricted for specific purposes) exceeding 40% of the current year original budget appropriation shall be earmarked for capital reserve purposes.
7. The capital reserve may be utilized for pay-as-you go projects that are not funded through the issuance of bonds or may be used for debt service for bond projects.
8. It is the Town's policy not to fund ongoing operating expenses with one-time revenues or highly volatile revenues.

C. Capital Improvement Policy

1. The Town will update and readopt annually a five-year capital improvement program which details each capital project, the estimated cost, description and funding source.
2. The capital improvements plan should be tied to the Town's Strategic Plan, Parks and Recreation Master Plan and other planning documents to ensure that the capital items requested meet the future growth needs for the Town.
3. Operating expenditures will be used to maintain the operating costs of the Capital Improvements Program and provide all salaries, operating costs, and small capital outlay required.

D. Accounting Policy

1. The Town will establish and maintain the accounting systems according to the North Carolina Local Budget and Fiscal Control Act.
2. An annual audit will be performed by an independent public accounting firm which will issue an official opinion on the annual financial statements, with a management letter detailing areas that need improvement if needed.
3. Full disclosure will be provided in the financial statements and bond representations.
4. Financial systems will be maintained to monitor expenditures and revenues on a monthly basis.
5. All revenue collections will be consolidated under the Finance Director and be audited at least annually.

E. Debt Policy

1. Capital projects financed through the issuance of bonds shall be financed for a period not to exceed 1.2 times the expected useful life of the project.
2. The tax-supported debt of the Town of Huntersville will not exceed 2% of the assess valuation of the taxable property of the Town.
3. Total debt service on tax-supported debt of the Town will not exceed 15% of total general government operating revenue.
4. Interest, operating, and/or maintenance expenses will be capitalized only for facilities of enterprise activities and will be strictly limited to those expenses incurred prior to actual operation of the facilities. Capitalized interest will be utilized only for enterprise projects that rely on revenue to support debt.
5. The Town will maintain its financial conditions so as to maintain investment grade bond ratings.
6. The Town's debt policy will be comprehensive and the Town will not knowingly enter into any contracts creating significant unfunded liabilities.
7. When considering new debt issuance, the Town will maintain a minimum 10 year payout ratio of 55% on all tax-supported debt.
8. Any proposed debt issues that would result in exceeding debt policy provisions #2, #3, and #7 above, will be acknowledged and a plan of corrective action with length of time of exception will be addressed.

F. Reserve Policy

1. The Town will maintain an unallocated fund balance to be used for unanticipated emergencies of 40% of the general operating budget (as defined previously and excluding capital outlay). These funds will be used to avoid cash flow interruptions, generate interest income, eliminate need for short-term borrowing, and assist in maintaining an investment-grade bond rating and for use in the case of unanticipated emergencies.

G. A separate Cash and Investment Policy is attached.

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Janet Pierson, Town Clerk

Date: April 5, 2021

Subject: Consider adopting Resolution opposing the postponement of the 2021 Huntersville Municipal Election. (*Mayor Aneralla/Commissioner Phillips*)

EXPLAIN REQUEST:

Consider adopting Resolution opposing the postponement of the 2021 Municipal Election.

ACTION RECOMMENDED:

Adopt Resolution

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

1. OpposePostponingElection-Revised

Resolution Opposing the Postponement of the 2021 Huntersville Municipal Election

WHEREAS, the Board of Commissioners of the Town of Huntersville supports keeping with the tradition of a fair election process; and

WHEREAS, the Board of Commissioners of the Town of Huntersville supports holding our municipal election on the scheduled date of November 2, 2021; and

WHEREAS, pursuant to N.C.G.S. § 163-279, "[p]rimaries and elections for offices filled by election of the people in cities, towns, incorporated villages, and special districts shall be held in 1973 and every two or four years thereafter as provided by municipal charter."

WHEREAS, Section 3.1 of the Town of Huntersville Charter requires that "[r]egular municipal elections . . . be held in each odd-numbered year in accordance with the Uniform Municipal Election Laws of North Carolina. Elections shall be conducted and the Mayor and Board Members elected on a nonpartisan basis according to the nonpartisan, plurality method authorized by G.S 163-292."

WHEREAS, Huntersville's municipal government consists of six at-large town commissioner seats and a mayor. Census data will not affect the make-up of our current board. The impending census data impacts only 62 of 550 municipalities in North Carolina. Huntersville is not included in the 62 impacted and it is unjust that a minority of municipalities who rely on census data would dictate the election process for our Town; and

~~WHEREAS, Huntersville municipal elections are non-partisan and we govern as such. Changing our election cycle to a federal election year that is heavily influenced by political parties will negatively impact the integrity of our election process; and~~

~~WHEREAS, while large party politics work for higher levels of government, the uniqueness of non-partisan elections at our municipal level allows for a diverse governing board that represents the best interest of our citizens; and~~

WHEREAS, postponing the Huntersville municipal election by one year is a disservice to our residents. Citizens were guaranteed two years of service by the current Board and then a new election that would be navigated by the will of the people. An additional year to the terms we are currently serving is not adhering to the spirit of a "government of the people, by the people, for the people."

NOW, THEREFORE, BE IT RESOLVED, that the Town of Huntersville Board of Commissioners requests that Huntersville municipal election for commissioners and mayor remain on schedule for November 2, 2021, as it is in the best interest of the Town and our residents.

Adopted this the ____ day of _____ 2021.

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Janet Pierson, Town Clerk

Date: April 5, 2021

Subject: Approve the minutes of the February 1, 2021 Regular Town Board Meeting. (*Janet Pierson*)

EXPLAIN REQUEST:

Consider approving the minutes of the February 1, 2021 Regular Town Board Meeting.

ACTION RECOMMENDED:

Approve Minutes

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. 020121DraftForBoard

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING
MINUTES**

**February 1, 2021 (Virtual)
6:00 p.m. – Hosted from Huntersville Town Hall**

PRE-MEETING

A Pre-meeting of the Huntersville Board of Commissioners (Virtual) was hosted at the Huntersville Town Hall at 5:15 p.m. on February 1, 2021.

GOVERNING BODY MEMBERS VIRTUALLY PRESENT: Mayor John Aneralla; Commissioners Melinda Bales, Dan Boone, Brian Hines, Lance Munger, Stacy Phillips and Nick Walsh.

Anthony Roberts, Town Manager, presented PowerPoint presentation reviewing methods of project delivery options for a new Town Hall and proposed funding options. *Refer to PowerPoint attached hereto as Exhibit No. 1.*

**REGULAR MEETING (VIRTUAL)
TOWN OF HUNTERSVILLE
BOARD OF COMMISSIONERS**

The Regular Meeting of the Huntersville Board of Commissioners (Virtual) was hosted at the Huntersville Town Hall at 6:00 p.m. on February 1, 2021.

GOVERNING BODY MEMBERS VIRTUALLY PRESENT: Mayor John Aneralla; Commissioners Melinda Bales, Dan Boone, Brian Hines, Lance Munger, Stacy Phillips and Nick Walsh.

Mayor Aneralla stated this meeting is being held both in person at the Huntersville Recreation Center on Verhoeff Road as well as livestreamed on Facebook Live. The Board of Commissioners are participating remotely. The public has been invited to attend and comment during the public comments or during any of the public hearings (1) in person at the Huntersville Recreation Center or (2) by telephonic communication in accordance with instructions sent to persons who have registered with the Town Clerk no later than 3 p.m. today. The public may also submit comments by e-mail to the Town Clerk at jpierson@huntersville.org. For public hearings only, e-mailed comments may continue to be submitted until 24 hours after the close of the public hearing.

Mayor Aneralla called the meeting to order.

Mayor Aneralla called for a Moment of Silence.

Mayor Aneralla led the Pledge of Allegiance.

MAYOR AND COMMISSIONER REPORTS – STAFF QUESTIONS

Mayor Aneralla

- Attended the Charlotte Regional Transportation Planning Organization meeting last week.
- Attended the Metropolitan Transportation Commission meeting. They presented their preliminary budget.
- Yesterday was the first workout for the Mayor's Fitness Challenge.
- The Mayor's Luncheon is February 16.

Commissioner Bales

- Lake Norman Economic Development Corporation is working 49 projects, 27 of which are in Huntersville – 18 are in first contact, 2 where they are following up, 3 that have visited and currently we are a finalist in 4 projects. The EDC had a follow-up project visit last week.

Commissioner Boone

- Next meeting of the Huntersville Ordinances Advisory Board is this Thursday.
- Provided update on Lake Norman Chamber of Commerce events.

Commissioner Hines

- Charlotte Regional Transportation Planning Organization met and received update on 2050 Metropolitan Transportation Plan.

Commissioner Munger

- Participated in the first workout of the Mayor's Fitness Challenge.
- Attended the Proposal Budget Design for Grants class sponsored by Centralina Regional Council.
- Encouraged donating to local non-profits.

Commissioner Walsh

- Next Public Art Commission meeting is February 10.
- Provided update on Huntersville Regional Chamber events.
- Buttermilk Sky Pie in Birkdale is having their soft opening.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

Zach Brown, Executive Director HFFA, provided update on the Huntersville Family Fitness & Aquatics Center.

- Covid-19 drastically impacted the operations of HFFA, as it has with every business in the region, nationally and internationally.
- Experienced quite a bit of a drop in overall membership along with a lot of member freezes and suspension of services.
- Since reopening last June, made it a priority to follow all the guidelines set forth by the various governing bodies and continue to do so by continuously sanitizing all areas of the building being used, restricting all activity sizes beyond the current recommendations, providing sanitizing stations for members to use, etc.
- After 7 months of operation in the current budget, with the operational restrictions and loss of membership, etc. we are able to continue to operate with an overall financial net positive outcome.....in preparation for upcoming expenses such as debt service and budgeted year end

round ups and things of that nature, it's really due in large part to the partnerships that are being created with our various user groups and obviously a drastic reduction in expenses including select services, labor force and capital and maintenance projects until some appropriate revenue funds are able to be generated.

Mayor Aneralla expressed appreciation to Mr. Brown.

Commissioner Bales expressed appreciation to Mr. Brown and his staff for the exceptional job in keeping the aquatic center moving forward and keeping us at a net positive.

Colonial Pipeline Update. Angie Kolar, Colonial Pipeline said let me start by saying thank you for the opportunity to be here tonight. We remain committed to regaining the trust of our neighbors in this community.

Colonial's focus since Day One of this response has been on the safety of the community, our responders, and the environment. We understand that hearing about the updated total volume estimate has generated additional questions and concern among our neighbors, so I'm glad to be here tonight to help answer some of those questions. I also want to thank the commissioners who passed along questions in advance of tonight's Town Hall so we can be sure to answer those as we go through the meeting tonight.

I do have some information that I'd like to share first that I think will answer all of those questions that were submitted, but I'll be happy to address any additional questions that you might have at the end if we need to do so. As part of Colonial's commitment to transparency and again going beyond what's required by our regulators, we want to share what we know with you as of today. Let's start with some of the systems that we have in place to inspect the line and maintain our system integrity. We are relying on a number of systems and processes to identify a potential release. These include things like inline inspection, operational monitoring, aerial patrols and community awareness, which in this case actually worked when two young men discovered and reported the release. I would also like to cover what we have learned from our detailed data analysis since the release, what actions we've taken and what you can expect to happen as our response continues.

I would like to note that Colonial is in the business of safely moving transportation fuel, so that's things like gas, diesel and jet fuel and other products like home heating oil. Our primary focus is leak prevention through our robust system integrity program and our system, which is part of the nation's critical infrastructure, safely transports about 2.6 million barrels or around 110 million gallons every day across 5,500 miles of pipe. Just to put that into perspective for Huntersville, over 2 million gallons of fuel for transportation needs and other fuel requirements that drive our nation's economy move through your area about every hour. However, one gallon released into our right-of-way is one too many in our opinion and so our singular focus at Colonial is safely transporting fuels each and every day.

Let me share some of the ways that we do this in a little bit more detail. I know we have mentioned before our aerial patrol program. Federal regulations require that pipeline right-of-way be visually inspected 26 times a year. Colonial inspects our Line 1 and Line 2 right-of-way at least once a week, so far exceeding federal regulation. When refined products come into contact with grass or vegetation on the right-of-way, that vegetation turns brown very quickly and so our aerial patrol planes are looking for signs of this dead vegetation which might indicate a sign of a release. In the case of the Huntersville release, we performed an aerial patrol on the right-of-way on August 12, which was just two days before

the release was discovered. At the time of that aerial patrol flight there were no indications of a release from that inspection, so there were no signs of dead vegetation or product on the right-of-way.

I'm going to switch gears a little bit and talk about our inline inspection program. Along with aerial patrols, control room monitoring, and our community awareness programs, inline inspection is another key tool for maintaining our system integrity. This involves running devices, sometimes you will hear them referred to as smart pigs, through the inside of the pipe to detect abnormalities or problems in the pipe walls. There are several different types of these smart tools or inline inspection devices and in accordance with federal regulatory requirements through PHMSA, we perform inline inspections on our pipelines at least once every five years. Line 1 in this area of Huntersville was inspected in 2017 and during that inspection we used both magnetic and ultrasonic technologies to detect anomalies in the pipe. The results of this 2017 tool run did not indicate any anomalies that required action for the area.

I want to talk a little bit about this release in general on the hydrogeologic side. As part of our comprehensive site assessment efforts over the past few months, Colonial and our team of third party experts have performed a significant amount of investigation into the subsurface geological conditions in close proximity to the release site, so essentially we're trying to figure out what's going on underground. This helps us understand the soil characteristics and thickness, depth to and type of bedrock, hydrogeologic conditions and the horizontal and vertical extent of the petroleum impacts present at the release site. The location of the release is actually at the highest elevation point in the vicinity which results in flow that went downward and outward from the release pipe. The through-wall crack that the Mayor mentioned early on in the pipe was located at the bottom of the pipe. Based on the hydrogeologic information and the location of the crack in the pipe, we believe the product may have flowed into the subsurface for a relatively short period of time, measured likely in days or weeks before reaching the surface of the right-of-way.

I want to talk a little bit about the operational data that we have. Colonial monitors our pipelines from our control center 24/7 365. In addition to visual observations by controllers, we also have a supervisory control and data acquisition. You will hear that referred to as SCADA system to monitor pressure and rates on our main line pipelines. We've reviewed a significant amount of operational data from the days and weeks before the release was discovered and based on our operational data we believe that the release occurred at a rate less than the current control center pipeline leak detection technologies can detect.

A couple of the questions that we got from the commissioners were related to volume estimates, so I would like to spend a little bit of time talking about that as well. Volume estimation takes time and we want to get it right, so Colonial responded immediately to the notification of a release on August 14 as we mentioned earlier. We shut down the pipeline in a matter of minutes and immediately dispatched our crews to the site. Colonial personnel completed repairs to the pipeline on August 19 by placing a sleeve over the affected segment and then safely restarted the pipeline. We have noticed there's been some reporting around this site continuing to be an active leak, so I want to make sure we're clear on that point. It's not an active leak site. The pipeline was repaired on August 19 and no additional product was released to the right-of-way following that repair. We've worked diligently with our internal and third-party environmental experts and the NCDEQ to design and install a recovery and monitoring well network. This allows us to complete horizontal and vertical delineation efforts. The volume estimate that we submitted to PHMSA in September was based on very early preliminary information that we had at the time. Since then, we have worked with our external experts to gather data and perform extensive analysis to understand more about the site including the estimated volume and subsurface conditions that we talked about a little earlier on. At each step along the way as we

expanded and installed the well network, it has allowed us to obtain additional detailed information and data, gives us a better picture of what was going on below the surface as time progressed. Based on this data and the rate at which we were recovering product, we determined that the volume of the release was likely higher than we had originally estimated and we discussed this with NCDEQ during our twice a week calls. Over the past few months, we've continued to transparently report our recovered volume information to the NCDEQ on our twice weekly calls and on our monthly reports which are posted to their site. We also continue to update the public on our response website as we work to determine the total volume released, which we released to the public on the 21st. To determine the volume of the release, we collected a significant amount of very site-specific data and that includes data like soil and fluid property analysis and hydrogeologic data. The site-specific data along with data from recovery efforts really allows us for more accurate modeling, so again continuing to gather data to get to the more accurate information. We were then able to work with third party experts to develop a volume estimate based on an industry model that's also been reviewed by NCDEQ. Each estimate that we've provided since the release was discovered has been based on the best available data at the time and while we are confident in our most recent release volume estimate, we will continue to review additional data with our team of experts and the volume may continue to be revised. It's important to note that to date we've recovered well over half of the estimated release volume.

While we are on that topic, I'll switch gears just slightly to talk a little bit about recovery efforts at the site. To date we've installed 137 wells to support environmental remediation, including 81 monitoring and 56 recovery wells at the release location. The current well network provides horizontal delineation at this time and it's possible that there will continue to be some level of lateral dispersion but we are continuing to enhance product recovery efforts at the site to minimize or mitigate that spread. We are currently installing larger diameter enhanced hydraulic recovery wells to speed up the recovery process, as well as an air sparging system that will address dissolved phase constituents. We've installed eight deep wells to evaluate vertical delineation and identify potential for dissolved phase migration. No product has been discovered in any of these deep wells.

A question that was submitted from the commissioners was around work being performed on the corner of Huntersville-Concord and Asbury Chapel Roads. This work was related directly to the installation of monitoring wells and one of those wells was a deep well that I mentioned. As of January 30, we recovered 17,615 barrels or 739,830 gallons, so nearly 740,000 gallons which includes 15,397 barrels from the recovery well network, so the difference in those is what we recovered initially during the response. We continue to conduct weekly test of water supply wells for homes within the 1,500' monitoring radius established by NCDEQ. These tests that we do of the water supply wells are performed by third party consultants and are submitted under a chain of custody to NCDEQ certified third party labs, so you've got two independent third party companies there. Results of those samples are also shared with NCDEQ.

To date no petroleum constituents have been detected in any of those tests and we have provided those homeowners with the opportunity to convert from well water to public water supply at no cost to them and that offer remains open to any homeowners in the 1,500' radius.

A few additional steps that I would like to discuss. We removed the impacted section of the pipe and sent it to an independent third-party lab for analysis. In November following the removal of that pipe segment we also ran what's called a smart ball. It's like an acoustic tool through the line which essentially listens for potential leaks. No acoustic anomalies were detected. We also excavated and inspected Lines 1 and 2 to evaluate for any damage to the pipeline coating that could be associated with

the release and as a result of that we proactively replaced approximately 600' of pipeline coating there at the release site.

As we previously disclosed, the source of the release was a through-wall crack in the pipe, but we really want to understand what caused the crack. We've partnered with third party experts to help us with that work and we are committed to learning both what caused the release and how we can prevent other releases in the future. We will share those key learnings with our industry peers to help them prevent other similar instances when we have that information.

Leak detection and inline inspection technologies are strategic priorities for Colonial as well as the pipeline industry and our regulators. Colonial has and will continue to support and lead these efforts across the industry. This includes supporting efforts through PRCI, Pipeline Research Council International. It's a research collaborative that's working on some of the most pressing challenges that we face as an industry. One other research focus area for PRCI is directed toward internal and external leak detection processes including advanced analytics and use of testing and sensing technologies.

The well network that we've installed that I mentioned earlier essentially attempts to cast a virtual net over the release area hoping to keep product contained in an immediate area and monitoring the dissolved phase concentrations. Data shows that our well network is working as designed and product recovery efforts are yielding significant recovery each day. As we have said, we will continue to cooperate and coordinate regularly with state and federal regulators throughout the process while also providing transparency through updates on our response website. If you have recently driven through the area you might have noticed that we have now opened traffic along Huntersville-Concord Road and we've also worked with local sources to install landscaping to enhance the look of the area as you drive by.

We will continue to work with local partners to remediate the Oehler Nature Preserve and will expand the area partnerships as part of our ongoing environmental partners program. I'll say it again just like I did at the beginning, we are committed to being here as long as it takes to remediate the site and regain the trust of our neighbors.

I want to end by saying thank you again for allowing me to attend today. I'd be happy to address any additional questions that you may have.

Commissioner Walsh said if the leak was repaired on August 19 and we've got at least we think conservatively 1.2 million gallons and when I say in the ground, I know some of it has been recovered. I guess for me how does a million gallons go missing. It seems to me if down in the Gulf you pump oil or gas into a system.....it's just kind of scary that 1.2 million got in the ground undetected and I just wonder how does Colonial just go missing a million gallons plus of product and not notice it.

Ms. Kolar said there's a number of controls that we have in place to help identify a release, with aerial patrol being one of them which we talked about. We talked about inline inspection being another way that we would really look to identify any issues that we have with the pipe. We also rely on our employee training and contractor safety programs to identify potential sources of a release and we also have a 24/7 control center that monitors our pipelines electronically in a control room. As I mentioned, we believe that the line was leaking at a rate less than what our pipeline controllers can detect there in the control center. In the case of this release, we believe it was leaking at a low rate for a number of days, maybe weeks, so a rate that was not visible in the control center operations.

Commissioner Walsh said it still seems with that amount of product somebody would notice.....it's going in one side and not coming out the other.

Commissioner Bales said I too am struggling to understand how you can put in a million plus gallons and not realize that it's not coming out the other end where you want it to come out. How old is the control room monitoring system that you are utilizing. Is this a 50 year old system, a 30 year old system and in addition to that could a more updated and current system have identified the leak sooner, because other than those kids on a four wheeler, who knows how long it would have been continuing to leak.

Ms. Kolar said one of the things that I wanted to reiterate, I believe I mentioned it earlier, is the work that we are continuing to do with PRCI and with the industry and our regulatory partners, so we are really looking into as an industry ways that we can increase and I've mentioned many times that our actual number one priority, not one of our priorities, is safety and so we continue to work these strategic priorities again with our regulators in the industry and one of those is leak detection technology efforts. That's something that we've partnered, have and will continue to partner with PRCI to improve leak detection technologies.

Commissioner Bales said I'm not sure that you answered my question in regards to how old the current monitoring system that you are utilizing is. Is it an industry standard, is it something that you are utilizing so that it's up-to-date and current. I'm trying to understand what type of system that you are using because it seems to me that it failed and I understand that you are wanting to look at other leak detection technology which is great, absolutely, I'm sure that's the number one goal of those in your industry. I'm still trying to understand the pipeline that has been in the ground under Huntersville for 50 years, are you investing in that technology, is it being updated. That's kind of what I'm trying to get to.

Ms. Kolar said we do routinely invest in the technology to assess the pipe itself and in the control room technology to monitor how the pipe is operating from our control center, so on both fronts the answer to that question is yes, absolutely, we dedicate a tremendous amount of resources to the ongoing maintenance of the pipe and the technology associated with running the pipe and we will continue to do so going forward as we support some of these strategic initiatives not just for Colonial but for the industry as well.

Commissioner Bales said I guess at the end of the day I'm not going to get the answer in regards to how old the monitoring system is that you are using. And if you don't know the answer to that, that's perfectly fine and I can respect that. But I do think that's something that the community would probably like to know and understand.

Commissioner Phillips said have you guys had any policy changes since this has occurred.

Ms. Kolar said before I answer that question I'd like to go back to the question that Commissioner Bales asked as well, the technology behind the control room operation is certainly industry standard if not higher than industry standard and I want to reiterate again that we meet or exceed all regulatory requirements that are associated with the pipe up to and including the leak detection technology that's required by our regulatory agencies at the time, so just to reiterate that and then Commissioner Phillips if you could repeat your question.

Commissioner Phillips said have you guys had any policy changes since this has occurred as far as the standards and stuff that you guys operate at.

Ms. Kolar said can you be a little bit more specific on that question.

Commissioner Phillips said for example, how many times you monitor a location, are you guys doing spot checks. The biggest spill in North Carolina history, I would hope that you guys would take some learning lessons away from this so it doesn't happen anywhere else.

Ms. Kolar said again being transparent with this response is one of our key priorities right now and so I want to be really transparent in what we have done related to this incident and I think I mentioned earlier on that we took that pipe where the leak occurred, cut it out, and we've sent it to an independent lab for analysis and so what we are looking to learn from that analysis is exactly what happened with that section of pipe through metallurgical data and analysis so that we can identify any other sources where that could be a problem but the key here is that we need to understand exactly what happened with that and we don't have that metallurgical report back as well. I also want to mention that we did run the acoustic tool, the smart ball technology that I mentioned earlier that's kind of the listening for an anomaly. We ran that as well as another preventative measure, so that's not really a change in process but it is something that we did to ensure that we didn't have issues.

Commissioner Phillips said how long will it take for you guys to get those results.

Ms. Kolar said the results of the metallurgical assessment.

Commissioner Phillips said yes.

Ms. Kolar said the team has been evaluating the section of pipe. Again, safety is our number one priority, so they have been really looking into that in a safe manner. Obviously, you are dealing with pipe here. We are expecting to receive preliminary results of that report relatively soon.

Commissioner Phillips said do you have a timeframe estimate.

Ms. Kolar said I do not.

Commissioner Phillips said you kept saying repair. What's the difference in repairing it and replacing it and how confident can we be in a repair versus a replacement.

Ms. Kolar said initially on the section of pipe there in Huntersville we repaired the anomaly. When we first excavated on the 19th, I mentioned that we repaired that pipe. That was a sleeve that was placed on the outside of the pipe which is a safe, permanent repair. However, we wanted to cut out that section of pipe so that we could understand more again exactly what happened with that section, so we needed to cut it out and replace that section of pipe so that we could send it off for that analysis. Again, a sleeve applied to the outside of a pipe is a safe and permanent repair, but in this instance we just opted to cut it out so that we could learn more about that anomaly.

Commissioner Boone said I have one question and then a follow-up after you answer that. You have two pipelines that run parallel in Huntersville. One is quite large and one is about a third the size. There's only one or two places that you can put a smart pig down that line either some place in South Carolina or it's got to come out of I think at the Yadkin River. Did you test the entire length of that larger pipe with a smart pig or a smart ball and did you do the same type of inspection for the entire length of the smaller pipe.

Ms. Kolar said I believe you are referring to our Lines 1 and 2, is that correct.

Commissioner Boone said yes, they run parallel through our town.

Ms. Kolar said both of those are regulated under PHMSA regulatory requirements. Again, we meet or exceed all PHMSA requirements related to both of those lines and so yes they are both inspected with those inline inspection tools that I mentioned earlier at least once every five years.

Commissioner Boone said and when was the last time they were inspected. Do you have that information.

Ms. Kolar said I do for Line 1. Line 1 was 2017. I don't have Line 2 in front of me.

Commissioner Boone said and Line 1 is the larger of the two lines.

Ms. Kolar said that's correct.

Commissioner Boone said now that most of the equipment is out of that area and Huntersville-Concord Road was opened, I noticed there's a police officer there almost 24/7. Can you tell me why that law enforcement person is there.

Ms. Kolar said again, I want to mention that the safety of the public is our number one priority out at the site and we have asked an officer to be there to ensure that traffic going by remains safe for our workers as well, now that the road is open obviously there's potential for faster traffic to be going through the area and so we just want to make sure that our workers are safe as they are crossing that road there.

Commissioner Munger said has Colonial Pipeline set up a fund to deal with the long-term environmental and healthcare related issues that will occur as a result of this spill.

Ms. Kolar said can you repeat that question.

Commissioner Munger said has Colonial Pipeline set up a fund to deal with the long-term environmental and healthcare related issues that will occur as a result of this spill.

Ms. Kolar said I wanted to make sure that I understood your question and again our focus here is we want to be as transparent as we possibly can be. We are not aware of any long-term health issues that would require a fund that you are mentioning to be set up, but I will tell you that I am serving as the incident commander on this response and I have full authority from the board to spend what I need to spend to ensure the safety and security of the site going forward.

Commissioner Munger said going forward.....how long of a term is going forward.

Ms. Kolar said I have mentioned this several times, but we will be there as long as it takes to remediate the site.

Commissioner Munger said what studies will Colonial be funding to understand the long-term environmental and healthcare related issues and also will these be performed by independent third parties.

Ms. Kolar said we have set aside a number of goals and strategies to ensure that we are addressing any potential safety concerns, remediation and again cleaning up that site, so yes we are working with third parties on that as well. We put a tremendous amount of effort into our safety work at the site, including air analysis. We've brought in external third parties to evaluate any potential air issues or concerns from a health standpoint. We also have been working with third parties on the response and recovery efforts as well as testing and monitoring surface and groundwater in the area and to answer your question all of those are coordinated through third parties and the information is shared with NCDEQ.

Commissioner Munger said this is kind of a follow-up to what I believe Commissioner Phillips asked, but I'm not sure she got the answer she might have been desiring or at least not the answer that I would have wanted to hear. What has Colonial done to improve their procedures as it relates to identifying leaks.

Ms. Kolar said I want to go back to something that I mentioned earlier. Again, we want to be transparent as we can be with our communication here, but first we have to understand exactly what happened at that site and so we have taken a number of steps to help us understand exactly what went wrong with the pipe including cutting out that section of pipe and sending it off for the metallurgical analysis and so until we fully understand exactly what caused that crack to form, we will use that information and that data to drive our changes and how we communicate that with the industry as well. We'll take those learnings when we have them and coordinate with our federal regulatory partners and the industry to help identify any potential changes that would need to be made.

Commissioner Munger said a comment you made earlier 740,000 gallons have been recovered. I have 1.2 million gallons spilled, 740,000 recovered. That means 460,000 gallons have not been recovered at this point.

Ms. Kolar said I'll trust your math on that one. Your theory is correct, yes.

Commissioner Munger said can you tell me what the average lifespan of this type of pipeline is and how old this particular pipeline is.

Ms. Kolar said this pipeline was constructed in 1978, Line 1. Again, just like any of your infrastructure, it's built and established on maintenance principles that will extend the life inevitably, so think of it like a bridge for example, also made of steel, you perform inspections and maintenance on any of those critical infrastructure pieces with the idea being that they can last forever.

Commissioner Munger said I do like your bridge reference and I know that there are a number of bridges throughout the country, even locally, that we tear down and replace, so bridges have a lifespan. Does this pipeline have a lifespan.

Ms. Kolar said no.

Commissioner Munger said we just don't know.....50 years, 100 years, 200 years, we're just assuming that it will just be there forever and hopefully stay together.

Ms. Kolar said again our number one priority at Colonial Pipeline is the safety and integrity of our pipeline system and so the efforts that we go through as I mentioned earlier, particularly inline inspection efforts that the company puts significant amount of resources into, are there to protect the

integrity of that pipeline system and to ensure that these types of releases don't happen and when they do, we learn from them to ensure that they won't happen again.

Commissioner Munger said you mentioned that Colonial wanted to be a good environmental partner with the community in the future. Since this happened in the nature preserve what kind of partnerships are they considering.

Ms. Kolar said we've worked closely with a number of partners including representation from the county and the Oehler Nature Preserve and we've appreciated the input and the collaboration that we've had with the county related to the preserve so we will continue to coordinate with them in the future on those types of questions.

Commissioner Phillips said third party keeps getting referenced quite a bit. How are the third-party vendors selected and are they local companies. Could you give us a little bit more insight on who they are please.

Ms. Kolar said our number one priority as far as determining who those third party experts would be would be their ability to meet our standards and so when we can source locally, we have particularly for some of the pipeline construction work and things like that. I think I mentioned some of the third-party labs that we use for the data analysis on the soil and water sampling, some of those are local and certified by the NCDEQ. There's a number of different methods, but again what we're really focused on in that selection process is ensuring that they can meet our level of safety expectations.

Commissioner Bales said to follow up on Commissioner Phillips' question, does NCDEQ sign off on third party entities that you are partnering with.

Ms. Kolar said typically NCDEQ would not sign off on the third parties but in the example that I used of the labs, they are pre-certified if you will, so NCDEQ has looked at them in advance and agreed that they would be a lab that we should send our samples to, if that makes sense. They weren't specifically certified for Colonial's use.

Mayor Aneralla said I just have one quick question and I guess it might be more of a statement. It's come to my attention that there are several landowners that are within the 1,500' radius, however their wells are outside of that radius, so the land is within the radius, but not the particular wells. There's some concern that even though their technically outside the zone that no testing has been offered, so no need to commit right now but that might be something to consider helping out some of the neighbors that are concerned even though their well might be a little bit outside the range.

Scott Bullock, NCDEQ, said thank you for this opportunity to talk to you guys. Colonial Pipeline covered a lot of information. I'd just like to add a few things. So far 372,027 gallons of petroleum contact water have also been recovered. That was sent off to Ohio for treatment. I would like to reiterate that to date petroleum contaminants have not been detected in any of the water supply wells and also to date that petroleum contaminants have not been detected in surface water and that the booms are being maintained and surface water is still sampled on schedule. Also, area air monitoring is continuing at the site. No violations have been detected. Noise monitoring is also continuing at the site. No violations noted either. And product recovery is continuing. Also, note that the clean-up will continue until regulatory limits are achieved. We have received Colonial Pipeline's volume calculation and we are currently evaluating those calculations. We have some questions and we have asked them for some additional information. We have also received the information that we requested in our December

2020 Notice of Regulatory Requirements. Some of that information is related to the accident report, the data for the inspection of the line, the pressure data and flow rate data, disposal manifest, release plan, conceptual site model. We are continuing to evaluate that information, but please note that DEQ does not regulate the pipeline, however we are coordinating with the US Department of Transportation Pipeline and Hazardous Material Safety Administration as well as with Colonial concerning the cause of the release. Also, we have received the comprehensive site assessment and it's currently under review. Just to let you know that typically we get a response out within 30 days of receipt of the comprehensive site assessment. Also, DEQ will share any comments or requests for additional information with Colonial once the review is complete. We'll send out another notice if there are any deficiencies. And then once the comprehensive site assessment is reviewed and finalized we will request a corrective action plan but note that corrective action is currently occurring at the site with the free product recovery and the air sparge. DEQ is working diligently to make sure there's no exposure to human health and that the water supply wells are protected and I think that's about it for a summary.

Wayne Randolph, NCDEQ, said I don't have anything to add other than what Scott brought up, but if you have any questions that's why we are here to field any questions you may have.

Commissioner Walsh said you mentioned a corrective action plan. What does that mean – if Colonial is doing best industry practices, what do you mean by corrective action plan.

Mr. Bullock said they will submit a plan to remediate the site or to address contamination of the site to treat it to less than regulatory limits which in this case is the 2L groundwater standard, so they would have to recover the free product and treat that water until it's less than those levels. That's in order to protect the water supply wells in the area. That could be a combination of what they are currently doing or it could be additional measures that they may want to implement at the site to address the contamination.

Mr. Randolph said it's a plan that will layout the expectations for what the goals are for clean-up, like how Scott mentioned they are doing corrective action right now. The plan will set goals that everyone is clear on and what the expectations are and what the timeline should be for that.

Commissioner Munger said I really appreciate DEQ for being the eyes and ears for us at this site. I really appreciate what you are doing there.

Mayor Aneralla said I had asked a couple of months ago the rate of recovery. I assumed that in the first couple, two, three months the rate was greater than it is today, slowing down and you said and I don't remember exactly, that it's kind of getting collected and it takes a while to figure that out. I'm just curious, it was mentioned numerous times – 3,000 to 5,000 a day was being recovered and I'm just curious if that's still the flow or are we diminishing to the point where we can start figuring out we probably have another "x" amount of days to collect the other 400,000.

Ms. Kolar said I'll answer that question. I mentioned in the discussion earlier that we've been doing a tremendous amount of work to recover. We are continuing to do more and for a while we were collecting between 3,000 and 5,000 a day. We are averaging a little more than 6,000 a day right now and as we get some of these additional systems in place, we'll continue to see that number increase.

Mayor Aneralla said that's counter to what I would have thought, but I guess with more recovery wells the more you are going to get.

Ms. Kolar said that's the goal.

Mayor Aneralla said thank you all. We look forward to hearing from you again and know that I think all of our goals are aligned, I think the safety of our community is paramount and we appreciate everybody putting forth that effort to be sure that happens.

Ms. Kolar said we appreciate the opportunity to be here and you're right we are very much aligned on our goals here, the safety and recovery of that site.

Jeff Burton, 15555 Huntersville-Concord Road, said I'm calling in today about the gas spill and how concerned we are. Some of you know, but some of you may not, I'm one of ten landowners whose properties are in the Ramah Creek Conservancy Area. This area is managed and run by the Catawba Lands Conservancy. We make up almost 1,000 acres. Think about this, we have almost 200,000 trees, we have endangered species, we have protected wildlife. This property provides an immeasurable benefit to the community in nature and we are just down the road from this spill. We are greatly concerned about the damage done now and the damage done in the future. We are really worried about our drinking water, our personal health, the wildlife, the ecology. In whole, we are concerned about this. We are outside of their circle, but that doesn't mean we are outside of being affected and I don't mean to be offensive, I don't mean to be rude, but it's hard to have confidence in what's going on here. Clearly, there's at least some level of incompetence for this event to happen. This went from 60,000 gallons to 1.2 million gallons and we just heard tonight that number could go up. And bluntly some of the questions you guys asked never got answered. How do you put gallons in that thing and it not come out on the other end and nobody knows about it. That answer never got given. We've been told there is high tech monitoring of this pipeline to ensure the detection of leaks. Two kids on four wheelers is not high tech. That was luck. That was pure and simple luck. We have pipeline running through this property and it appears they don't know if it's leaking. We've had repairs done and we don't know if those repairs are effective. We do understand and we do appreciate that there is work going on to mediate this. We get it, okay. I believe that they want to do the right thing, but that doesn't guarantee that our lands and our neighbors' lands aren't being affected, because they are not being monitored. The truth is we don't know. We need an aggressive approach as it relates to our lands and our neighbors' land. We need to know that our wells are clean and that the wildlife is safe and that the ecology is not being affected and we don't know that because there's no monitoring on our lands. We have almost 1,000 acres of conserved lands here. We need to know it's not being affected and our neighbors need to know that too. We believe that monitoring needs to take place now on these properties and we need to know that our wells are safe and this monitoring needs to take place well into the future.

Rob Kidwell, 7219 Handon Lane, said I'm asking you guys tonight to postpone the vote tonight on the exploration of the new Town Hall until after the retreat as originally scheduled and agreed upon by this Board. I believe that more than 45 minutes is needed to discuss spending \$15 million. I keep hearing that we are in desperate need of a new facility, but why. The argument is about people attending meetings. We only open the Town Hall three to four times a month to the general public. It's not able to be rented out. Is the reason we need more room for staff. The Town Manager said today that he can increase the cubicles over at DPK for merely \$30,000. If that buys us 5 or 10 years, that's a good thing. Do we have any guarantee that DPK will not be rented out for the next 5 to 10 years, we don't. We were told that tonight by the Town Manager. Have you considered, as many private companies are doing, utilizing remote work access so staff is on opposite schedules and sharing a workspace on-site at different times. This is something that many companies are doing right now, because of the pandemic it's given them this opportunity, working from home and then working at site when needed. So far I've

heard that the roof leaks and the Town Hall is dirty. Replace the roof, clean the Town Hall and I believe the Town Manager said in 2018 it was around \$300,000 to bust out the Town Hall. Utilize all the land, including the frame shop property we own, to add more seats for the Town Hall. He said 20 and I just don't buy that. Having worked in construction and in manufacturing and how buildings are laid out, I see that taking us up probably close to 60 seats. Finally, I've never seen a project approved by the Town of Huntersville run on time and on budget. It takes longer, it's usually about 15 to 25 percent more to complete. Since the number has been thrown out for \$15 million, we need to be prepared to spend more if you actually pull the trigger on this. And one last thing, if you truly believe that this is going to bring value to the taxpayers of the Town who can't utilize it except for public meetings that are held by the Board or our committees, and this isn't the stroke your own ego so your name is on a building, then put it as a referendum and let the Town of Huntersville taxpayers vote on it this November. If you believe in it that much, it will pass. If you don't, just go ahead and rubberstamp it tonight and then move forward.

AGENDA CHANGES

Commissioner Boone made a motion to adopt the agenda.

Commissioner Bales seconded motion.

Mayor Aneralla called for a roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve
Commissioner Walsh – Approve

PUBLIC HEARINGS

Verifiable Percentage Goal. Mayor Aneralla called to order public hearing on the proposed adoption of a verifiable percentage goal for locally funded business projects costing \$300,000 or more. *Refer to Exhibit No. 2.*

Emily Sloop, Town Attorney, explained the requirement for adopting the verifiable percentage goal is a statutory requirement for all projects that are building projects over \$300,000.

There being no comments, Mayor Aneralla closed the public hearing.

OTHER BUSINESS

Resolution – Verifiable Percentage Goal. Commissioner Munger made a motion to adopt Resolution to establish verifiable percentage goal of 10 percent for participation by minority businesses pursuant to NCGS 143-128.2.

Commissioner Bales seconded motion.

Mayor Aneralla called for a roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve
Commissioner Walsh – Approve

Resolution attached hereto as Exhibit No. 3.

Robert B. Blythe Building. Anthony Roberts, Town Manager, noted the highest bidder for the Robert B. Blythe Building was from HFW Huntersville LLC in the amount of \$1,889,000. As part of the process the Board had the option to speak with the highest bidder about their plans and can at anytime decide to accept their bid or reject it based on conversation with the highest bidder.

Commissioner Bales made a motion to adopt a Resolution rejecting all upset bids and withdrawing the property for sale and the reason being is that after speaking with the highest bidder, it does not look like they would be interested in moving our vision for that property forward.

Commissioner Munger seconded motion.

Mayor Aneralla called for a roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve
Commissioner Walsh – Approve

Resolution attached hereto as Exhibit No. 4.

Design-Build – New Town Hall Project. Mayor Aneralla said we've talked about this a lot, but last year we had a lengthy discussion that we would kick off the process if we sold some particular pieces of property. North State is buying two acres from the Town. We'll see what happens with the Blythe Building, but we know there's a lot of interest in that. I think something I heard tonight was completely inaccurate, one of the reasons why I think it is appropriate to have a new Town Hall is to have additional community space that people can rent out, we can have voting there, we can have regional meetings and so forth. We're not necessarily committing lots of dollars tonight, we are just trying to move the process forward. The longer we wait, costs go up and the need goes up.

Commissioner Walsh made a motion to adopt Resolution determining design/build is the appropriate method of contracting for the new Town Hall project and establishing criteria under which the design/build method for contracting is appropriate.

Commissioner Bales seconded motion.

Commissioner Phillips said I've only been on this Board a year. Back when we were doing the budget, we removed this from the budget and we were going to revisit and here we've snuck it in at the end. At

the last meeting we said that we would discuss after the retreat. The retreat got rescheduled so I don't understand why we couldn't reschedule this because 45 minutes wasn't enough time tonight. Jackie is one of the smartest people I've ever known and she couldn't answer a lot of the questions I had about finances, which is concerning and no fault to her own. Since I've been at this, between social media posts and emails we've had over 100 citizens say that they weren't in favor of this. About 10 have said that they were and earlier today when we had that 45 minutes of nothing really, it was brought up that Davidson is building a new Town Hall, but Davidson put their building on the referendum and their voters voted for it because \$14 million of debt is a lot of money and at the end of the day that building hopefully will be around a lot longer than we are. I don't think we are listening to people and some of you guys have been on the Board for a while, you have had your visions, but other people have visions too and I think those are just as important to be heard and I feel like we are getting ourselves in a mess. There's a gray area and the least we could do is do this on a referendum. If it was good enough for Davidson, it's good enough for us and that's all I have to say.

Commissioner Hines said this is a resolution. If this were to pass tonight what would be the next step. We are not really committing a lot of money. We are going out and putting a RFQ out there, getting some things back. Let's say some of these numbers come in at \$20 million. Do we have the opportunity at that point to say no, too much, let's regroup, or is this committing us to whatever it is, it is.

Anthony Roberts, Town Manager, said let's say we do the RFQ process and a firm comes back in, we pick a firm through this committee selection, the contract I think I had on the calendar would come back to you May 3 or 17, maybe sooner. In that contract you will know what kind of amount you will be paying the design/build firm and that we would front that money because there's nothing to borrow money on. You don't have the design of the building, so the LGC is not going to lend you the money on that. And as Jackie said earlier on the financing, there's many different ways you can fund this. You want to be flexible. Yes, we could take money out of fund balance. You saw our fund balance numbers, so the funds are there to do it, but as we get closer to what that amount of money is, then you want to allow the flexibility to either do installment financing, do part of it through fund balance – there's many different ways you can do it, but we are financially strong enough to do it. To get back to your question can we stop the train through the process – absolutely we can stop the train. Once you contract with the design/build firm and they get to a point and for whatever reason you decide you get the guarantee maximum price and you decide that's too much, you can either stop or you could say we've got to chop off a floor whatever. Those are things along the process you have to decide. If you decide to move forward with a new building, you've got to decide how you are going to finance and pay for it, but until you award the contract to the company to build, there's no money to be had from that standpoint, but there are design dollars depending on how far you take it.

Commissioner Hines said can we get a quick update on our fund balance available cash that we have for this project, will it slow other projects down, will this prevent us from moving forward with new upcoming projects that we'll get from staff at the Planning Retreat. Do we think that this will slow down the train that we have moving at a pretty good pace right now.

Ms. Huffman said I can display the same fund balance spreadsheet we saw during the Pre-meeting (*spreadsheet attached hereto as Exhibit No. 5.*) and effectively what it shows is our total fund balance and what the changes have been since 2020. When we adopted the FY 20 budget 18 months ago we used more than \$5 million in fund balance to balance the budget because of all the capital projects. We've made some good progress on those projects. In spite of that, we still contributed \$3.7 million to fund balance in 2020. The Mayor talked about the number of pieces of property that we talked about selling and that will help offset some of the impact on fund balance of future projects. We also used

some fund balance in FY 21 to balance the budget to do capital projects. Our property taxes are coming in very closely aligned with budget. I have no concerns at this point about whether or not we'll make our property tax budget in FY 21. Sales tax has not been as low in FY 21 as we dropped our estimate. Those two revenues together make up 20 percent of our annual revenues in our general fund. It is true that tourism taxes are a little bit behind what we predicted. If memory serves, the tourism taxes together make up about \$1.6 million of our budget. Prepared food and beverage is doing fine because our receipts we received in FY 21 are based on the collections in FY 20. Occupancy taxes are down. Vehicle rental taxes are down. Out of our general fund budget of ballpark \$35 million, our vehicle taxes are in a good year \$120,000, so it's just not a significant deterrent. We have capital projects on the books over the next 5 years that we contemplate doing – over \$100 million. An example of one of those is Stumptown Road Extension. The Stumptown Road Extension project, once we get to the point where that's ready to be built, that's going to take some time to get ready. Are you satisfied with the response capital projects take longer than we would like and when we do our five-year forecast, when those capital projects happen becomes a timing issue. I would argue it's a conservative approach to assume that they are going to come out in one year when they eventually end up happening over the course of a five to seven-year term.

Commissioner Hines said in my three years on the Board the number of projects we have been working on, I can attest to projects don't happen the next year. They are always delayed longer than what we would want them to be and that's why sometimes it seems like nothing happens, but there are a lot of things in the works. That's my concern because we have so many things we try to do as a Board and a previous board and staff have tried to get a lot of these projects at least shovel ready so when funding becomes available through CRTPO, state, or federal, then we can just act more quickly than we have in the past. I know we talked about this a little bit earlier, installment financing. I know we have availability of that. Do we have any bond availability to use on this project or what would be our options if we were to look at installment financing.

Ms. Huffman said we don't have any bond authority available that's not being used, so if we wanted to do a GO issue, we will need to go back to the voters and get further authorized debt for that. Installment financing is comparable to what people would use as a mortgage. It would take about three to four months to do installment financing. There are other types of debt such as a Limited Obligation Bond (LOB) that could be used and that does not require voter approval. Another example is a Certificate of Participation (COPS). While neither of those three instruments would require voter approval, either of those three would require a public hearing.

Commissioner Hines said we've got a few options out there and with the low interest rate environment, I think those may be the way to at least pursue.

Mayor Aneralla said I think it's good to remember that this is a building. It's not a road, it's not a greenway, so it's obviously more financeable. I think it's the perfect timing to pass a resolution to move it forward. We've got a Town Retreat in a couple of weeks and like I said you're really not committing any dollars, you are just committing to the process.

Commissioner Munger said this is kind of a follow-up to something Commissioner Hines asked. How much would we have spent prior to financing assuming our total cost would be \$15 million.

Mr. Roberts said so design element most likely, that kind of stuff. Obviously, we've got to pick based on qualifications. If it's a \$15 million building, I'm going to say north of 10 percent. I'll just say \$1 million.

Commissioner Munger said I just wanted to understand how much we are committing to and at what point we can get that point of no return so to speak.

Mr. Roberts said once we get the RFQ back and we select a firm, we'll be working with that firm to get a contract. We will know what their contract will be to do that element.

Commissioner Munger said before we spend those dollars, this will come back before us and we'll vote again.

Mr. Roberts said we'll be able to break down those numbers as we get close to that. If you decide to move forward tonight allowing us to go forward with the RFQ and allowing us to get to a point where whatever committee can select a firm to get an AIA contract together for this Board to consider, at that time if you decide I've had a change of heart, I'm done, I've got a different thought, then don't approve the AIA.

Commissioner Munger said is part of the reasoning that we were able to increase our fund balance was due to the general NCDOT pause as a result of COVID. Were we going to spend money this year that we didn't spend and that helped contribute to our increase in general fund balance.

Ms. Huffman said what we were going to pay toward the Main Street project, we already issued bonds for, so that's not really a contributing factor. We also issued bonds for a portion of the Gilead Road West project and we've not needed to spend that money on those two projects because DOT halted those projects.

Commissioner Bales said in regards to Commissioner Phillips' comments, just as a reminder when we made the decision for the motion to delay the vote at the end of December, it was to make sure we had an opportunity to talk about it, but then also we tagged in there in the motion that we would bring it up at this meeting. While we didn't have the workshop last week to discuss, we have had basically almost 45 minutes prior plus the conversation we're having now which truly does equate to what we would have talked about at the retreat.

Commissioner Phillips said I'll just point out a lot of the variables and data that we needed from Jackie we weren't able to get tonight and that's frustrating when you are moving onto something in the millions of dollars range because I feel like we have half the knowledge that we need to make educated decisions and that's why I'm frustrated that we didn't reschedule the vote until after the retreat so staff could have provided us some more details.

Commissioner Bales said I'm just not sure that we would have gotten much more detail than what we have gotten tonight is my point. I feel like they have given us the information that they can give us to make this determination to move it forward. We talked about the new Town Hall adding additional community space because the current Town Hall doesn't have any now. One of the things we really haven't talked much about is just the current departments within Town Hall and those departments growing as our community continues to grow. One of the questions that I have is what additional needs do each of those departments have that they are looking for in a new facility, whether it's finance, administration, legal.

Mr. Roberts said we did a 5/10/15/20 year analysis, so it literally broke down the actual how we think we'll grow 20 years from now. There's just no way you are going to get that right. We talked to

department heads on how we grow and based on the population, what's the needs. We have what the titles would be etc. Twenty years from now who knows, but we went through that analysis for every department and literally cubed out what we could to try to jam people together as best as we could and we put names in those slots and/or positions to try to make that work. We went through that analysis and I have that. I wanted to correct one thing. I think Mr. Kidwell may have misunderstood me or maybe I misspoke, but on the existing Town Hall what Creech and Associates looked at is trying to take the Board Room and expanding it further back, not knocking out the back wall, but it was actually taking the existing room and basically moving it into the copy room and into the hallway of the backdoor and that would get you based on their analysis somewhere in the 20-25 additional seats and that was at \$301,000 and some change. That did not include any AV, lighting, electrical, some of those kinds of things.

Commissioner Bales said that was renovation of the existing facility without blowing walls out.

Mr. Roberts said without blowing the back wall out, because they came in and looked at load bearing walls and things like that and this is just very general.

Commissioner Bales said I have talked with a number of residents about the Town Hall and understanding the needs of the community, the needs of staff as we continue to grow, and I haven't had as much of a pushback as others may have just in having that conversation. I think at the end of the day it's incumbent on each one of us and the Town collectively to help residents understand the needs because they are not the ones going in there day in and day out, staff is. However, at the same time I continue to hear how residents are asking for community space and this does kind of kill two birds with one stone in regards to meeting the needs of the Town staff as the town continues to grow and then also meeting the needs of the community space that the community has been asking for. If we can do it, I'm not going to say on the cheap because I don't believe in cheap, but on the frugal then I think that's the right direction that we need to be going in. I don't think any one of us sitting on this Board today or on past boards would have been willing to build a tajmahall, that's certainly not in our Huntersville genetic make-up, if you will. I would be interested in seeing what that number does come back at and how we can manage it effectively

Commissioner Hines said I think from the standpoint is this the best location for Town Hall, 15 years ago I wasn't necessarily in favor of Discovery Place and the whole project. I think part of our 2005 plan shows Town Hall being where it is, but that completely changed. Because Discovery Place was built, we have a parking deck, storm water there already. We have a pad and I've seen some of these numbers of \$15 million and I think we can build a really nice building for \$10 million, maybe \$12 million. If some of those numbers were like they'd never seen the site, they just looked at it, grading the site is relatively inexpensive because it's already padded for the most part. We've already got parking, we've already got infrastructure, so really it's just going the vertical. I look at where I'm not necessarily in favor of growing government or growing assets that we own necessarily, but I think this may be the right time to really build something for the entire community to use because we haven't met in Town Hall for the last little while, so if it gives the opportunity for other people within the community to utilize it, there's no other site to put it in my opinion. With a low interest rate environment, with the great job that our entire staff has been doing in budgeting the funds that we have coming in, the growth in our community, pushing projects forward.....before I wasn't necessarily in favor, but I'm probably moving forward in that direction. Let's start moving forward and let's see where these numbers come in, let's see what happens with the RFQ. If there's only one bidder, I'm probably going to have a real concern with that, but at some point we've just got to start moving forward. We need to really represent what Huntersville is and I agree I'm not building a tajmahall for us – it's the people's Town Hall, but I think this

Resolution moving forward, as long as we have the opportunity to pivot if we need to if somebody does want to build a tajmahall, then I'm comfortable with that.

Commissioner Walsh said obviously I made the motion, but we do have a need now. We don't have room for our employees to be together. Even prior to Covid when we had Board meetings there were always people standing against the wall. They stood in the lobby. We actually bought some screens for the lobby. There's nowhere to park, so there is a need. Where we are looking is the right place for all the reasons we've talked about. We own the land, storm water is there, we have a parking deck. Right now we are kind of on three corners including the Blythe Building, the Town Center building and the Town Hall. If we build a new Town Hall here, we get off that other corner which then could be sold to developers to not only help fund Town Hall, but helps with redevelopment of downtown and we'll be doing something hopefully shortly with the Blythe building.

Mayor Aneralla said basically we are just moving the process one step closer. In terms of budgeting and everything, I think it makes it a little bit more concrete for our staff as well. I think it becomes something more tangible as we make the ultimate decision sometime around May.

Mayor Aneralla called for a roll call vote to adopt Resolution determining design/build is the appropriate method of contracting for the new Town Hall project and establishing criteria under which the design/build method for contracting is appropriate.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Deny
Commissioner Walsh – Approve

Resolution attached hereto as Exhibit No. 6.

Rosedale Nature Park Project Construction Contract. The Town opened sealed bids on January 14 for the Rosedale Nature Park Project. J. D. Goodrum Company, Inc. was the lowest bidder out of the three bids that were submitted. J. D. Goodrum is based in Cornelius, NC and has done many park projects in Huntersville and the greater Charlotte region. The bid submitted from J. D. Goodrum Company, Inc. is for \$1,303,936, which includes Alternate No. 1 (paved trails in lieu of gravel trails). The contract period is for 210 days.

Commissioner Walsh made a motion to adopt Resolution to award the bid for the Rosedale Nature Park Project to J. D. Goodrum Company, Inc. and approve the construction contract.

Commissioner Boone seconded motion.

Mayor Aneralla called for a roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve

Commissioner Walsh – Approve

Resolution attached hereto as Exhibit No. 7.

CONSENT AGENDA

Commissioner Phillips made a motion to approve the Consent Agenda. Commissioner Bales seconded motion.

Mayor Aneralla called for a roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve
Commissioner Walsh – Approve

The following items on the Consent Agenda were approved:

- Resolution approving designation of certain Town-owned property to public right-of-way. *Resolution attached hereto as Exhibit No. 8.*
- Award formal bid for Materials for Bulk Feeder Projects (Electric). *Refer to Exhibit No. 9.*
- Resolution to purchase playground equipment for the Rosedale Nature Park Project and approve the purchasing contract. *Resolution attached hereto as Exhibit No. 10.*
- Budget amendment appropriating Park Capital reserve revenue of \$108,000 and Fund Balance of \$109,000 to the Rosedale Nature Park project.
- Approve Tax Refund Report from Mecklenburg County. *Tax Refund Report attached hereto as Exhibit No. 11.*
- Call a public hearing for Monday, February 15, 2021 at 6:00 p.m. on Petition #ANNEX20-02, a request by Huntersville Magnolia Development Company LLC to annex 59.889-acres (North Creek Village) into the Town of Huntersville.

CLOSING COMMENTS

Commissioner Boone noted that Black History Month starts today.

There being no further business, the meeting was adjourned.

Approved this the ____ day of _____ 2021.

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Janet Pierson, Town Clerk

Date: April 5, 2021

Subject: Approve the minutes of the February 15, 2021 Regular Town Board Meeting. (*Janet Pierson*)

EXPLAIN REQUEST:

Consider approving the minutes of the February 15, 2021 Regular Town Board Meeting.

ACTION RECOMMENDED:

Approve Minutes

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. 021521DraftForBoard

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING
MINUTES**

**February 15, 2021 (Virtual)
6:00 p.m. – Hosted from Huntersville Town Hall**

PRE-MEETING

None

**REGULAR MEETING (VIRTUAL)
TOWN OF HUNTERSVILLE
BOARD OF COMMISSIONERS**

The Regular Meeting of the Huntersville Board of Commissioners (Virtual) was hosted at the Huntersville Town Hall at 6:00 p.m. on February 15, 2021.

GOVERNING BODY MEMBERS VIRTUALLY PRESENT: Mayor John Aneralla; Commissioners Melinda Bales, Dan Boone, Brian Hines, Lance Munger, Stacy Phillips and Nick Walsh.

Mayor Aneralla stated this meeting is being held both in person at the Huntersville Recreation Center on Verhoeff Road as well as livestreamed on Facebook Live. The Board of Commissioners are participating remotely. The public has been invited to attend and comment during the public comments or during any of the public hearings (1) in person at the Huntersville Recreation Center or (2) by telephonic communication in accordance with instructions sent to persons who have registered with the Town Clerk no later than 3 p.m. today. The public may also submit comments by e-mail to the Town Clerk at jpierson@huntersville.org. For public hearings only, e-mailed comments may continue to be submitted until 24 hours after the close of the public hearing.

Mayor Aneralla called the meeting to order.

Mayor Aneralla called for a Moment of Silence.

Mayor Aneralla led the Pledge of Allegiance.

MAYOR AND COMMISSIONER REPORTS – STAFF QUESTIONS

Mayor Aneralla

- Shout out to the Hough High School Girls' Swim Team for winning the state championship this year.
- Expressed appreciation to the Charlotte Automotive Dealers Association for a \$10,000 contribution to the Police Emergency Fund.
- Mayor's Luncheon is tomorrow.
- Huntersville was in third place after the first week of the Mayors Fitness Challenge.
- Covid has been on everybody's mind, but there is an increasing opioid crisis. There's been a 38 percent increase in opioid deaths amongst teenagers from May 2019 to May 2020 and emergency departments have been a 45 percent increase in overdoses since 2019.

Commissioner Bales

- E-mailed Livable Meck's progress report to the Board today.
- Lake Norman Economic Development Corporation had a successful virtual speed networking event last week.

Commissioner Boone

- Next virtual meeting of the Huntersville Ordinances Advisory Board is March 4.
- Provided update on Lake Norman Chamber of Commerce events.
- E-mailed Governor Roy Cooper and spoke to Representative John Bradford to see if anything can be done to move law enforcement and school teachers from Phase 3 to Phase 2 for the Covid vaccine.
- Forty percent of the Huntersville Fire Department staff has taken the COVID vaccine.
- Upcoming Huntersville Police Department podcasts will focus on the unsolved homicide of Peter Jordan.
- Requested staff provide the balance of the funds raised by a Lake Norman Charter School student for a bulletproof vest for K9 Ciro to see if there is enough to get a bulletproof vest for the two new K9s.

Commissioner Hines

- Next meeting of the Charlotte Regional Transportation Planning Organization is this Wednesday.

Commissioner Munger

- Attended the Centralina Regional Council Quarterly meeting last week.
- Please consider supporting local non-profits.

Commissioner Phillips

- With the opioid crisis and everything going on, if anyone needs assistance you can reach out to Center for Prevention Services.
- Ada Jenkins needs volunteers to receive documents and information from participants in their VITA tax program.

Commissioner Walsh

- Next virtual meeting of the Greenway, Trail and Bikeway Commission is tomorrow.
- Next virtual meeting of the Parks & Recreation Commission is on Wednesday.
- Provided update on Huntersville Regional Chamber events.
- Provided update on Visit Lake Norman events.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

Mayor Aneralla proclaimed March 2021 as Colorectal Cancer Awareness Month.

**Town of Huntersville
Proclamation**

WHEREAS, colorectal cancer is the second-leading cause of cancer deaths in the United States among men and women combined, but there is currently no cure; and

WHEREAS, colorectal cancer is one of the few cancers that can be prevented with timely screening and due to COVID-19, the total number of colonoscopies and biopsies performed declined nearly 90 percent by mid-April 2020 compared to the same period the previous year; and

WHEREAS, individuals born in the 1990s have double the risk of colon cancer and quadruple the risk of rectal cancer as those born in the 1950s; and

WHEREAS, it is estimated that over 145,000 people were diagnosed with colorectal cancer and over 53,000 people died of colorectal cancer in 2020; and

WHEREAS, colorectal cancer incidence and mortality rates are disproportionately higher among racial and ethnic minorities; and

WHEREAS, the national goal established by the National Colorectal Cancer Roundtable is to strive to increase timely colorectal cancer screening rates to 80 percent in every community for all Americans eligible for screening; and

WHEREAS, it is critical that all people, of all ages, know the signs and symptoms of the disease; and

WHEREAS, observing a Colorectal Cancer Awareness Month during the month of March would provide a special opportunity to offer education on the importance of early detection and screening.

NOW, THEREFORE, I, John Aneralla, Mayor of the Town of Huntersville, do hereby proclaim March 2021 as ***Colorectal Cancer Awareness Month*** in the Town of Huntersville.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Town of Huntersville to be affixed this the 15th day of February 2021.

AGENDA CHANGES

Commissioner Bales moved Item 9.D (Adopt Resolution adopting Code of Ethics for the Town of Huntersville Board of Commissioners and other Town boards, committees and commissions of the Town) to Item 8.G.

Commissioner Bales made a motion to adopt the agenda as amended.

Commissioner Phillips seconded motion.

Mayor Aneralla called for a roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve
Commissioner Walsh – Approve

PUBLIC HEARINGS

Petition #ANNEX20-02. Mayor Aneralla called to order public hearing on Petition #ANNEX20-02, a request by Huntersville Magnolia Development Company, LLC to annex 59.889-acres into the Town of Huntersville as a non-contiguous, voluntary annexation. The parcels are part of the North Creek Village (formerly Huntersville East) development located along NC 73, south of the Davidson-Concord Road and NC 73 intersection.

David Peete, Principal Planner, entered the Staff Report into the record. *Staff Report attached hereto as Exhibit No. 1.*

The subject property is a conditional district rezoning that was done sometime ago. Nothing is changing materially to that development at this time. Huntersville Magnolia Development Company is bringing this forward as a petition to annex as a non-contiguous voluntary annexation that was an agreed upon element of the conditional district rezoning. It meets all the statutory requirements for annexation and the recommendation from staff is that it move forward.

There being no comments, Mayor Aneralla closed the public hearing.

OTHER BUSINESS

Petition #ANNEX20-02. Commissioner Boone made a motion to approve Petition #ANNEX20-02, a request by Magnolia Development Company LLC to voluntary annex 59.889-acres located along NC 73 south at Davidson-Concord Road and NC 73 intersection.

Commissioner Bales seconded motion.

Mayor Aneralla called for a roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve
Commissioner Walsh – Approve

Annexation Ordinance attached hereto as Exhibit No. 2.

Cook Farm Subdivision. Mayor Aneralla said this is an evidentiary hearing and consider decision on Cook Farm Subdivision, a request by MI Homes Charlotte LLC to subdivide 92.18 acres located south of NC 73 along Oliver Hager Road into 133 single-family lots.

This hearing is quasi-judicial and quasi-judicial hearings are evidentiary in nature. The Board must base quasi-judicial decisions on competent, relevant and substantial evidence in the record. Competent evidence is evidence that is sufficiently trustworthy and reliable and that is legally fit and acceptable for consideration by the Board. Speculative, irrelevant or vague evidence, non-expert opinion as to something that requires an expert, and non-expected hearsay evidence likely will not be competent evidence. Material evidence is evidence that shows that the standards will or will not be met. Evidence is substantial if it is relevant and regarded by a reasonable person as sufficient to support a specific conclusion. Speculation, unsubstantiated fears of the community, or vague assertions do not constitute substantial evidence.

Quasi-judicial hearings are constrained by the standards in the ordinance and facts presented. Only parties with standing, including the applicant, local government and individuals who can show they will suffer special damages have the right to participate fully in the hearing. Parties may present evidence, call witnesses, make legal arguments. Other individuals may speak as a witness, however they will not

be allowed to participate fully as a party such as by questioning other witnesses or by calling other persons to testify. Witnesses must swear or affirm their testimony. General witness testimony is limited to the facts, not personal preferences or opinions. Certain topics require expert witnesses including projections about impacts on property values and traffic impacts. Individuals providing expert opinion testimony must be qualified as experts and provide the factual evidence upon which they base their expert opinion. Mere conclusionary testimony lacking the foundation of an expert's opinion is insufficient to establish the existence or non-existence of a fact or conclusion. Even though the Board may rely on other evidence if it is not objected to, the Board should rely on competent, reliable evidence in making its decision.

I will now recognize the applicant as a party and any other persons who believe they have standing to participate fully as a party.

Mr. Peete said the applicants are here. The consultants are here as well.

Mayor Aneralla said no adjacent property owners?

Mr. Peete said I don't believe so.

Mayor Aneralla said are the applicants intending to call any witnesses.

Mr. Peete said not unless questions arise.

Mayor Aneralla said the parties in this case are entitled to an impartial Board. A Board member may not participate in this hearing if he or she has a fixed opinion about the matter, a financial interest in the outcome of the matter or a close relationship with an affected person. Does any Board member have any partiality to disclose or conflict of interest to offer at tonight's meeting?

Mayor Aneralla said let me just say for a long time I have known different members of the family, but I have not discussed this at all with any of those members and I think there are probably a lot of people on the Board that know various members of the Cook family as well, but having said that, I think I can still be impartial at tonight's hearing.

Commissioner Phillips said I would like to say that I, too, know people in the Cook family and that will not impact my decision. And I'd also like to disclose that we received e-mails from people of the public regarding this and that will also not sway my opinion.

Commissioner Bales said I, too, know members of the Cook family. I have not spoken with anyone regarding this project and it will not sway my vote in any way, shape or form.

Commissioner Boone said I, too, know a few of the people of the Cook family. I have not discussed this with them and it will not have any influence on my decision.

Mayor Aneralla said the parties in this case have rights for any ex parte communication to be disclosed. Ex parte communication is any communication about the case outside of the hearing. That may be e-mail communications as well as conversation with parties, staff or the general public. Does any Board member have any ex parte communication to disclose? I know we received a few e-mails, so I think that covers all of us. Are there any other disclosures that anybody has?

There were no disclosures.

Mayor Aneralla said based on disclosures we've heard from the Board concerning partiality and ex parte communications, does any member of the Board or any party to this matter have an objection to the Board's participation in this hearing. I see no objections. What I would like to do now is swear in the applicant and staff and what I would like to do is have everybody come up to the laptop at the Rec Center, introduce yourself, state your address and who you are with. Then I will swear everybody in all at once.

Chad Lloyd, 3242 Tatting Road, Matthews, said I am with the applicant in my home. I'm Vice President of Land Acquisition.

Chris Todd with Timmons Group, we are the site civil engineer, 610 East Morehead Street, Charlotte.

Nick Burns with Impact Designs, we are the traffic consultant on the project. Our address is 172 Williamson Road, Unit 3728, Mooresville.

David Peete, Principal Planner, Town of Huntersville representing the Town of Huntersville.

Mayor Aneralla swore in the participants in the hearing.

David Peete, Principal Planner, said I want to enter the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 3.* MI Homes is bringing this by-right subdivision to you. The 92-acres is zoned Transitional Residential and you can see on the first slide that the property in the black striping is located along NC 73 in the western portion of town. Oliver Hager Road intersects with 73 along this border and this map will also show you in the red dash line where a future thoroughfare is proposed.

The property known as the Cook Farm sits between the Courtyards at Huntersville project on 73 and Gilead Ridge to the south. A neighborhood meeting for this project was held on October 22. There was a bit of delay by the applicants in terms of securing exactly where they were going to access NC 73 and that accounts for the slight delay in the processing of the subdivision.

If we go to the next slide, this just gives a little bit of context. You can see again a little more of the future thoroughfare. Some greenways are located on here or at least that are planning and some aerial photography of the existing developments around.

If you go to the next slide. This image indicates the layout of the property. You can see that aside from connecting into Courtyards at Huntersville and Gilead Ridge there are a large number of utility easements that crisscross through this development. There is a section of the future thoroughfare that comes off of 73 and moves south that the applicants will use to access their project, so that is a leg of a future thoroughfare that they will be providing and then they will provide right-of-way for an additional section of the thoroughfare, but they will not be constructing it at this time. There will be three different lot types in terms of width – 54, 64 and 74 feet in width and there will be a total of four urban open spaces that will be scattered throughout the site as well.

I wanted to highlight one change between what the Planning Board voted on and what you have before you tonight. If you see on the left, there was a road connection shown there in red that created a small block, but it also connected a little more specifically between Courtyards at Huntersville and Gilead

Ridge. That has been reviewed by the applicant and staff and as you can see in the larger image on the right in the green, that connection has now been.....the road has been taken out so it is much more indirect to connect through there and in its place where the road was is now a larger urban open space that is designed to be a dog park at this point.

I just want to show you that this particular area is just to the east of an intersection node in our 2040 Long Range Plan. It is designated as residential edge and the description of that is there at the bottom of the screen. I won't read that to you, but we can go back through that if you would like.

The next two slides just very quickly show you a couple of the 2040 policy statements that would support this development. Again, we can revisit any of these if you would like. There's a lot of consistency with the way that this project is set up and the goals that the Town has about residential development.

Transportation and TIA.....73 as you all know definitely has a series of plans that are still in the final stages of working through. Most of the impacts of this project will be bore by the 73 improvements but there is need for a left-turn lane with 100' of storage off of 73 approximately at the Oliver Hager Road intersection. If you have any other specific questions about transportation improvements, I believe that Stephen Trott is here and we can come back to it if you've got more questions on that.

I just want to go over a couple of updates from the Planning Board meeting as I mentioned. Just about everything has been addressed. There was a modification request for the buffer along the future thoroughfare. The requirement is an 80' buffer along the thoroughfare, but because of the parcel that was needed to get out to 73 and the width of that parcel, they are not able to provide 80' on both sides of the road. One of the sides would only have 28'. Because of the constraints of that parcel and because the pattern of the lots along 73 is not large lot or vacant or wooded, it is consistent and staff would be supportive of that. The second is a modification for cul-de-sac length. The cul-de-sac that is shown on the site plan, and we can revert back to that if you would like, exceeds our maximum of 250' but as illustrated in the site plan there are a large number of utility easements that make connectivity very difficult, so staff would be supportive of that modification request.

Tree canopy percentages have been revised. They were compliant to begin with, but they are shown there. If you would like to visit any of these points here that have been satisfied, I'm happy to do that. The only thing that is really outstanding at all on this is to make sure that all of the small detail dotting the i's and crossing the t's for the Zoning Ordinance and the transportation improvements happen.

Staff's position is that the application is complete, that the project is in compliance with the Zoning Ordinance and that there would be a recommendation of approval with all of the changes that have been incorporated. You can see from that Staff Recommendation the Planning Board voted 7-1 to support and they did that based upon the plan in front of them as well as all of the staff recommendations being addressed. This is your decision statement prompt which we can go back to if you would like about how you choose to proceed.

Mayor Aneralla said are there any questions of staff or the applicant at this time.

Commissioner Bales said quick question regarding the entrance off of 73. When the future widening of 73 occurs, is there projected to be a light at Oliver Hager since it's going to be an extension, a new thoroughfare, from 73 to Gilead.

Mr. Peete said I'm going to ask Stephen Trott to respond to that question.

Stephen Trott, Director of Engineering, said the future condition of NC 73, this access to Oliver Hager will be right-in/right-out.

Commissioner Bales said I'm not quite sure I realized that with the development that looks like would happen between Gilead and 73 and we're saying that's going to be a right-in/right-out, is that going to be the same as the entrance from the Courtyards.

Mr. Trott said I believe on the NC 73 Concept Plan the Courtyards and Terry Lane entrance, I believe that will be a directional crossover, meaning you can make a left-in at those locations, but not a left-out. So right-in/right-out and then left-in at the Hidden Path Lane/Terry Lane location and then for the future Oliver Hager thoroughfare there is a u-turn bulb that's between this proposed connection and the Terry Lane, so if you are trying to get to this thoroughfare and you are traveling westbound on 73, go to the u-turn bulb pass and then turn around at the traffic signal and then come back to turn right onto Oliver Hager.

Commissioner Bales said so bear with me, if they are going to put a light at Terry Lane.....

Mr. Trott said no traffic signal at Terry Lane, just a directional crossover.

Commissioner Bales said that was perplexing to me, so go to Commissioner Phillips.

Mayor Aneralla said I just want to remind everybody this is an evidentiary hearing to see if this plan is compliant with the ordinance.

Commissioner Phillips said I'm piggybacking off of what Commissioner Bales asked, have we been in talks with NCDOT in regard to a traffic signal at the Courtyards and Terry Lane.

Mr. Trott said I have not and NCDOT has not indicated as part of their review that I've heard of that a traffic signal is warranted or needed at either of those locations. I'm not sure if the applicant has any additional information on that they would like to share.

Nick Burns, Impact Designs, said a traffic signal on that concept plan, that 25 percent plan from DOT, they were not analyzed as signals neither at the u-turn bulb or at Terry Lane. If in the future that traffic does warrant it, that could be studied.

Mayor Aneralla said any other questions of staff or the applicant.

Commissioner Boone said just to kind of get some clarity so I can understand this a little bit, the connectivity from the Cook property into Gilead Ridge, on that map it really doesn't show what's coming in at Abbey House Lane or Bridgegate Drive. Can you answer that Mr. Peete.

Mr. Peete said I believe it's both.

Commissioner Hines said it looks to be both on the map I'm looking at.

Mr. Peete said Abbey House and Bridgegate are both connected by this development.

Commissioner Bales said while I understand that the intersections on 73 aren't necessarily weighed in on the sketch plan, I do think that we would want to keep an eye on those intersections so that if and when they are warranted we can work with NCDOT to hopefully get a light or something there so that these folks can get in and out easily, but I understand that's not part of this sketch plan approval.

Commissioner Hines said I've got one question. The Planning Board had a recommendation to remove the section there on this screen that's in red and now it's going to be a dog park or just pocket park. Can you explain the reason behind that request and are you at a point of supporting that.

Mr. Peete said there was no request by the Planning Board to remove the area in red. Some members of the Planning Board expressed concern that Gilead Ridge traffic and this development's traffic would find it perhaps tempting to go through Courtyards and so we were looking to create interconnectivity but make sure that it's done in a way that does not foster cut-through traffic. We revisited the site plan, talked with the applicants and found that it was just as appropriate to remove that section to create a better, more centralized urban open space but also to make that connectivity essential, but not tempting if you will. The Planning Board expressed a concern, but they did not directly speak to that solution and that's something that staff and the applicant came to.

Commissioner Hines said I think it's a great idea, so I like it the way it is. Just one curiosity question, is Oliver Hager currently a Town road or state road.

Mr. Peete said I believe it's DOT and there is a Charlotte Water facility underneath it, so the future of Oliver Hager is short. That's why you have the tie-in point where you do on this plan.

Commissioner Hines said so that basically would just become a local street. Will that still connect to Highway 73 or do we know yet.

Mr. Peete said we don't know that yet.

Commissioner Hines said one last question that just came to mind. In the Staff Report we talked about public facilities locating in this area. I know one thing that the Fire Department has always looked at is this area would be a great location for relocation of Fire Station 2. Did any of that come into consideration in regards to this.

Mr. Peete said no, it did not.

Mayor Aneralla said any other questions of staff or the applicant.

There were no additional questions.

Mayor Aneralla said as a reminder the Board is tasked with deciding if based on the evidence presented at the hearing before this Board the proposal meets the applicable standards. If the applicant meets their burden of producing competent material and substantial evidence that the standards in the ordinance will be met, the burden shifts to the other parties opposing the application to show by competent material and substantial evidence that the standards in the ordinance will not be met. If conflicting evidence as to the standard is presented, the Board will weigh the evidence and determine which side's evidence is correct. As an example, the Board may determine that one side's evidence is more credible and more reliable. If the applicant does not meet their burden of producing competent material and substantial evidence that the standards in the ordinance will be met, the Board must deny

the application. The application as originally submitted was considered by the Planning Board and the Planning Board made a recommendation. Nothing that occurred at the Planning Board level, including the Planning Board's recommendation, is considered evidence that you can base your decision on. However, the Planning Board's recommendation may be useful to the Board in identifying issues that the Board may want to consider and evaluate based upon the evidence that was presented at the hearing before this Board. Board members are encouraged to reference the applicable standards and specific evidence in their deliberation so that the staff and I will have enough information to prepare the written decision for the Board. Is there a motion regarding this request.

Commissioner Walsh said yes, I'm prepared to make a motion. In considering the evidence presented regarding "Cook Farm Subdivision" Subdivision Sketch Plan, the Town Board finds the application is complete, the sketch plan complies with all applicable requirements and there is consistency with the adopted public plans and policies of the 2040 Community Plan including: Policy LU 2.2, 5.2, 7.1, 9.2, 10.2 and 12.3; EOS 2.1, 4.3, 8.2, 8.3 and 10.1; PS 8.1 and 9.1; T 3.1, 3.2 and 5.3. The application complies with all requirements of the ordinances. These decisions are supported by the findings of fact set forth by the staff in the Staff Report. The Town Board approves the following: a modification to the portion of the 80' buffer along the entry of the portion of the thoroughfare buffer near NC 73 to 28' and a modification request to exceed the 250' cul-de-sac as the area in question is isolated by several utility easements. The Town Board approves the Subdivision Sketch Plan dated 2/3/2021 contingent on all other comments being addressed per staff's recommendation.

Commissioner Boone seconded motion.

Mayor Aneralla called for a roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve
Commissioner Walsh – Approve

Mayor Aneralla said staff will draft and I will authorize a designee to sign a final written decision to reflect the vote and the reasoning for this decision. That written decision will be provided to the applicant and other parties with rights to such notice. Thank you everyone and we will close that evidentiary hearing.

Bryton Single-family Phase 3 Subdivision Sketch Plan Revision. Mayor Aneralla said this is an evidentiary hearing and consider decision on Bryton Single-family Phase 3 Subdivision Sketch Plan Revision, a request by LStar Management, LLC to revise the existing approved Sketch Plan to reduce the lot count and re-design the streets and lots.

Mayor Aneralla said as I previously stated this is a quasi-judicial hearing. You heard previously that you have to have competent evidence and evidence that is sufficiently trustworthy and reliable. Speculative, irrelevant or vague evidence, non-expert opinion as to something that requires an expert, such as Mr. Trott previously, and then non-accepted hearsay evidence will likely not be competent evidence. Material evidence is evidence that shows that the standards will or will not be met. As previously stated, evidence is substantial if it is relevant and regarded by reasonable persons as sufficient to support a specific conclusion. Quasi-judicial hearings are constrained by the standards in the Ordinance

and the facts presented. Only parties with standing, including the applicant, local government and individuals who can show they will suffer special damages have the right to participate fully in the hearing. Parties may present evidence, call witnesses and make legal arguments. Witnesses must swear or affirm their testimony. General witness testimony is limited to facts, not personal preference. Certain topics require expert witnesses and even though the Board may rely on other evidence if it is not objected to, the Board should rely on competent, reliable evidence in making its decision. Right now we would like to recognize the applicants. Who is representing the applicant here tonight.

Scott Munday said good evening, my name is Scott Munday. I'm representing the applicant tonight. My address is 6700 Windy Rush Road, Charlotte.

Patrick Murphy, R. Joe Harris and Associates, the interior consultant for the project. I live at 1119 Shiloh Bend Trail, Fort Mill, SC.

Mayor Aneralla said and Mr. Peete.

David Peete said Principal Planner for the Town of Huntersville representing the Town.

Mayor Aneralla said anyone else in the audience that would be a party.

No one responded.

Mayor Aneralla said the parties in this case are entitled to an impartial Board. A Board member may not participate in this hearing if she or he has a fixed opinion about the matter, a financial interest in the outcome of the matter, or a close relationship with an affected person. Does any Board member have any partiality to disclose or conflict of interest to offer at tonight's meeting.

Mayor Aneralla said I didn't realize that Mr. Munday would be here, but I've known him for a long time. We are both proudly Georgia Bulldogs. He and his wife have also contributed to my campaign in the past, however I have not spoken to him and didn't even know he would be here tonight, so I don't think it would affect my impartiality hosting this meeting. Anybody else?

There were no other disclosures.

Mayor Aneralla said has anyone had any ex parte communications to be disclosed, any e-mails received, any conversations with staff.

There were no disclosures.

Mayor Aneralla said based on there are no disclosures I heard from the Board concerning partiality or ex parte communications, I don't feel like any member of the Board cannot be objective, so we'll move on. I do want to swear in the three people that spoke.

Mayor Aneralla swore in participants in the hearing.

Mr. Peete said I want to enter the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 4.* As you said this is LStar Management. You will see the large area there in yellow that is labeled NR. That represents the Bryton Single-family residential development and the area in the black striping with "Site" written on the map, that indicates Phase 3 and this was approved

some number of years ago. The applicants have approached the Town about revising only Phase 3. In fact, most of Phases 1 and 2 are already constructed. If we go to the next slide you can see a little clearer that the area in red represents Phase 3 and then I want to go to the next slide and show you very quickly on the left you will see the 80-home site that represented Phase 3 originally and they have now asked to reconfigure Phase 3 as it's shown on the right. There's a reduction of 7 lots and most of these revisions are due to topography challenges and issues that they have with the site. They are creating a little more usable urban open space in the middle of the site you can see there bounded by four streets. There is off-site connectivity to a future thoroughfare section, very small, to the extreme right edge and then there will be an emergency-only fire access road that will go down to Everett Keith Road. Most of this whole phase will go back into the other two phases for development.

The Staff Report outlines all of the consistencies with our ordinance. Staff found the application to be complete. Staff found that the applicable requirements were being satisfied. There are no modification requests for this development and the recommendation is approval as presented to you tonight in your packet.

The Planning Board at the January meeting recommended by unanimous vote 8-0 to recommend approval as well. If there are any questions, I will be glad to answer those or the applicants are here as well.

Mayor Aneralla said any questions of staff or the applicant at this time.

Mayor Aneralla said hearing none, then as a reminder the Board is tasked with deciding if based on the evidence presented at the hearing before this Board, this proposal meets the applicable standards. If the applicant meets their burden of producing competent material and substantial evidence that the standards in the ordinance will be met, the burden shifts to the other parties opposing the application to show why competent material and substantial evidence that the standards in the ordinance will not be met. If competent evidence as to the standard is presented, the Board will weigh the evidence and determine which side's evidence is correct. As an example, the Board may determine that one side's evidence is more credible than the other. If the applicant does not meet their burden of producing competent material and substantial evidence that the standards in the ordinance will be met, the Board must deny the application.

The application as originally submitted was considered by the Planning Board and the Planning Board made a recommendation. Nothing that occurred at the Planning Board level, including the Planning Board's recommendation is considered evidence that you can base your decision on, however the Planning Board's recommendation may be useful to the Board in identifying any issues that this Board may want to consider and evaluate based upon the evidence that was presented at the hearing before this Board.

Board members are encouraged to reference the applicable standards and specific evidence in their deliberation so that Staff and I will have enough information to prepare the written decision for the Board. Is there a motion?

Commissioner Walsh said I'm prepared to make a motion. In considering the evidence presented regarding Bryton Single-family Phase 3 Subdivision Sketch Plan Revision, the Town Board finds the application is complete, the sketch plan complies with all applicable requirements and there is consistency with adopted public plans and policies of the 2040 Community Plan including the proposed Bryton Single-family – Phase 3 Subdivision lies completely within the Bryton development, originally

approved in 2005. These decisions are supported by the findings of fact set forth by the staff in the Staff Report. The Town Board approves the Subdivision Sketch Plan contingent on all other comments are addressed per staff's recommendation.

Commissioner Hines seconded motion.

Mayor Aneralla called for a roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve
Commissioner Walsh – Approve

Mayor Aneralla said staff will now draft and I will authorize a designee who will sign a final written decision to reflect the vote and reasoning for the decision. That written decision will be provided to the applicant and the other parties with a right to such notice.

Petition #R20-04. Petition #R20-04 Statesville Road Mixed Use is a request by Palillo Holdings, LLC to Rezone +/- 37.19 acres at the southwest corner of Hambright Road and Statesville Road from Corporate Business to Corporate Business Conditional District, Transit-Oriented Development Residential Conditional District, Highway Commercial Conditional District for a Mixed-Use development with commercial, apartments, hotel, and flex space (Parcels: 01704401, 01704402, 01704403, 01704404, 01704406, 01704407, 01704409).

Commissioner Phillips disclosed that the applicant donated to my campaign and that will have no influence over me at all.

Commissioner Hines said that would be the same for Commissioner Hines. I know the applicant and he donated in the past. It would not change anything.

Commissioner Boone said Jake Palillo has contributed to my campaign. It will not have any influence on my decision.

Brian Richards, Assistant Planning Director, said I'm just going to do a quick recap. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 5.* The rezoning here has two options. Option A, which is the plan on the main part of the screen, shows apartments to the north as well as a convenience store, on the southern portion flex space, a hotel as well as a commercial building. As part of the plan, the applicant is offering an alternate plan on the southern portion to accommodate for a 95,000 sq. ft. race shop and two buildings. Previously we did not see the map of the alternate plan, but that was shown to the Planning Board and we are going to show that to you guys tonight. As part of the plan they are requesting three modifications. The first modification is reduction of the 80' Corporate Business buffer. That would be along the southern portion in Alternate A that would be reduced to a 20' buffer that extends across the entire property. Alternate B they offer a 60' buffer. Staff is in support of this modification as it is in keeping with the spirit of the ordinance. The second modification is a modification of the I-77 buffer. A portion of that in the northern portion is for the construction of a parking lot. We understand that due to the topography that they are asking for an encroachment. On the southern portion, we can get into this in just a little bit more detail, I actually just got off the phone

with the applicant a moment ago and I'll be able to show some other information. On the southern portion they're asking for some encroachment for some visibility as well build ability in the southern area. Staff would not be in support of the encroachment of that buffer because that is not in keeping with the ordinance.

Here's the new plan that just came in. You can see the race shop in the area here where they are asking for a modified interstate buffer. They are offering to have a wet pond with a sprayer and some other elements. I actually was just provided elevations of the race shop so I'm going to show those to you in just one moment, but first we are going to go to the third modification which is a parking modification on the side of Building B. Apartment complexes require parking in the rear of the buildings. Due to the unique topography and constraints there with the gas line and topography and swim buffer, the parcel being adjacent to the I-77 corridor, we feel that this would be a modification that would be allowed and staff would support that as it is in keeping with the spirit of the ordinance. Staff is in favor of this plan given that policies of the 2040 Community Plan with one exception that staff would not support the Modification No. 2. The Planning Board did recommend approval for the project and they would be open to considering supporting the Modification No. 2. The applicant is here and he has requested that I provide the elevation of the race shop. Here's the northern portion, this would face the public interior road, Public Road D and the bottom picture of the elevation that would be visible from I-77. That would be the western elevation.

Commissioner Bales said are there any elevations of the apartments as well.

Mr. Richards said we don't have actual elevations. These would be representations. These are architectural precedents that are being offered by the applicant. They do not have an actual developer on board. I know they are speaking to a couple of developers right now and they have indicated that these would be higher end apartments for Huntersville.

Commissioner Bales said I feel like I'm missing something with this project and I'm trying to figure it out because the ask is that it's one mixed-use project. The question that I have is the architecture being compatible between the apartments and what we are seeing now for the first time, kind of the design of some of the space to the south and I'm struggling personally with trying to figure out if we are going to approve a rezoning that takes commercial space away and puts apartments in its place. I would feel better if I understood how it all ties together. Is there any opportunity there to get some elevations so we can see how it all ties together.

Mr. Richards said we have requested elevations from the applicant. Due to not having an apartment vendor on board at this time, they could not provide exact elevations, but they have offered these precedents for your consideration.

Jake Palillo, said the apartment complex is in design right now. Our architect advised to kind of give some precedents of some of the elements that we are going to use and the materials. We just got the race shop information and we're kind of under a little bit of a time constraint here with the race shop and with that 50' buffer.

It's a very modern building and these doors are all glass and that's going to kind of showcase their haulers and stuff. This is all glass and that's going to be visible from 77 and then that pond will have a sprayer with lights in it so it will be attractive kind of from all ends. This north elevation will actually be facing that traffic circle and then the front of the building facing Statesville Road will also be that same black type glass. With respect to the apartments, it's a 3-story apartment building and what we always

try to do is we try to look at what the competition is and one up them. We are always trying to make them nicer and nicer to be more competitive. Upon submittal of the drawings, staff has to approve the elevations. We submit the actual building plans, staff will go through it. I love Brian, but Brian is extremely tough and makes sure that every detail is met with respect to the frontage and that the side of the building is the side that looks like the front. We will work through all those details with staff during the building permitting process. In respect to the two different areas, there's quite a bit of green space. You'll see that there's a big buffer between all natural.....that stays an all wooded area. There's kind of a break between this very modern race shop and then transitioning over into the apartments and the apartments meet the need being next to the transit stop, which they just had a hearing on that to get that transit stop started.

Commissioner Bales said on the main screen here, show me exactly where the race shop is going to be situated. Is it that spot right there.

Mr. Palillo said right there.....in this area here is where the race shop would go. That shows you the race shop will go there and then this other space will stay vacant for now until they have some additional uses that they'll have to come back for later. We are putting a signalized light at this intersection. We're expanding the sewer quite a distance, too. And doing quite a few road improvements for the project.

Commissioner Bales said in recent memory have we ever done a modified buffer dipped into the buffer along 77.

Mr. Richards said no, we have not chartered that water. This would be the first precedent.

Commissioner Bales said that is actually a concern that I have that we are setting a precedent here and going down a road I don't necessarily know we want to go down.

Mr. Palillo said I'm in support of what you are saying. I would be in the same mindset and I talked to several staff and stuff. The only reason I would request the buffer is that because of who this building is and what this building is and does it add any value to people driving down 77 to see.....it's almost like when you are going to Atlanta when you go through Greenville, you see beautiful office buildings along there and it kind of adds some value to the community, so the question is does this race shop with this attractive look, add enough value to allow this to be seen from 77. I agree with you, I would not be a fan of opening up the buffer to the back of buildings to see parking lots and dumpsters and stuff like that, but I think this is kind of a unique situation.

Commissioner Bales said I think the question is if.....I'm going to go out there because I'm always looking at what if's and what if the race shop doesn't stick around and now we've got this open space and we have set a precedent that for lack of a better word has the potential to open the corridor along 77 in a way that we do not want the corridor opened and the race shop goes away and then we're kind of stuck. That's something that I think we all are going to have to weigh. I do have one quick question for Mr. Palillo, the red trim, is that part of the design for the building and is it lit.

Mr. Palillo said the red is part of the building and I don't have the details if that is lit up or not. The other question with respect to opening up the corridor, most of the corridor is now that ugly red concrete wall that was installed along 77, so good portion of the frontage in Huntersville is met with that cheap ugly sound wall they put up.

Commissioner Bales said I think we have them in just two locations. They are not on both sides of the interstate is my point and they are in two locations.

Commissioner Hines said we have an elevation from the interstate. We have an elevation fronting more towards the pond. Do we have an elevation fronting Statesville Road.

Mr. Palillo said no, these are the only two elevations that I was just given.

Commissioner Hines said there's another screen that shows where the building is, the pond and the buffer. I know there's a section of this property here that is very open, there's not really any trees. Do we have something in relation to this to the current conditions out there because I think the trees that we are seeing there are kind of from the request of removing that section of buffer, but do we have a current conditions overlay or something like that

Mr. Richards said we're not able to overlay that plan here. This is where the race shop would be located. As you said, that area here along 77 is very thin. There's the entrance to Hunsted Road and so the race shop would be where the clearing is today.

Commissioner Hines said so it would be minimal impact if there were some type of labor adjustment or something regarding the buffer here, it wouldn't be other areas.

Mr. Richards said more towards the southern portion, correct.

Commissioner Hines said my next question is on the north end where the apartment buffer request is, why a request for that buffer there. Is it primarily because the 10' greenway.....are you needing a construction easement in that area and that's why the request. Can you go into a little bit more detail why that's needed.

Mr. Palillo said that's merely just a construction easement. We are going to go back and replant that. We are just asking to go in there and put that parking in there and then we will replant that. Going back to the other screen, I'm not opposed to the race shop bringing that buffer closer, making that solid buffer and bringing it right up to that corner so closing it down right there. Just get it open enough to see this building.

Commissioner Hines said I think it's pretty open there anyway if my memory serves me right if I look at some aerals. I know the 50' buffer is completely undisturbed. Do we have any flexibility in our ordinance to allow for construction easement for parking lot even though it doesn't encroach into the 50' and for even a buffer to allow a greenway or anything.....do we have anything in our ordinance that allows that flexibility or no.

Mr. Richards said we do not for the 50' buffer. Those are to remain undisturbed. We understand especially with the apartment complex to the north, we were less concerned about that one just due to the buildability and the topography that is there. There are very few encroachments that are allowed. You are allowed to have them for driveways and sidewalks, so the pedestrian pathway will qualify for that and landscaping installation but typically you are not supposed to get in there and do a lot of grading, but because of this particular situation here on the northern part with the swim buffer and the gas line.....we're open to working with them on the northern one. Our main concern is the southern impact.

Commissioner Hines said looking at the southern impact it looks about where your cursor is maybe a little bit right there on that line. If that's where the building is, I mean I think what I'm hearing Mr. Palillo say is his request for the waiver could be significantly reduced since this second phase which is going to be left open for commercial corporate business, that's my understanding. In a buffer can you go and clear out undergrowth or really it is completely undisturbed other than the items you mentioned earlier.

Mr. Richards said it's supposed to be undisturbed totally but to point out the other portion as part of the conditional district rezoning, the applicant can ask for these modifications and that's what they are doing. If it was just without a rezoning they are supposed to remain undisturbed in perpetuity.

Commissioner Hines said for example on the north side, if Mr. Palillo were to say all I need it for is just for a construction easement for the parking lot but the parking lot would not encroach into the 50', the staff would be in support of that language.

Mr. Richards said yes, and as we've gone through these plans with Mr. Palillo and his team, staff has become more comfortable with the disruption to the northern boundary. We understand that they are to come back and replant that upper retaining wall and put the greenway path through there and so we are comfortable with the northern one. Our objection is for the southern one.

Mr. Palillo said under the conditional use would it be allowable to put as a condition that if the race shop was to ever leave that the 50' buffer would have to be replanted. We are selling it to the race shop, so is that something that we could put in the conditions, if the race shop vacates that the buffer gets restored.

Mr. Richards said yes, you could offer that as a condition.

Mr. Palillo said even if the race shop leaves, whoever takes it is still going to see that beautiful building but I wouldn't be opposed, if that gives you a little more comfort, to say we're making the exception only because it's a race shop and who they are and we feel it adds value to the community and if they leave, then the town according to the ordinance would be able to reinforce putting the buffer back in.

Commissioner Hines said that brings up one last question for me. Considering what you were just saying regarding the race shop if they ever leave, what if the race shop never comes.

Mr. Palillo said then the buffer remains. The condition is only if it's a race shop. If it goes back to the what you see now with the flex office, hotel and the retail, that buffer stays. We are only asking that for the race shop. If the race shop did not go in there, then the 50' buffer would stay there.

Commissioner Boone said I think this is a pretty good project and if you could put the red outline of the building where it showed the elevations. Yesterday before the Daytona 500 this race team was featured with the owner, the driver and the other owner and the portion that is to the left that has the 23, that is part of the team logo that is that 23XI racing that's part of the advertising on the race car. I think this project is so important and this is what people will see once they come from south to north into North Carolina into Huntersville, so we've got to get this thing right and I'd like to make a motion to defer this Rezoning Petition #R20-40 to the Town Board meeting of March 1 and this meeting will be held in person and/or virtual, so we can get some of these details worked out, we can get the elevations correct, we can get a different feeling from the Statesville Avenue view, the I-77 view, work on the

elevations and a possible designer for the apartments and have the Planning staff and Mr. Palillo work out these details in the next two weeks and bring that back to us. That's my motion.

Commissioner Walsh seconded motion.

Commissioner Munger said is it typical that we have elevations and design concepts prior to approving zoning changes of this type and I ask this because I know that our most recent rezoning for North State was a slightly different situation and that we owned a portion of the land.

Mr. Richards said yes, it is typical that applicants provide elevations for a majority of the buildings in conditional district rezonings.

Commissioner Munger said what is your projected timeline from start to finish on this project.

Mr. Palillo said the sense of urgency is the race shop would like to be up and running by this time next year. That's why every day is critical. They're putting a lot of pressure on us to get everything approved as quickly as possible.

Commissioner Munger said how long do you anticipate it would take to put up a structure of this sort.

Mr. Palillo said if they fast track it, I know Choate is the contractor on this, they are going to be pressing really hard to be done by February this time next year. The apartments take about 18 to 24 months start to finish.

Commissioner Phillips said for us that are not into the sports world, can the applicant please clarify who the owner is and why this is significant.

Mr. Palillo said I have signed a confidentiality agreement, so you have to make your assumption of who 23 is and I think Mr. Boone already spoke about it. I guess I'll break my confidentiality, it's the Michael Jordan, Denny Hamlin, Bubba Wallace race team. Michael Jordan is the first black American to be an owner in NASCAR.

Mayor Aneralla called for a roll call vote to defer to March 1.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve
Commissioner Walsh – Approve

Asbury Chapel Farmhouse Cluster. Asbury Chapel Farmhouse Cluster is a request by Olde Poplar, LLC (Jesse Goodwin) to subdivide +/- 10.39 acres of land located on the west side of Asbury Chapel Road to create a six lot Farmhouse Cluster Development (Parcel #01935117).

Lauren Speight, Planner, said the Asbury Chapel Road Farmhouse Cluster development was submitted by Old Poplar LLC and the manager for that is Mr. Jesse Goodwin. I would like to enter my staff report into the record at this time. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 6.*

There have been some modifications since my Staff Report was submitted, which I will go over. The Asbury Chapel Farmhouse Cluster is a development of six single-family homes and the total site size is approximately 10.39 acres. It is composed of one parcel along Asbury Chapel Road. The parcel is zoned Transitional Residential and it is primarily surrounded by Transitional Residential land as well. As you can see here the site is bordered to the east by the Olmsted development and to the northwest and south are single-family homes. The site meets the minimum open space requirements and it also will require an erosion control permit that has been reviewed by our land development staff and there is one outstanding comment there that is minor. The site is not required to meet the lot width or size minimums for the Transitional Residential zoning district because it is a Farmhouse Cluster, but it must meet all the other requirements of the Transitional Residential Zoning District which it currently is with one exception, which I will go over in a moment.

The proposed plan is meeting the minimum requirements and is over with the required tree save and it is not proposing to remove any of the specimen trees onsite.

Staff finds that the application is complete and it meets 9 of the 11 conditions outlined in the Huntersville Zoning Ordinance for Farmhouse Cluster and Transitional Residential zoning district. Staff recommends approval of the farmhouse cluster to subdivide 10.39 acres of land located on the west side of Asbury Chapel Road to create the 6 lot Farmhouse Cluster development on the condition that the applicant work with Planning staff to resolve the two code items which includes a vegetated opaque buffer along Asbury Chapel Road and add an open space note. As I previously mentioned the development is proposing to meet the minimum amount of open space, they just need to include a note and show that the open space will be protected and I've already spoken with the firm that is handling the plan and they are revising it and staff is confident that will be done, it's quite minimal. Staff has also been in communication with the firm with regard to the vegetated opaque buffer and they are working on that as well. The last minor revision has also been discussed with the applicant and has to do with a plat change that is necessary. It's also minor.

Commissioner Munger made a motion to approve the Asbury Chapel Farmhouse Cluster to subdivide +/- 10.39 acres of land located on the west side of Asbury Chapel Road to create a six lot farmhouse cluster development on the condition that the applicant work with Planning staff to resolve the remaining two code items which includes a vegetated opaque buffer along Asbury Chapel Road per Section 3.3.2(e)(6) and open space note Section 3.3.2(e)(8).

Commissioner Hines seconded motion.

Mayor Aneralla called for a roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve
Commissioner Walsh – Approve

Greenway, Trail and Bikeway Commission Appointment. The Greenway, Trail and Bikeway Commission has one position that needs to be filled due to the resignation of Marianne Thomas. This term will end on December 31, 2021. Staff recommends the Board appoint one new member to carry out the term.

Commissioner Walsh nominated Kelly Coleman.
Commissioner Phillips nominated Kelly Coleman.
Commissioner Munger nominated Kelly Coleman.
Commissioner Hines nominated Kelly Coleman.
Commissioner Boone nominated Kelly Coleman.
Commissioner Bales nominated Kelly Coleman.

Commissioner Walsh made a motion to appoint Kelly Coleman to the Greenway, Trail and Bikeway Commission.

Commissioner Bales seconded motion.

Mayor Aneralla called for a roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve
Commissioner Phillips – Approve
Commissioner Walsh – Approve

Resolution – Code of Ethics. Emily Sloop, Town Attorney, said the previous Code of Ethics had not been updated since 2010, so it was necessary to update the code to incorporate 160D edits as necessary and also we have conformed to the code to match up with the model code. Not only did we update the Town Board code, but we also have provided a code for the other boards, commissions and committees of the Town.

Commissioner Phillips said did we previously have codes for the other boards and committees.

Ms. Sloop said it's not a statutory requirement for the other boards and committees to have a formal Code of Ethics as it is for the Town Board, but we do feel that it's a good idea and that's why we have updated and provided a code for them as well.

Commissioner Bales said thank you for all of this work. I think that it is time for our Town to have a Code of Ethics not only for this Board which we've had for a very long time, but for all of our boards, committees and commissions. I think that it just sets a very good example for how we should conduct business within our community and so I'm very excited by this. If there aren't any other questions, I would like to make a motion that we adopt this resolution adopting the Code of Ethics for the Town of Huntersville Board of Commissioners and other Town boards, committees and commissions of the Town.

Commissioner Phillips seconded motion.

Mayor Aneralla called for a roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Munger – Approve

Commissioner Phillips – Approve
Commissioner Walsh – Approve

Resolution attached hereto as Exhibit No. 7.

CONSENT AGENDA

Commissioner Munger made a motion to approve the Consent Agenda. Commissioner Hines seconded motion.

Mayor Aneralla called for a roll call vote.

Commissioner Bales – Approve
Commissioner Boone – Approve
Commissioner Hines – Approve
Commissioner Phillips – Approve
Commissioner Munger – Approve
Commissioner Walsh – Approve

The following items on the Consent Agenda were approved:

- Supplemental Agreement for design to change signal pole type to mast arms for the US 21 at Gilead Road NCDOT project. *Agreement attached hereto as Exhibit No. 8.*
- Resolution for the Town of Huntersville's on-call contracts to acquire right-of-way and easements necessary for the construction of various projects. *Resolution attached hereto as Exhibit No. 9.*
- Resolution approving sewer easement to Ramah Executive Park Condominium Development LLC and POS Real Estate Holdings, LLC and to abandon a portion of existing sewer easement(s) affecting the Seagle Street property. *Resolution attached hereto as Exhibit No. 10.*
- Tax Refund Report from Mecklenburg County. *Tax Refund Report attached hereto as Exhibit No. 11.*

CLOSING COMMENTS

Commissioner Boone requested an update on the delay in solid waste cans being delivered by Waste Connections.

Kevin Fox, Director of Public Works, explained that Waste Connections had supply chain issues during the pandemic, however they do have carts available now and over the last few days they have caught up significantly and hope to be back on a five to seven day lead time new carts moving forward.

There being no further business, the meeting was adjourned.

Approved this the ____ day of _____ 2021.

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Michael Jaycocks, Director

Date: April 5, 2021

Subject: Adopt Resolution to award the bid for the Veterans Park Stage Lighting Project and approve the construction contract. *(Michael Jaycocks)*

EXPLAIN REQUEST:

This project will provide much needed stage lighting for the Veterans Park Ice House Stage. This stage lighting addition will provide adequate lighting for nighttime performances on the entire stage. These funds were approved in the FY21 budget. The Town contacted five electrical contractors and only one submitted a bid. This bid is within our budget for this project.

ACTION RECOMMENDED:

Approve Resolution and Contract for the Veterans Park Stage Lighting Project

FINANCIAL IMPLICATIONS:

\$27,926.25 from the approved FY21 Budget

ATTACHMENTS:

1. Resolution awarding the contract-Veterans Park Stage Lighting-
2. Veterans Park Stage Lighting Contract - Wire 1 Final



RESOLUTION OF THE TOWN OF HUNTERSVILLE TO AWARD THE BID FOR THE VETERANS PARK STAGE LIGHTING PROJECT AND APPROVE THE CONSTRUCTION CONTRACT

Whereas, the Town of Huntersville received one bid for the installation and construction of the Veterans Park Stage Lighting Project (the "Project"); and

Whereas, the lowest responsive responsible bidder was Wire 1, LLC, a North Carolina limited liability company located in Mooresville, NC ("Low Bidder"); and

Whereas, the Town wishes to award the Project to the Low Bidder, and approve and establish administrative authority for the construction contract with the Low Bidder;

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Board of Commissioners awards the Project to the Low Bidder, in accordance with the Bid Proposal submitted, as modified by the Contract Documents:

- Base Bid consisting of:

1. Provide and install stage lighting \$27,926.25 (lump sum)

Total Bid Amount: \$27,926.25

2. The draft Construction Contract, attached hereto as Exhibit 1, is hereby approved. As used herein, the Construction Contract is deemed to include Exhibit A, attached thereto, and all Contract Documents identified and incorporated therein by reference.
3. The Board hereby authorizes the Town Manager, acting on advice of counsel, to take any actions necessary to effect the provisions of this Resolution, including signing the Agreement attached with such modification as may be required. Provided a budget amendment is not necessary, the Town Manager shall have the authority to approve change orders to the Construction Contract for time and price, however the total of all change orders approved by the Town Manager may not exceed five percent (5%) of the Total Bid Amount stated in paragraph 1, above.
4. This Resolution shall be effective as of the date its adoption.

Adopted this _____ day of April, 2021.

ATTEST:

TOWN OF HUNTERSVILLE

Town Clerk

Town Mayor

APPROVED AS TO FORM:

Town Attorney



101 Huntersville-
Concord Rd
Huntersville, NC 28078
(704) 875-6541

CONSTRUCTION CONTRACT

CONTRACTOR:
Wire 1, LLC.
PO BOX 5275
Mooresville, NC 28117

PROJECT: **Veterans Park Stage Lighting**
PROJECT **201 Huntersville Concord Road**
ADDRESS: **Huntersville, NC 28078**

This Construction Contract, and all exhibits, (collectively this "Contract") is entered into this ____ day of _____, 2021 by and between, the Town of Huntersville, a municipal corporation of the State of North Carolina, (the "Town") and, Wire 1, LLC. (the "Contractor") having a principal business address of PO BOX 5275, Mooresville, NC 28117.

WITNESSETH:

That for and in consideration of the mutual promises set forth in this Contract, the sufficiency of which is acknowledged by the parties hereto, the parties agree as follows:

1. Scope of Services. The Contractor agrees to provide the professional construction services needed to complete the Project in accordance with the Project Drawings and Specifications and the Contract Documents for the price stated in the Contractors Proposal, plus or minus the bid alternates accepted by the Town, plus the unit price per quantity of unit price work performed, and plus or minus the substitutions listed on the Substitution Listing which are accepted by the Town.
2. Contract Documents. The Contract Documents consist of, in addition to this Contract, Bid Proposal Form, Non-collusion Affidavit, Substitution Listing, all Addenda issued, the Contract Drawings, Technical Specifications and the General Conditions of the Construction Contract, all of the foregoing being incorporated herein by reference as if fully set forth herein, and all parties agree to be bound thereby. To the extent that there are discrepancies between the Contract documents, the order of priority shall be the Notice of Award, this Construction Contract with Exhibit A, Addenda in reverse order of issuance (i.e. last addendum has the highest priority among the addenda), the Non-collusion Affidavit, the Instructions to Bidders, Contract Drawings, Technical Specifications, the Bid Proposal submitted by the Contractor, and the General Conditions of the Contract.
3. Time for Performance of the Work. The Work shall be completed within thirty (30) days of receipt of the Notice to Proceed from the Town.
4. Base Bid and Alternates Accepted. The Town accepts the following base bid and alternates contained within the Contractor's Bid Proposal:

- Base Bid consisting of:

1. Provide and install stage lighting

\$27,926.25 (lump sum)

Total Bid Amount: \$27,926.25

5. Payment for Services. For the performance of the Work Contractor shall be paid the lump sum of Twenty seven thousand nine hundred and twenty six dollars and 25/100s (\$27,926.25) plus applicable unit prices per quantity of unit price work actually performed, plus reimbursables, all in accordance with the terms and conditions stated in the Contract Documents.

In witness thereof, the contracting parties, by their authorized agents, affix their signatures this _____ day of _____, 20_____.

CONTRACTOR

BY: _____
Print Name:
Print Title:

TOWN OF HUNTERSVILLE

BY: _____
Print Name:
Print Title:

This instrument has been pre-audited in that manner required by the North Carolina Budget and Fiscal Control Act.

Pattie McGinnis, Finance Director

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

1. DEFINITIONS

Owner: "Owner" shall mean, The Town of Huntersville.

Contractor: "Contractor" shall mean the entity that will provide the services for the Owner.

Designer: The designer(s) are those referred to within the Contract documents, or their authorized representatives. The Designer(s), as referred to herein, shall mean landscape architect and/or engineer responsible for preparing the Project plans and specifications. They will be referred to hereinafter as if each were of the singular number, masculine gender.

2. Scope of Services. The Contractor agrees to perform for the Town the following services according to the following requirements:

The Contractor agrees to complete the construction of the Project in accordance with the Contract Documents, attached hereto as Exhibit B and Exhibit C. Such construction of the Project shall constitute the "Work." The Contractor agrees to provide all of the personnel, contract personnel, subcontractors, financial resources, materials, supplies, and equipment necessary to complete the Work in a timely and professional manner in accordance with the standards of the profession for similar work in the Mecklenburg County area at the time of the performance of the Work.

3. Contract Documents. The Contract Documents consist of the Invitation to Bid, Instructions to Bidders, Bid Proposal Form, Non-collusion Affidavit, Substitution Listing, all Addenda issued, the Contract Drawings, the Town's Standard Form Contract, and the General Conditions of the Construction Contract. The drawings and specifications are complementary, one to the other. That which is shown on the drawings or called for in the specifications shall be as binding as if it were both called for and shown. The intent of the drawings and specifications is to establish the scope of all labor, materials, transportation, equipment, and any and all other things necessary to provide a complete job. In case of discrepancy or disagreement in the Contract Documents, the order of precedence shall be the Construction Contract, the Bid Proposal Form, the Substitution Listing (only those items accepted by the Town), Addenda, the Contract Drawings, the Instructions to Bidders, the General Conditions of the Contract, the Invitation to Bid, and the Non-collusion Affidavit.

4. Licensure Required. The Contractor must be a licensed Electrical Contractor as required by North Carolina General Statutes Section 87-1, and must have a good ethical and professional standing with the North Carolina Electrical Contractor's Licensing Board. The Contractor will be responsible for providing properly qualified, licensed (if required) personnel to complete the Work in accordance with the standard of care ordinarily used by members of the Contractor's profession practicing under similar circumstances and at the same time in Mecklenburg County.

5. Coordination With Others. The Contractor agrees to coordinate its Work with the work of any other unaffiliated contractors or with the work of the Town's own forces to avoid delaying or interfering with their work.

6. Contract Insurance. Contractor shall be required to purchase and maintain during its performance under this Contract insurance coverage as shown on the Insurance Requirements as stated in Exhibit A, which is incorporated herein by reference. With the exception of Worker's Compensation and Professional Liability policies, all insurance purchased shall have a specific endorsement, copy of which shall be provided to the Town, naming the Town as an additional insured and for all insurance purchased, an endorsement providing that such insurance will not be cancelled without providing thirty (30) days advance written notice to the Town.

7. Time for Performance of the Work. The Work will begin within ten (10) days of receipt of the Notice to Proceed from the Town. The Contractor will have 30 consecutive calendar days to complete the Work from the date of Contractor's receipt of the Notice to Proceed.

8. Payment for Services. In consideration of the above services, the Town will pay the Contractor, in accordance with the Contractor's, plus reimbursable expenses at the Contractor's actual cost (without

markup). Contractor will submit monthly Requests for Payment for Work performed to the Project Manager who will forward them to the Project Designer for Review. The Request for payment shall be based upon the Contractor's estimate of the percentage of the total Work completed during the period represented on the Request for Payment. The Project Designer must certify that the Work represented in the Contractor's Request for Payment has been completed in accordance with the Contract Documents, and certify that the Request for Payment is appropriate for payment before the Town shall be obligated to make such payment to the Contractor. If any Request for Payment is disputed by the Town, in whole or in part, the Town shall provide a written explanation for such dispute to Contractor within five days of receipt of the certified Request for Payment from the Architect and shall pay all undisputed amounts therein.

- a. The designer with the approval of the Owner may withhold payment for the following reasons:
 - (1) Faulty work not corrected.
 - (2) The unpaid balance on the contract is insufficient to complete the work in the judgment of the designer.
 - (3) To provide for sufficient contract balance to cover liquidated damages that will be assessed.
 - (4) The secretary of the Department of Administration may authorize the withholding of payment for the following reasons:
 - (5) Claims filed against the Contractor or evidence that a claim will be filed.
 - (6) Evidence that subcontractors have not been paid.
 - (7) When grounds for withholding payments have been removed, payment will be released. Delay of payment due the Contractor without cause will make owner liable for payment of interest to the Contractor as provided in G.S. 143 134.1. As provided in G.S. 143-134.1(e), the owner shall not be liable for interest on payments withheld by the owner for unsatisfactory job progress, defective construction not remedied, disputed work, or third-party claims filed against the owner or reasonable evidence that a third-party claim will be filed.
- b. Final payment will be made within forty-five (45) consecutive days after acceptance of the work, receipt of marked-up "as-built" drawings and specifications and the submission both of notarized Contractor's affidavit and final pay request. All pay requests shall be submitted to the Designer/Owner for approval.

THE CONTRACTOR'S FINAL PAYMENT AFFIDAVIT SHALL STATE: "THIS IS TO CERTIFY THAT ALL COSTS OF MATERIALS, EQUIPMENT, LABOR, SUBCONTRACTED WORK, AND ALL ELSE ENTERING INTO THE ACCOMPLISHMENT OF THIS CONTRACT, INCLUDING PAYROLLS, HAVE BEEN PAID IN FULL."

9. Acceptance. Execution of the Contract constitutes an agreement to the terms contained within the Contract Documents. The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Contractor and the Town with respect to the performance of the Work as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." Except as provided herein, no additional or supplemental provision or provisions in variance with the Contract Documents that may appear in Contractor's proposal, acknowledgment, Requests for Payment, or in any other communication from Contractor to the Town shall be deemed accepted by or binding on the Town. The Town hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until the Town's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by the Town are subject to correction.

10. Working Drawings And Specifications At The Job Site. The Contractor shall maintain, in readable condition at his job site one complete set of working drawings and specifications for his work including all shop drawings. Such drawings and specifications shall be available for use by the owner, designer or his authorized representative. The Contractor shall also maintain at the job site, a day-to-day record of work-in-place that is at variance with the contract documents. Such variations shall be fully noted on Project drawings by the Contractor and submitted to the designer upon Project completion and no later than 30 days after acceptance of the Project.
11. Materials, Equipment, Employees. The Contractor shall, unless otherwise specified, supply and pay for all labor, transportation, materials, tools, apparatus, lights, power, fuel, heat, sanitary facilities, water, scaffolding and incidentals necessary for the completion of his work, and shall install, maintain and remove all equipment of the construction, other utensils or things, and be responsible for the safe, proper and lawful construction, maintenance and use of same, and shall construct in the best and most workmanlike manner, a complete job and everything incidental thereto, as shown on the plans, stated in the specifications, or reasonably implied therefrom, all in accordance with the contract documents.
 - a. All materials shall be new and of quality specified, except where reclaimed material is authorized herein and approved for use. Workmanship shall at all times be of a grade accepted as the best practice of the particular trade involved, and as stipulated in written standards of recognized organizations or institutes of the respective trades except as exceeded or qualified by the specifications.
 - b. Upon notice, the Contractor shall furnish evidence as to quality of materials.
 - c. Products are generally specified by ASTM or other reference standard and/or by manufacturer's name and model number or trade name. When specified only by reference standard, the Contractor may select any product meeting this standard, by any manufacturer. When several products or manufacturers are specified as being equally acceptable, the Contractor has the option of using any product and manufacturer combination listed. However, the Contractor shall be aware that the cited examples are used only to denote the quality standard of product desired and that they do not restrict bidders to a specific brand, make, manufacturer or specific name; that they are used only to set forth and convey to bidders the general style, type, character and quality of product desired; and that equivalent products will be acceptable. Request for substitution of materials, items, or equipment shall be submitted to the designer for approval or disapproval; the designer prior to the opening of bids shall make such approval or disapproval. Alternate materials may be requested after the award if it can clearly be demonstrated that it is an added benefit to the owner and the designer and owner approves.
 - d. The designer is the judge of equality for proposed substitution of products, materials or equipment.
 - e. If at any time during the construction and completion of the work covered by these contract documents, the language, conduct, or attire of any workman of the various crafts be adjudged a nuisance to the owner or designer, or if any workman be considered detrimental to the work, the Contractor shall order such parties removed immediately from grounds.
 - f. The Contractor shall cooperate with the designer and the owner in coordinating construction activities.
 - g. The Contractor shall maintain qualified personnel and effective supervision at the site at all times during the Project, and exercise the appropriate quality control program to ensure compliance with the Project drawings and specifications. The designer is responsible for determining compliance with the drawings and specifications.
12. Cleaning Up And Restoration Of Site. The Contractor shall keep the sites and surrounding area reasonably free from rubbish at all times and shall remove debris from the site from time to time or when directed to do so by the Owner. Before final inspection and acceptance of the Project, the Contractor shall thoroughly clean the sites, and completely prepare the Project and site for use by the Owner. At the end of construction, the Contractor shall oversee and implement the restoration of the construction site to its original state. Restoration includes but not limited to walks, drives, lawns, trees and shrubs, corridors, stairs and other elements shall be repaired, cleaned or otherwise restored to their original state.
13. Codes, Permits And Inspections. The Contractor shall obtain the required permits, if required, give all notices, and comply with all laws, ordinances, codes, rules and regulations bearing on the conduct of the work under this contract. If the Contractor observes that the drawings and specifications are at variance therewith, he shall

promptly notify the Designer in writing. All work under this contract shall conform to the current North Carolina Building Code and other state and national codes as are applicable. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, codes, rules and regulations, and without such notice to the Owner, he shall bear all cost arising there from.

All fire alarm work shall be in accordance with the latest State Construction Office (SCO) Guidelines for Fire Alarm Installation (NFPA72). Where the contract documents are in conflict with the SCO guidelines, the SCO guidelines shall govern. The Contractor shall be responsible for all the costs for the correction of the work where he installs it in conflict with the latest edition of the SCO Guidelines for Fire Alarm Installation.

14. Protection Of Work, Property, The Public And Safety. The Contractor shall be solely responsible for the entire site and the building or construction of the same and provide all the necessary protections, as required by the owner or designer, and by laws or ordinances governing such conditions. The Contractor shall be responsible for any damage to the owner's property or of that of others on the job, by them, their personnel, or their subcontractors, and shall make good such damages. The Contractor shall be responsible for and pay for any damages caused to the owner. Contractor shall have access to the Project at all times.
- a. The Contractor shall provide cover and protect all portions of the structure when the work is not in progress, provide and set all temporary roofs, covers for doorways, sash and windows, and all other materials necessary to protect all the work on the building, whether set by him, or any of the subcontractors. Any work damaged through the lack of proper protection or from any other cause, shall be repaired or replaced without extra cost to the owner.
 - b. No fires of any kind will be allowed inside or around the operations during the course of construction without special permission from the designer and owner.
 - c. The Contractor shall protect all trees and shrubs designated to remain in the vicinity of the operations by building substantial boxes around it. He shall barricade all walks, roads, etc., as directed by the designer to keep the public away from the construction. All trenches, excavations or other hazards in the vicinity of the work shall be well barricaded and properly lighted at night.
 - d. The Contractor shall provide all necessary safety measures for the protection of all persons on the job, including the requirements of the A.G.C. Accident Prevention Manual in Construction, as amended, and shall fully comply with all state laws or regulations and North Carolina State Building Code requirements to prevent accident or injury to persons on or about the location of the work. He shall clearly mark or post signs warning of hazards existing, and shall barricade excavations, elevator shafts, stairwells and similar hazards. He shall protect against damage or injury resulting from falling materials and he shall maintain all protective devices and signs throughout the progress of the work.
 - e. The Contractor shall adhere to the rules, regulations and interpretations of the North Carolina Department of Labor relating to Occupational Safety and Health Standards for the Construction Industry (Title 29, Code of Federal Regulations, Part 1926, published in Volume 39, Number 122, Part II, June 24, 1974, Federal Register), and revisions thereto as adopted by General Statutes of North Carolina 95-126 through 155.
 - f. In the event of emergency affecting the safety of life, the protection of work, or the safety of adjoining properties, the Contractor is hereby authorized to act at his own discretion, without further authorization from anyone, to prevent such threatened injury or damage. Any compensation claimed by the Contractor on account of such action shall be determined as provided for under Article 13(b).

Any and all costs associated with correcting damage caused to adjacent properties of the construction site or staging area shall be borne by the Contractor. These costs shall include but not be limited to flooding, mud, sand, stone, debris, and discharging of waste products.

15. As-Built Marked-Up Construction Documents. Contractor shall provide one complete set of legible "as-built" marked-up construction drawings and specifications recording any and all changes made to the original design during the course of construction. In the event no changes occurred, submit construction drawings and specifications set with notation "No Changes." The Designer/Owner must receive "As-built" marked-up construction drawings and specifications before the final pay request can be processed.

16. Entire Agreement. The Contract Documents constitute and represent the complete and entire agreement between the Town and Contractor and supersede all previous communications, either written or verbal with respect to the subject matter of this Contract.
17. Changes, Additions, Deletions. No changes, additions, deletions or modifications (other than substitutions accepted by the Town at the time the contract is awarded) of the scope of work, specifications, terms and conditions, quantity, unit of issue, delivery date, delivery charges or price will be permitted unless the same are incorporated into a written Change Order, signed by the Town and the Contractor. However, the Contractor will not be liable for delays caused by circumstances beyond its control including without limitation, delays caused by acts of God, the Town or its other consultants/contractors, federal, state, and local government authorities, strikes, riots, civil unrest, war, or unknown or concealed conditions, and if such delays occur, the Contractor will be entitled to an equitable adjustment in the time for the performance of the Work and compensation.
18. Change Orders. Change orders shall be submitted by the Contractor in writing to the owner/designer for review and approval. The Contractor will provide such proposal and supporting data in suitable format. The designer shall verify correctness. Delay in the processing of the change order due to lack of proper submittal by the Contractor of all required supporting data shall not constitute grounds for a time extension or basis of a claim. Within five (5) days after receipt of the Contractor's accepted proposal including all supporting documentation required by the designer, the designer shall prepare the change order and forward to the Contractor for his signature or otherwise respond, in writing, to the Contractor's proposal. Within five (5) days after receipt of the change order executed by the Contractor, the designer shall, certify the change order by his signature, and forward the change order and all supporting data to the owner for the owner's signature. The owner shall execute the change order, within five (5) days of receipt.
 - a. A change order, when issued, shall be full compensation, or credit, for the work included, omitted or substituted. It shall show on its face the adjustment in time for completion of the Project as a result of the change in the work.
 - b. If, during the progress of the work, the owner requests a change order and the Contractor's terms are unacceptable, the owner, may require the Contractor to perform such work on a time and material basis whereupon the Contractor shall proceed and keep accurately on such form as specified by the Designer or owner, a correct account of cost together with all proper invoices, payrolls and supporting data. Upon completion of the work a change order will be prepared with allowances for overhead and profit per paragraph d. above and "net cost" and "cost" per paragraph e. above. Without prejudice, nothing in this paragraph shall preclude the owner from performing or to have performed that portion of the work requested in the change order.
19. Relationship of the Parties. The Contractor is an independent Contractor and not an affiliate of the Town. The conduct and control of the work will lie solely with the Contractor. The Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between the Contractor and the Town. Employees of the Contractor shall remain subject to the exclusive control and supervision of the Contractor, which is solely responsible for their compensation.
20. Sales Taxes. Any applicable sales taxes shall be invoiced as a separate item.
21. Substitutions. Substitutions proposed by the Contractor on the Substitution Listing Form, submitted with the Contractor's Bid Proposal, which are accepted by the Town shall be considered a modification to the Contract Documents. No other substitutions shall be made by the Contractor unless the same is put into a Change Order, signed by the Owner and Contractor.
22. Indemnification. To the greatest extent allowed by the law the Contractor shall indemnify and hold harmless the Town, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees ("Claims"), but only to the extent the fault of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim. In the event that any portion of the Work performed under the Contract shall be defective in any respect whatsoever, the Contractor shall indemnify and save harmless the Town, its officers, agents, employees and assigns from all loss or the payment of all sums of money, but only to the extent the fault of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim.

23. Anti-Discrimination. During the performance of the Contract, the Contractor shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.
24. Insurance. The Contractor shall provide the insurance coverages shown on Exhibit A, attached hereto and incorporated herein by reference. The Contractor shall provide the Town with a North Carolina Certificate of Insurance and such endorsements as may be required by the Contract Documents PRIOR to the commencement of any work under the Contract and agrees to maintain such insurance until the completion of the Contract. Such certificates of insurance shall be considered part of the Contract.
25. Ethics in Public Contracting. By submitting their prices and acceptance of this Contract, the Contractor certifies that their proposal was made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
26. Applicable Laws and Courts. This Contract shall be governed in all respects by the laws of the State of North Carolina. All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of the Contract, shall be governed in all respects by the laws of the State of North Carolina and venue shall be proper only in a court of competent jurisdiction located in Mecklenburg County, North Carolina. The Contractor represents and warrants that it shall comply with all applicable federal, state and local laws, regulations and orders.
27. Strict Compliance. The Town may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
28. Assignment. The Contractor shall not assign, subcontract or otherwise transfer any interest in the Contract without the prior written approval of the Town.
29. General Provisions. The Town's remedies as set forth herein are not exclusive. Any delay or omission by the Town in exercising any right hereunder, or any waiver by the Town of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default.
30. Risk of Loss. Risk of Loss for all supplies, materials, the Work performed, and the Project as it is being constructed, shall be on the Contractor until such time as substantial completion is achieved, certified by the Architect, and approved by the Town.
31. Warranties. The Contractor warrants it shall adhere to all applicable laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Mecklenburg, and the Town of Huntersville in the performance of the Work outlined in this Contract and any attached specifications. The Contractor warrants that any finished Work completed hereunder shall also adhere to all applicable laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Mecklenburg, and the Town of Huntersville. The Contractor warrants that all Work will be performed in accordance with this Contract and the standard of care ordinarily used by members of the Contractor's engineering profession practicing under similar circumstances and at the same time in Mecklenburg County. The Contractor makes no additional warranties, express or implied, in connection with the Work. In addition to any other rights available at law or in equity, the Town shall be entitled to consequential and incidental damages.
32. Default. In the event of a breach by the Contractor, addition to any other remedies available to the Town in law or equity, the Town may procure upon such terms as the Town shall deem appropriate, construction services substantially similar to those so terminated, in which case the Contractor shall be liable to the Town for any excess costs for such similar services and any expenses incurred in connection therewith. This Contract shall not terminate if the alleged default is cured within a ten (10) day notice period. In the event this Contract is terminated by the Town for the default of the Contractor, the Town shall be entitled to keep and use Work, including materials and supplies on site provided by the Contractor in finishing the construction of the Project.
33. Termination for Convenience. The Town shall have the right, without assigning any reason therefore, to terminate any Work under the Contract, in whole or in part, at any time at its complete discretion by providing ten (10) day notice in writing from the Town to the Contractor. If the Contract is terminated by the Town in accordance with this paragraph, the Contractor will be paid for all Work performed and reimbursable expenses

incurred up to the effective date of the termination. The Town will not be liable to the Contractor for any costs for materials acquired or contracted for, if such costs were incurred prior to the date of this Contract.

34. Assignment. Contractor may not assign, pledge, or in any manner encumber the Contractor's rights under this Contract, or delegate the performance of any of its obligations hereunder, without the Town's prior, express written consent. Hiring a subcontractor to perform any portion of the Work shall be at the Contractor's discretion; however Contractor shall remain liable and responsible to the Town for all such Work completed by subcontractors.
35. No Third Party Beneficiaries. There shall be no intended nor incidental third party beneficiaries of this Contract. The Contractor shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third party beneficiaries.
36. Valid Contract. In order for this Contract to be valid, it must be executed by the Town Manager or his or her authorized designee, and must be preaudited in that manner required by the Local Government Budget and Fiscal Control Act, as the same may be amended.
37. Verification of Work Authorization. The Contractor shall comply with, and require all contractors and subcontractors to comply with, the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, "Verification of Work Authorization," sometimes known as E-verify for all contractors and subcontractors.
38. Iran Divestment List. With the execution hereof, Contractor, certifies that they are not on the Iran Final Divestment List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.58, and will not contract with anyone on such List in performance of the work hereunder.
39. Severability. If any provision of this Contract is found to be invalid or unlawful, then remainder of this Agreement shall not be affected thereby, and each remaining provision shall be valid and enforced to the fullest extent permitted by law.
40. Dispute Resolution. As a precondition for filing a lawsuit related to a dispute under this Agreement, a party must comply with the Town of Huntersville Rules Implementing Mediated Settlement Conferences for Town of Huntersville Construction Projects, the "Dispute Resolution Procedure."
41. Companies that Boycott Israel List. With the execution hereof, Firm, certifies that they are not on the Companies that Boycott Israel List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.80, and will not contract with anyone on such List in performance of the work hereunder.

EXHIBIT A

MINIMUM INSURANCE REQUIREMENTS

The Work under this Contract shall not commence until the Firm has obtained all required insurance and verifying certificates of insurance have been approved in writing by the Town. The Town shall be named as additional insured on all policies, except Worker's Compensation and Professional Liability policies. These certificates shall document that coverages afforded under the policies will not be cancelled until at least thirty (30) days after mailing written notice, by certified mail, return receipt requested, to the insured and the Town of such cancellation. If endorsements are needed to comply with the notification or other requirements of this article copies of the endorsements shall be submitted with the certificates.

a. Worker's Compensation and Employer's Liability

The Firm shall provide and maintain, until final acceptance, workmen's compensation insurance, as required by law, as well as employer's liability coverage with minimum limits of \$100,000.

b. Comprehensive General Liability Insurance

The Firm shall provide and maintain, until final acceptance, comprehensive general liability insurance, including coverage for premises operations, independent contractors, completed operations, products and contractual exposures, as shall protect such contractors from claims arising out of any bodily injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operations be by the Firm or by any subcontractor, or by anyone directly or indirectly employed by either of them and the minimum limits of such insurance shall be as follows:

Bodily Injury: \$1,000,000 per occurrence / \$2,000,000 aggregate

Property Damage: \$100,000 per occurrence / \$300,000 aggregate

Or,

Bodily Injury and Property Damage, combined single limit (CSL): \$1,000,000 per occurrence / \$2,000,000 aggregate

Such coverage for completed operations must be maintained for at least two (2) years following final acceptance of the Work performed under the contract.

c. Deductible

Any deductible, if applicable to loss covered by insurance provided, is to be borne by the Firm.

d. Other Insurance

The Firm shall obtain such additional insurance as may be required by the Town or by the General Statutes of North Carolina including motor vehicle insurance, in amounts not less than the statutory limits.

e. Proof of Carriage

The Firm shall furnish the Town with satisfactory proof of carriage of the insurance required before written approval is granted by the Town

Exhibit B

1. GENERAL:

- A. THE WORK COVERED BY THESE SPECIFICATIONS CONSISTS OF FURNISHING ALL LABOR, EQUIPMENT, MATERIALS AND SUPPLIES AS NECESSARY FOR THE COMPLETE AND SATISFACTORY OPERATING ELECTRICAL SYSTEMS AS SHOWN ON THE PLANS.
- B. ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE, NFPA, STATE BUILDING CODE, AND ANY OTHER LOCAL REQUIREMENTS THAT MAY APPLY. CONTRACTOR SHALL PAY FOR ALL REQUIRED PERMITS, FEES, INSPECTIONS, ETC.
- C. CONTRACTOR SHALL OBTAIN AND PAY FOR ALL ELECTRICAL PERMITS AND INSPECTION FEES.
- D. ALL MATERIALS AND EQUIPMENT SHALL BE NEW AND SHALL BE LISTED BY THE UNDERWRITER'S LABORATORIES, INC. OR BY A STATE APPROVED THIRD PARTY TESTING AGENCY FOR THE USE INTENDED WHERE A STANDARD FOR SUCH MATERIALS AND USE EXISTS. ALL ITEMS OF THE SAME TYPE AND RATING SHALL BE IDENTICAL AND OF THE SAME MANUFACTURER.
- E. CONTRACTOR SHALL SUBMIT SHOP DRAWINGS AND CATALOG DATA IN ELECTRONIC FORMAT (PDF) FOR ALL ELECTRICAL ITEMS IN THE SCOPE OF WORK FOR APPROVAL AS APPLICABLE FOR THE PROJECT. ONE COMPLETE SET OF APPROVED SUBMITTALS SHALL BE MAINTAINED AT THE JOB SITE.
- F. ALL COST ASSOCIATED WITH SUBSTITUTED EQUIPMENT TO COMPLY WITH THE BASIS OF DESIGN, INCLUDING PROVIDING MAINTENANCE ACCESS, CLEARANCE, CONDUIT, WIRING, REPLACEMENT OF OTHER SYSTEM COMPONENTS, BUILDING ALTERATIONS, METHODS, ETC., SHALL BE INCLUDED IN THE ORIGINAL BASE BID. NO ADDITIONAL COSTS ASSOCIATED WITH SUBSTITUTED EQUIPMENT WILL BE APPROVED AFTER BIDS HAVE BEEN ACCEPTED AND ALL COSTS WILL BE THE RESPONSIBILITY OF THE ELECTRICAL CONTRACTOR. CREDITS SHALL BE GIVEN TO THE OWNER WHERE SUCH EQUIPMENT AND METHODS RESULT IN LESS EXPENSE TO THE CONTRACTOR.
- G. EXISTING WIRING SHALL BE TESTED FOR CONTINUITY AND GROUNDS BEFORE WORK COMMENCES. ANY FAULTY WIRING SHOULD BE BROUGHT TO THE OWNER'S ATTENTION AT THIS TIME FOR OWNER TO REMEDY. ONCE WORK COMMENCES, ANY FAULTY WIRING TO BE REPLACED OR CORRECTED AT NO COST TO OWNER.
- H. PROVIDE ALL CUTTING AND PATCHING FOR INSTALLATION OF WORK AND REPAIR ANY DAMAGE DONE.
- I. THE ELECTRICAL CONTRACTOR SHALL CONNECT ALL EQUIPMENT REQUIRING ELECTRICAL CONNECTIONS (UNLESS OTHERWISE NOTED).
- J. ALL ELECTRICAL JUNCTION BOXES, SWITCHGEAR, CABLING, ETC. SHALL BE LABELED ACCORDING TO PANEL/RACK AND CIRCUIT NUMBER.
- K. UPON COMPLETION OF WORK, CONTRACTOR SHALL PRESENT OWNER WITH CERTIFICATE OF APPROVAL FROM LOCAL INSPECTOR AND/OR AUTHORITY HAVING JURISDICTION BEFORE WORK WILL BE APPROVED FOR FINAL PAYMENT.
- L. CONTRACTOR SHALL GUARANTEE ALL WORK AND MATERIALS FOR A PERIOD OF ONE YEAR EFFECTIVE THE DATE THE PROJECT IS ACCEPTED BY THE OWNER. ANY IMPERFECT MATERIALS OR WORKMANSHIP SHALL BE REPLACED WITHOUT ADDED COST TO THE PROJECT.
- M. IT SHALL NOT BE THE INTENT OF ISSUED PLANS AND/OR SPECIFICATIONS TO SHOW EVERY MINOR DETAIL OF CONSTRUCTION. THE ELECTRICAL CONTRACTOR IS EXPECTED TO FURNISH AND INSTALL ALL NECESSARY ITEMS FOR A COMPLETE AND OPERATING SYSTEM.
- N. THE WORD "PROVIDE" MEANS THAT THIS CONTRACTOR SHALL FURNISH, FABRICATE, ERECT, CONNECT, AND COMPLETELY INSTALL SYSTEMS IN PROPER OPERATING CONDITION. ALL LABOR, PRODUCT OPTIONS, ACCESSORIES AND INCIDENTAL MATERIALS REQUIRED SHALL BE INCLUDED AS PART OF THIS WORK TO COMPLETE THE INSTALLATION.
- O. THE WORD "CONNECT" MEANS THAT THIS CONTRACTOR SHALL PROVIDE (SEE DEFINITION ABOVE) ALL DISCONNECTING MEANS, OVERCURRENT PROTECTION AND WRING REQUIRED TO PLACE THE EQUIPMENT AND SYSTEMS IN PROPER OPERATING CONDITION AND TO COMPLY WITH CODE REQUIREMENTS.
- P. ELECTRICAL CONTRACTOR SHALL NOT SCALE PLANS. CONTRACTOR SHALL REFER TO PLANS AND ELEVATIONS FOR EXACT LOCATIONS OF ALL EQUIPMENT, UNLESS OTHERWISE NOTED.
- Q. TO ENSURE EVEN LIGHTING OF STAGE AREA, CONTRACTOR TO PERFORM ONE LIGHTING FIXTURE FOCUS AND ADJUSTMENT SESSION. TIME AND DATE TO BE SCHEDULED WITH OWNER BEFORE FINAL APPROVAL OF WORK. ONE TOUCH-UP ADJUSTMENT SESSION TO BE PROVIDED UPON REQUEST BY OWNER WITHIN 12 MONTHS OF DATE OF SUBSTANTIAL COMPLETION. FOCUS AND ADJUSTMENT WORK MAY BE REQUIRED TO BE PERFORMED AFTER DUSK.
- R. IF DURING THE COURSE OF WORK, THE CONTRACTOR DISCOVERS A PROBLEM WITH THE PERFORMANCE OF THE INSTALLATION RELATIVE TO THE PLANS AND SPECIFICATIONS, THE NEC, OR OTHER CODES OR REQUIREMENTS, THE CONTRACTOR SHALL IMMEDIATELY BRING THE PROBLEM TO THE ATTENTION OF THE OWNER FOR RESOLUTION PRIOR TO THE EXECUTION OF THE WORK.
- S. WHERE THERE ARE CONFLICTS BETWEEN THE PLANS AND SPECIFICATIONS, THE CONTRACTOR SHALL BRING THE ISSUE TO THE ATTENTION OF THE OWNER FOR RESOLUTION PRIOR TO THE EXECUTION OF THE WORK OR ORDERING ANY MATERIALS. NO ADDITIONAL COSTS SHALL BE WARRANTED WITHOUT A CHANGE TO THE PROJECT SCOPE.
- T. EACH BIDDER SHALL VISIT THE JOB SITE PRIOR TO BIDDING TO FAMILIARIZE THEMSELVES WITH EXISTING CONDITIONS AND TO ASCERTAIN THE EXTENT OF WORK REQUIRED. FAILURE TO VISIT JOB SITE SHALL NOT EXCUSE CONTRACTOR FROM PERFORMING REQUIRED WORK NOR SHALL IT BE AN ACCEPTABLE REASON FOR REQUESTING ADDITIONS TO THE CONTRACT.

2. LIGHTING FIXTURES:

- A. GENERAL
- A.A. FIXTURES TO BE KIM LIGHTING KFL1-16L-40-3K8, WITH BEAM SPREAD LENSES AND COLOR AS NOTED IN SCHEDULE.
- B. CONSTRUCTION
- B.1. ONE PIECE DIE-CAST, LOW COPPER (<0.6% CU) ALUMINUM ALLOY 360 WITH VENTS AND .100" MINIMUM WALL THICKNESS
- B.2. SEPARATE INTERNAL DRIVER COMPARTMENT RATED FOR IP66 INGRESS PROTECTION
- B.3. FINISH: FADE AND ABRASION RESISTANT, ELECTROSTATICALLY APPLIED, THERMALLY CURED, TRIGLYCIDAL ISOCYANURATE (TGIC) POLYESTER POWDERCOAT
- B.4. LENS IS IMPACT RESISTANT 1/8" TEMPERED GLASS WITH ANTI-REFLECTIVE COATING
- B.5. LENS HAS A ONE-PIECE EXTRUDED VULCANIZED SILICONE GASKET
- B.6. LENS FRAME ONE PIECE DIE-CAST, LOW COPPER (<0.6% CU) ALUMINUM ALLOY 360 AND .100" MINIMUM WALL THICKNESS
- B.7. LENS FRAME HAS A ONE-PIECE O-RING EXTRUDED VULCANIZED SILICONE GASKET
- B.8. MID-FRAME ONE PIECE DIE-CAST, LOW COPPER (<0.6% CU) ALUMINUM ALLOY 360 AND .100" MINIMUM WALL THICKNESS
- B.9. MID-FRAME SECURES TO LENS FRAME AND HOUSING BY STAINLESS STEEL RECESSED ALLEN-HEAD SCREWS
- B.10. SILICONE GASKETS THROUGHOUT
- B.11. ALL EXTERNAL FASTENERS ARE STAINLESS STEEL
- C. OPTICS
- C.1. LEDS MOUNT TO A METAL PRINTED CIRCUIT BOARD ASSEMBLY (MCPCB)
- C.2. OPTICAL LENSES ARE CLEAR INJECTION MOLDED PMMA ACRYLIC
- D. ELECTRICAL
- D.1. UNIVERSAL VOLTAGE, 120 THROUGH 277V WITH A ±10% TOLERANCE. DRIVER IS UNDERWRITERS LABORATORIES RECOGNIZED
- D.2. "THERMAL SHIELD", SECONDARY SIDE, THERMISTOR PROVIDES PROTECTION FOR THE SUSTAINABLE LIFE OF LED MODULE AND ELECTRONIC COMPONENTS
- D.3. DRIVERS SHALL HAVE GREATER THAN A 0.9 POWER FACTOR, LESS THAN 20% HARMONIC DISTORTION, AND BE SUITABLE FOR OPERATION IN -40°C TO 40°C AMBIENT ENVIRONMENTS
- D.4. LUMINAIRE SHALL BE CAPABLE OF OPERATING AT 100% BRIGHTNESS IN A 40°C ENVIRONMENT. BOTH DRIVER AND OPTICAL ARRAY HAVE INTEGRAL THERMAL PROTECTION THAT WILL DIM THE LUMINAIRE UPON DETECTION OF TEMPERATURES IN EXCESS OF 85°C
- D.5. SURGE PROTECTION: 10,000K IN PARALLEL, 20,000K IN SERIES
- D.6. WIRING: NO. 18AWM RATED 105°C, WET RATING.
- E. CERTIFICATIONS AND LISTINGS
- E.1. UL 1598 STANDARD FOR LUMINAIRES
- E.2. IP66 CERTIFIED
- E.3. ROHS COMPLIANT
- F. WARRANTY
- F.1. 5 YEAR WARRANTY
- G. FIXTURE SCHEDULE:
- G.A. TYPE K1 - QTY 8 - KFL1-16L-40-3K8-HF-UNV-K-DB 40 WATT, 3000K, 80CRI, HORIZONTAL FLOOD LENS FIXTURE WITH THREADED KNUCKLE MOUNTING
- G.1. TYPE K2 - QTY 8 - KFL1-16L-40-3K8-HF-UNV-K-DB 40 WATT, 3000K, 80CRI, MEDIUM LENS FIXTURE WITH THREADED KNUCKLE MOUNTING
- G.2. EQUIVALENT FIXTURES BY OTHERS MAY BE SUBMITTED ONLY AS INDICATED ON THE PLANS AND ARE SUBJECT TO THE APPROVAL OF THE OWNER.
- H. ALL FIXTURES SHALL BE U.L. LISTED AND LABELED.
- I. BALLASTS SHALL BE AS INDICATED IN THE LIGHTING FIXTURE SCHEDULE OR AS OTHERWISE NOTED.
- J. ALL FIXTURES SHALL BE PROVIDED FOR PROPER VOLTAGE BASED ON THE CIRCUIT ASSIGNMENT INDICATED ON THE PLANS.
- K. CATALOG NUMBERS ARE FOR GENERAL IDENTIFICATION OF FIXTURES ONLY. ALL RELATED PARTS, SUCH AS PLASTER RINGS, JUNCTION BOXES, LOUVERS, SHIELDS, MOUNTING STEMS, CANOPIES, CONNECTORS, STRAPS, NIPPLES, HARDWARE, ACCESSORIES, ETC., TO FIT THEM PROPERLY TO THE CONSTRUCTION, SHALL BE FURNISHED AND INSTALLED BY THIS CONTRACTOR. CONTRACTOR SHALL PROVIDE SUITABLE TRIM AND APPURTENANCES TO MOUNT FIXTURES IN TYPE OF CEILING OR WALL AS SPECIFIED IN ARCHITECTURAL FINISH SCHEDULES REGARDLESS OF CATALOG NUMBER GIVEN.
- L. ALL FIXTURES SHALL BE GROUNDED PER THE NEC.
- M. MOUNT ALL FIXTURES PLUMB AND SQUARE WITH ROWS ALIGNED.
- N. SEE PLANS FOR EXACT LOCATION OF FIXTURES.
- O. CONTRACTOR SHALL COORDINATE FIXTURE TYPE AND TRIM WITH CEILING CONSTRUCTION AND ADJUST ACCORDINGLY WITHOUT ADDITIONAL EXPENSE.
- P. ALL LIGHTING FIXTURES SHALL BE THERMALLY PROTECTED PER THE NEC.

3. LIGHTING CONTROLS:

- A. USE TWO EXISTING 20A, 120V POWER CIRCUITS CURRENTLY TERMINATED AS RECEPTACLES IN ROOF STRUCTURE - ONE CIRCUIT PER ROW OF FIXTURES.
- B. CONTRACTOR TO FURNISH AND INSTALL ONE HEAVY DUTY SINGLE POLE LIGHT SWITCH PER LIGHTING CIRCUIT, LOCATED ADJACENT TO EXISTING LIGHTING CONTRACTOR/TIME IN ELECTRICAL ROOM. SWITCHES TO BE HBL1221 OR EQUIVALENT.
4. RACEWAY AND BOXES:
- A. CONDUIT, FITTINGS, AND BOXES SHALL USE SIMILAR MATERIALS AND FITTINGS, AND BE INSTALLED USING SIMILAR METHODS AS EXISTING WORK TO ENSURE CONSISTENT APPEARANCE.
- B. A SUITABLE FINISH COAT SHALL BE PROVIDED FOR ALL EQUIPMENT. ALL CONDUIT AND BOXES MOUNTED TO ROOF STRUCTURE SHOULD BE PRIMED AND ENAMELED TO BLEND WITH ADJACENT SURFACES.
- C. ALL FITTINGS FOR EMT SHALL BE MADE OF STEEL.
- D. ALL EXTERIOR BOXES SHALL BE WATERPROOF.
- E. ALL RACEWAY SHALL BE RUN CONCEALED, UNLESS OTHERWISE NOTED. FISH ALL NEW OUTLETS IN EXISTING WALLS, WHERE POSSIBLE. ALL RUNS SHALL BE NEAT AND SQUARE.
- F. RACEWAY PENETRATIONS THROUGH FLOOR SLABS AND FIRE-RATED WALLS SHALL BE FILLED WITH IMPERVIOUS, NON-SHRINK GROUT SUFFICIENTLY TIGHT TO PREVENT THE TRANSFER OF SMOKE, WATER, AND DUST. ROOF PENETRATIONS SHALL BE WITHIN THE EQUIPMENT ROOF CURB.
- G. SUPPORT ALL CONDUIT WITH STRAPS AND CLAMPS.
- H. ALL CONDUIT SHALL BE RUN PARALLEL OR PERPENDICULAR TO BUILDING LINES, WHETHER EXPOSED OR NOT AND SUPPORTED FROM STRUCTURE AND PROPERLY SECURED.
- I. WHERE CONDUITS PASS THROUGH A BUILDING EXPANSION JOINT, PROVIDE GALVANIZED EXPANSION FITTINGS WITH BONDING JUMPERS.
- J. PROVIDE PULL BOXES, SUCH THAT NO SINGLE CONDUIT RUN HAS BENDS IN EXCESS OF 360°.
- K. THE USE OF AC OR NM CABLE IS NOT PERMITTED. MC CABLE MAY ONLY BE UTILIZED WHERE PERMITTED BY CODE AND IT SHALL ONLY BE ALLOWED WHERE CONCEALED BEHIND HARD WALLS AND HARD CEILINGS. MC CABLE SHALL NOT BE EXPOSED.
2. DEMONSTRATION AND TRAINING:
- A. TRAIN OWNER PERSONNEL TO ADJUST, OPERATE, AND MAINTAIN LUMINAIRES AND CONTROL EQUIPMENT.

BARBIZON CHARLOTTE

1016 MCCLELLAND COURT
CHARLOTTE, NC 28206
PHONE: (704) 372-2122
FAX: (704) 372-7422

NOTE:

The data in this document incorporated the proprietary rights of Barbizon Lighting Company, Inc. Any party accepting this document does so in confidence, and agrees that it shall not be duplicated, in whole or in part, nor disclosed to others without the written consent of Barbizon Lighting Company, Inc.

DRAWING RESTRICTIONS:

These drawings represent visual concepts and construction suggestions only. It is not Barbizon's responsibility to determine structural and/or electrical appropriateness of this design and the designer does not assume responsibility for improper engineering, construction, handling, or use of the represented equipment.

PLATE	DESCRIPTION
L000	ELECTRICAL SPEC
L001	LIGHT PLOT
L002	LIGHTING SECTION
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HUNTERSVILLE VETERANS PARK - STAGE LIGHTING

HUNTERSVILLE, NC

Representative: J. MONTGOMERIE

Project Manager: N/A

Drawn By: TORI MAYS

Job Number: N/A

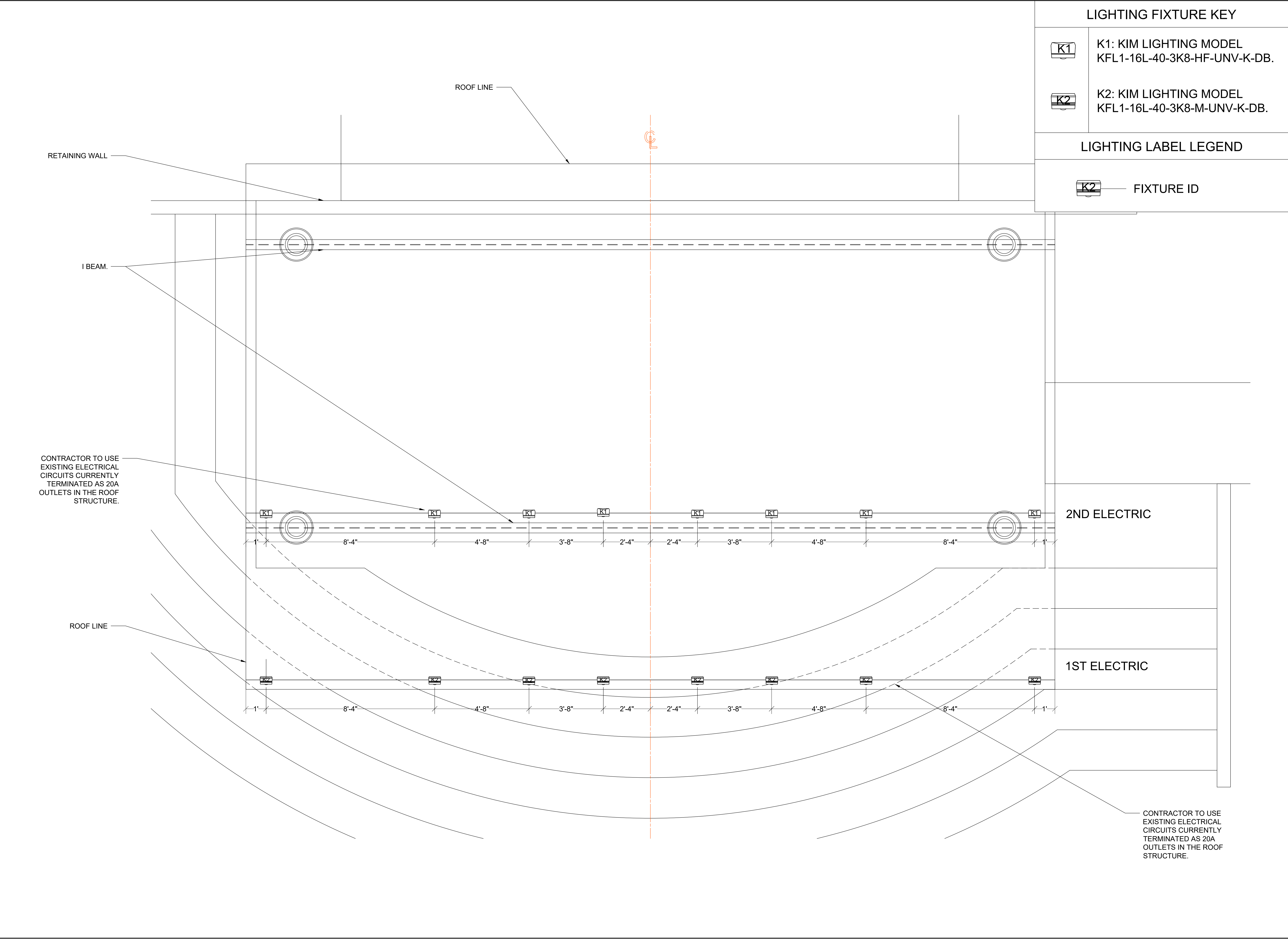
Reviewed By: ----

REV.	DESCRIPTION	DATE
A	PRELIMINARY	12.15.20
B	REVISION 1	01.22.20
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ELECTRICAL SPECIFICATION

Date: 12.15.20
Scale: NOT TO SCALE

L000



LIGHTING FIXTURE KEY

 K1: KIM LIGHTING MODEL
KFL1-16L-40-3K8-HF-UNV-K-DB.

 K2: KIM LIGHTING MODEL
KFL1-16L-40-3K8-M-UNV-K-DB.

LIGHTING LABEL LEGEND

 — FIXTURE ID

BARBIZON
LIGHTING COMPANY
www.barbizon.com

BARBIZON CHARLOTTE

1016 MCCLELLAND COURT
CHARLOTTE, NC 28206
PHONE: (704) 372-2122
FAX: (704) 372-7422

NOTE:
The data in this document incorporated the proprietary rights of Barbizon Lighting Company, Inc. Any party accepting this document does so in confidence, and agrees that it shall not be duplicated, in whole or in part, nor disclosed to others without the written consent of Barbizon Lighting Company, Inc.

DRAWING RESTRICTIONS:
These drawings represent visual concepts and construction suggestions only. It is not Barbizon's responsibility to determine structural and/or electrical appropriateness of this design and the designer does not assume responsibility for improper engineering, construction, handling, or use of the represented equipment.

PLATE	DESCRIPTION
L000	ELECTRICAL SPEC
L001	LIGHT PLOT
L002	LIGHTING SECTION
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HUNTERSVILLE VETERANS PARK - STAGE LIGHTING

HUNTERSVILLE, NC

Representative: J. MONTGOMERIE

Project Manager: N/A

Drawn By: TORI MAYS

Job Number: N/A

Reviewed By: ----

REV.	DESCRIPTION	DATE
A	PRELIMINARY	12.15.20
B	REVISION 1	01.22.20
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LIGHT PLOT

Date: 12.15.20
Scale: 1/2" = 1'-0"

L001

© BARBIZON LIGHTING COMPANY, 2020

BARBIZON CHARLOTTE

1016 MCCLELLAND COURT
CHARLOTTE, NC 28206
PHONE: (704) 372-2122
FAX: (704) 372-7422

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PLATE	DESCRIPTION
L000	ELECTRICAL SPEC
L001	LIGHT PLOT
L002	LIGHTING SECTION
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HUNTERSVILLE
VETERANS
PARK - STAGE
LIGHTING

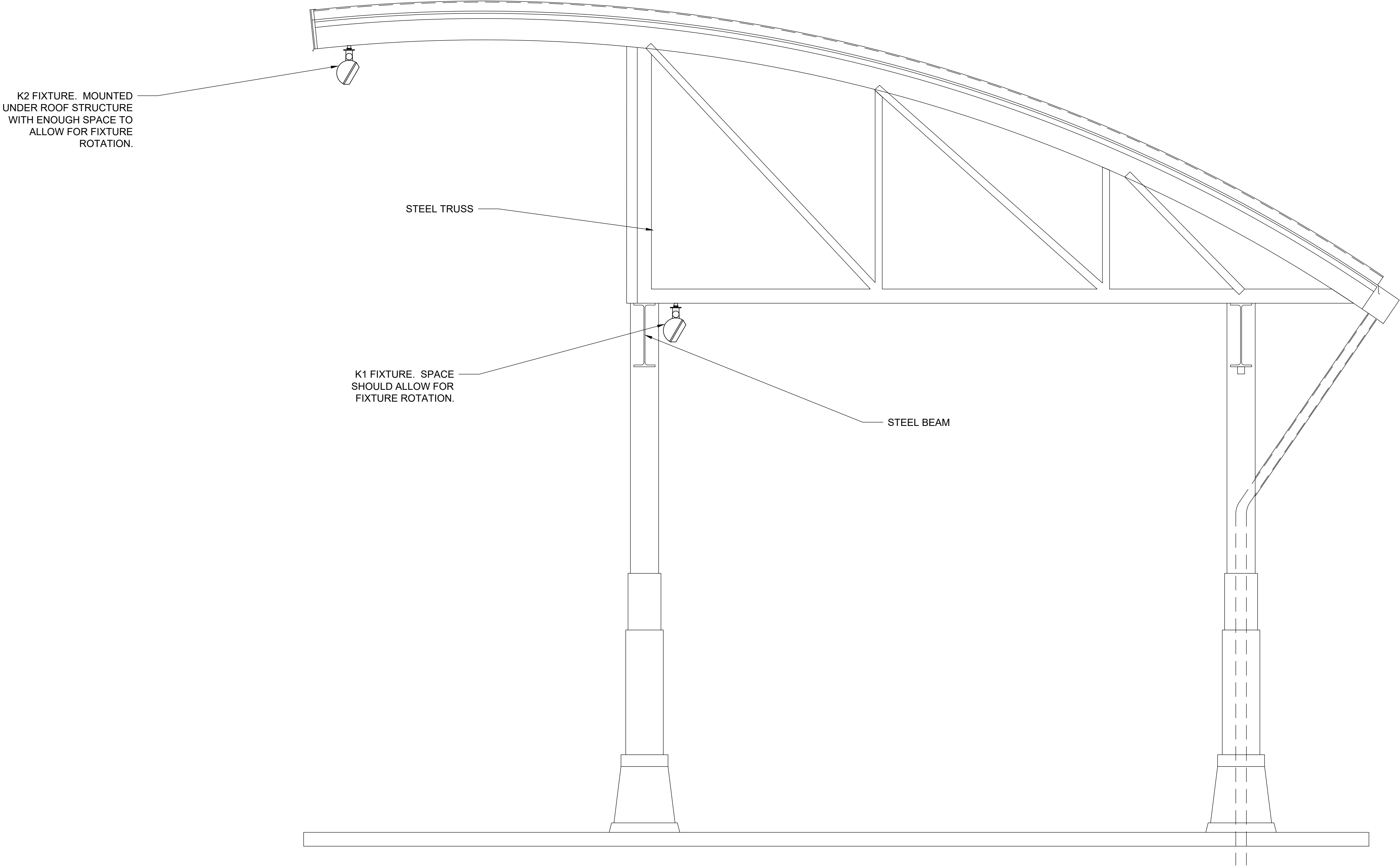
HUNTERSVILLE, NC
Representative: J. MONTGOMERIE
Project Manager: N/A
Drawn By: TORI MAYS
Job Number: N/A
Reviewed By: ----

REV.	DESCRIPTION	DATE
A	PRELIMINARY	12.15.20
B	REVISION 1	01.22.20
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LIGHTING
SECTION

Date: 12.15.20
Scale: 3/4" = 1'-0"

L002





Wire1

P.O. Box 5275
Mooresville, NC 28117

Exhibit C

Date	Estimate #
3/16/2021	516

Name / Address
Town of Huntersville Joe Green

Description	Qty	Total
This is an estimate to install stage lighting as specified per provided plans. Estimate includes all materials required to install and paint unistrut steel from beam to beam to support light fixtures, boxes, conduit and wire using existing circuits located in the ceiling of the stage and install a switch for each section.		0.00
Lights and hardware (exact specified per plans)		12,276.25
Permit and Materials		4,250.00
Lift Rental, Delivery and Pick up		3,400.00
Labor		8,000.00
This estimate does not include any items not mentioned in the scope of work indicated on the plans that could be required by the county inspector to pass final inspection. Any changes required by inspector are required. Only the items described in this estimate are included and any additions or changes for any reason will be reflected on the final bill. If the town provides the lift equipment, that line item of the estimate can be deleted to help save on costs (we would need exclusive use of this equipment during the scheduled install of the work). Sales Tax is not included on this estimate.		0.00
We look forward to working with you and making your project a success!		
Sales Tax		0.00
Total		\$27,926.25

Phone #	E-mail
7049625210	wire1electrical@yahoo.com

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Michael Jaycocks, Director

Date: April 5, 2021

Subject: Adopt Resolution to approve contract with Tate's Janitorial, Inc. for janitorial services at the Huntersville Recreation Center. *(Michael Jaycocks)*

EXPLAIN REQUEST:

Renewal of Cleaning Contract for the Huntersville Recreation Center with Tate's Janitorial, Inc. at the same monthly rate.

ACTION RECOMMENDED:

Approve renewal of cleaning contract with Tate

FINANCIAL IMPLICATIONS:

\$6,000 per year from the approved fy21 budget

ATTACHMENTS:

1. Tate's janitorial resolution
2. Tate Janitorial Renewal Contract
3. Tate Janitorial Additional Services

**RESOLUTION TO APPROVE CONTRACT WITH TATE’S
JANITORIAL, INC. FOR JANITORIAL SERVICES**

WHEREAS, the Town has received the attached contract from Tate’s Janitorial, Inc., a North Carolina corporation, for janitorial services; and

WHEREAS, The Town desires to contract with Tate’s Janitorial, Inc. for the prescribed services and to approve the Contract;

NOW THEREFORE, be it **RESOLVED** that the Town of Huntersville Board of Commissioners:

1. Approves the Contract with Tate’s Janitorial, Inc., a North Carolina corporation for janitorial services (the “Contract”) attached hereto as Exhibit A.
2. The Board authorizes the Town Manager for the Town of Huntersville to execute the Contract on behalf of the Town, including any amendment(s), work orders, or notices to proceed for additional services, not to exceed \$500 per additional service.
3. The Board authorizes the Town Manager to, on the advice of counsel, to take any actions necessary to execute the provisions of this resolution.

Adopted this the _____ day of _____, 2021.

ATTEST:

Janet Pierson, Town Clerk

John Aneralla, Mayor

Approved as to Form:

Emily Sloop, Town Attorney



101 Huntersville-Concord Road
Huntersville, NC 28078
(704) 875-6541

CONTRACT FOR JANITORIAL
SERVICES

CONTRACTOR Tate's Janitorial, Inc.
INFORMATION 1009 Kensington Ave.
Gastonia, NC 28054
704-813-5120

SITE Huntersville Recreation Center
ADDRESS 11836 Verhoeff Drive
Huntersville, NC 28078

This Contract for Janitorial Services, and all exhibits, (collectively this "Contract") is entered into this 18th day of January, 2021, by and between, the Town of Huntersville, a municipal corporation of the State of North Carolina, (the "Town") and Tate's Janitorial, Inc., a North Carolina corporation, (the "Contractor") located at 1009 Kensington Ave, Gastonia, NC 28054.

For and in consideration of the mutual promises set forth in this Contract, the parties do mutually agree as follows:

1. Scope of Services. The Contractor agrees to perform for the Town the following services according to the following requirements:

The Contractor agrees to provide services needed to complete the project. Such services shall constitute the "Work." The janitorial services to be provided, and frequency that such services must be provided is attached as Exhibit B, Scope of Services which is incorporated herein by reference.

The Contractor will be responsible for providing a sufficient number of employees, all of whom shall be bonded, to complete the Work in accordance with standards contained in the STANDARD TERMS AND CONDITIONS and SPECIAL PROVISIONS attached to this Contract.

The Contractor agrees to coordinate its Work with the work of any other separate or with the work of the Town's own forces to avoid delaying or interfering with their work.

The Town reserves the right to terminate this Contract based on the Contractor's non-performance (ex: schedule, responsiveness, quality of work, accuracy of documents etc.) and on the Contractor's workload and availability of the staff. The Town reserves the right to remove any or all work described in Exhibit B Scope of Services at any time and for any reason, and no payment will be made by the Town to the Contractor for any work removed.

The Contractor agrees that the Town may order additional services to the Work, through a work order or notice to proceed. The parties agree to negotiate the price for any additional services at the time of request for service. These additional services shall be authorized only upon execution of a written work order or notice to proceed, which may be executed by the Town Manager.

2. Contractor Insurance. Contractor shall be required to purchase and maintain during its performance under this Contract insurance coverage as shown on the Insurance Requirements as stated in Exhibit A, which is incorporated herein by reference. All insurance purchased shall have a specific endorsement, copy of which shall be provided to the Town, naming the Town as an additional insured and providing that such insurance will not be cancelled without providing thirty (30) days advance written notice to the Town.

3. Standard Terms and Conditions. The attached Standard Terms and Conditions shall be a part of this Contract. Such Standard Terms and Conditions are hereby incorporated by reference, and all parties agree to be bound thereby.
4. Contract Term. The Contractor shall begin providing the janitorial services on January 18, 2021 ("Services Start Date"). Unless sooner terminated, this Contract shall be for a term of 1 year, beginning on the Services Start Date with an option to renew for one additional year for the same terms and conditions, including price, at the option of the Town.
5. Payment for Services. In consideration of the Services described in Exhibit B, the Town will pay the Contractor, the monthly sum of \$500.00 for the performance of the Work. The Town shall pay the Contractor, separate and apart from the monthly payment, the negotiated price for any requested additional services as described in Section 1 through an authorized written work order or notice to proceed.

In witness thereof, the contracting parties, by their authorized agents, affix their signatures and seals at Huntersville, North Carolina, this _____ day of _____, 2021.

Tate's Janitorial, Inc.

By: _____

(Signature)

Name (Printed):

Title (Printed):

Town of Huntersville

(Signature)

Anthony Roberts, Town Manager

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Finance Director

STANDARD TERMS & CONDITIONS

1. **Acceptance.** Contractor's acknowledgment of the terms of this Contract constitutes an agreement to (i) all terms and conditions set forth or referenced herein, (ii) on any attachments hereto, (iii) any applicable solicitation documentation related to this Contract (including the request for proposals or invitation for bids) (collectively, the "Contract Documents"). The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Contractor and the Town with respect to the performance of the Work as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." No additional or supplemental provision or provisions in variance herewith that may appear in Contractor's quotation, acknowledgment, invoice or in any other communication from Contractor to the Town shall be deemed accepted by or binding on the Town. The Town hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until the Town's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by the Town are subject to correction.
2. **Entire Agreement.** The Contract Documents constitute and represent the complete and entire agreement between the Town and Contractor and supersede all previous communications, either written or verbal with respect to the subject matter of this Contract.
3. **Changes, Additions, Deletions.** No changes, additions, deletions or substitutions of scope of work, specifications, terms and conditions, quantity, unit of issue, delivery date, delivery charges or price will be permitted without the prior written approval from the Town.
4. **Relationship of the Parties.** The Contractor is an independent company and not an affiliate of the Town. The conduct and control of the Work will lie solely with the Contractor. The Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between the Contractor and the Town. Employees of the Contractor shall remain subject to the exclusive control and supervision of the Contractor, which is solely responsible for their compensation.
5. **Prices.** In no event shall Contractor's price be higher than the price stated on the face of the Contract, unless otherwise agreed in writing.
6. **Taxes.** Any applicable taxes shall be invoiced as a separate item.
7. **Substitutions.** No substitutions or cancellations shall be permitted without prior written approval from the Town.
8. **Indemnification.** To the extent allowed by law, Contractor shall indemnify and hold harmless the Town, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees and liability (a) arising out of Contractor's performance of the Work; (b) arising out of Contractor's failure to comply with any applicable law, code, ordinance, regulation, or industry standard or (c) arising directly or indirectly out of Contractor's breach of this Contract or other performance or lack of performance of the terms and conditions of the Contract. In the event that any portion of the Work performed under the Contract shall be defective in any respect whatsoever, Contractor shall indemnify and save harmless the Town, its officers, agents, employees and assigns from all loss or the payment of all sums of money by reason of all accidents, injuries or damages to persons or property that shall happen or occur in connection with the use or sale of such Work which are contributed to by said defective condition. In the event Contractor, its employees, agents, subcontractors and or lower-tier subcontractors enter premises occupied by or under the control of the Town or another person or entity in the performance of the Contract Documents, Contractor agrees that it will indemnify and hold harmless the Town, its officers, agents, employees and assigns, from any loss, costs, damage, expense or liability by reason of property damage or personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with such entry.
9. **Invoices and Payment Terms.** Upon satisfactory completion of the Work, all invoices and statements shall reference the Contract number and be submitted to: Town of Huntersville, Accounts Payable, PO Box 664, Huntersville, North Carolina, 28070. Payment terms are Net 30 days after receipt of correct, undisputed invoice or acceptance of the Work, whichever is later.
10. **Anti-Discrimination.** During the performance of the Contract, Contractor shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.
11. **Insurance.** The Contractor shall provide such insurance coverages as the Town shall specify in Exhibit A, including, but not limited to, minimum acceptable coverage and limits, as well as a minimum acceptable insurance rating for an insurance provider. The Contractor shall provide the Town with a North Carolina Certificate of Insurance and such endorsements as may be required by the Contract Documents PRIOR to the commencement of any Work under the Contract and agrees to

maintain such insurance until the completion of the Contract. Such certificates of insurance shall be considered part of the Contract.

12. **Ethics in Public Contracting.** By submitting their prices and acceptance of this Contract, the Contractor certifies that their proposal was made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
13. **Applicable Laws and Courts.** This Contract shall be governed in all respects by the laws of the State of North Carolina. All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of the Contract, shall be governed in all respects by the laws of the State of North Carolina and venue shall be proper only in a court of competent jurisdiction located in Mecklenburg County, North Carolina. The Contractor represents and warrants that it shall comply with all applicable federal, state and local laws, regulations and orders.
14. **Strict Compliance.** The Town may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
15. **Assignment.** The Contractor shall not assign, subcontract or otherwise transfer any interest in the Contract without the prior written approval of the Town.
16. **General Provisions.** The Town's remedies as set forth herein are not exclusive. Any delay or omission by the Town in exercising any right hereunder, or any waiver by the Town of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default.
17. **Warranties.** The Contractor warrants it shall adhere to all laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Mecklenburg, and the Town of Huntersville in the performance of the Work outlined in this Contract and any attached specifications. Contractor warrants that all Work will be performed in a professional and workman like manner in accordance with the standards of their profession for Mecklenburg County.
18. **Quality and Workmanship.** All Work shall be performed to the satisfaction of the Town. The Work shall not be considered complete nor applicable payments rendered until the Town is satisfied with the Work provided.
19. **Default.** The Town may terminate the Contract, in whole or in part, immediately and without prior notice upon breach of the Contract by the Contractor. In addition to any other remedies available to the Town in law or equity, the Town may procure upon such terms as the Town shall deem appropriate, janitorial services substantially similar to those so terminated, in which case the Contractor shall be liable to the Town for any excess costs for such similar services and any expenses incurred in connection therewith.
20. **Termination for Convenience.** The Town shall have the right, without assigning any reason therefore, to terminate any Work under the Contract, in whole or in part, at any time at its complete discretion by providing 10 day notice in writing from the Town to Contractor. If the Contract is terminated by the Town in accordance with this paragraph, the Contractor will be paid in an amount which bears the same ratio to the total compensation as does the Work actually delivered or performed to the total originally contemplated in the Contract. The Town will not be liable to the Contractor for any costs for materials acquired or contracted for, if such costs were incurred prior to the date of this Contract.
21. **Assignment.** Contractor may not assign, pledge, or in any manner encumber Contractor's rights under this Contract, or delegate the performance of any of its obligations hereunder, without the Town's prior, express written consent.
22. **No Third Party Beneficiaries.** There shall be no intended nor incidental third party beneficiaries of this Contract. Contractor shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third party beneficiaries.
23. **Valid Contract.** In order for this Contract for Janitorial Services to be valid, it must be executed by the Town Manager or his or her authorized designee, and must be preaudited in that manner required by the Local Government Budget and Fiscal Control Act, as the same may be amended.
24. **Verification of Work Authorization.** Contractor shall comply with, and require all contractors and subcontractors to comply with, the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, "Verification of Work Authorization," sometimes known as E-verify for all contractors and subcontractors.
25. **Iran Divestment List.** With the execution hereof, Contractor, certifies that they are not on the Iran Final Divestment List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.58, and will not contract with anyone on such List in performance of the Work hereunder.
26. **Severability.** If any provision of this Contract is found to be invalid or unlawful, then remainder of this Agreement shall not be affected thereby, and each remaining provision shall be valid and enforced to the fullest extent permitted by law.

SPECIAL PROVISIONS

1. The Contractor shall be ready to start the contract no later than _____. The Contractor shall start the contract with a sufficient number of employees to perform all specification requirements in an acceptable manner.

The Contractor will furnish all necessary cleaning supplies and equipment, including but not limited to cleaning agents, soaps, waxes, sealants, polishers, shampoos, brooms, mops, pails, brushes, rags, buffers, vacuum cleaners, shampooers, ladders and mobile bins. All supplies and equipment shall be of good quality, appropriate for the work to be done, and well-designed to preserve the buildings and facilities.

The Town will furnish hand soap, toilet tissue, paper towels, walk-off mats, light bulbs, dumpsters, janitor closets, and the necessary badges and keys. The contractor will properly maintain the closets.

The Contractor shall be properly licensed and all personnel performing the janitorial services shall be bonded.

2. **Cleaning Hours:**

All of the requirements of these specifications are to be performed at the frequency specified in Exhibit B, Scope of Services, but only during the following times: between the hours of 5:00 p.m. and 11:00 p.m., Monday through Saturday. Special cleanings and/or other cleaning projects may be performed outside the specified time as well as some Saturday or Sunday cleaning with prior approval from the Town's facility manager.

3. **Security:**

Keys are to be issued to the Company representative awarded the contract. Contractor is responsible for keeping safe and secure the keys entrusted to his/her company. **KEYS ARE NOT TO BE DUPLICATED.** Should a key or keys be lost by a Contractor's employee, the Contractor will be responsible for the cost of having all door locks associated with the lost key or keys rekeyed. The Town will have the work done and bill the Contractor for all costs or subtract the cost from that month's invoice. Contractor should not prop or hold any exterior doors open while cleaning any of the listed buildings. Should any badge or key become lost by a Contractor's employee, the Contractor must contact the Town's facility manager immediately. The Contractor will be responsible for the cost of the replacement badge.

4. **Compliance with Laws:**

Contractor shall comply with all state, federal or local laws, or ordinances, codes, rules or regulations governing performance of this Agreement, including but not limited to, equal opportunity employment laws, O.S.H.A., minimum wage and hour regulations.

- a. The Contractor agrees not to use any cleaning materials or equipment for the work under this agreement that does not meet the necessary requirements for public safety and the safety of the Town of Huntersville employees. Contractor shall have SDS sheets available for all cleaning supplies used in fulfilling the requirements of the contract. The SDS sheets shall be kept in the janitorial closets at the facility.
- b. The work shall be performed so as to minimize inconvenience to the Town workforce. Access as required by the Town to the buildings shall be maintained by the Contractor throughout the duration of the agreement unless prior written approval is otherwise obtained in advance. The Contractor shall provide signs, barricades, and warning devices to ensure safe passage for pedestrian traffic at all times.

5. **Safety:**

The Contractor will be responsible for instructing their employees in safety measures considered appropriate. Cleaning personnel shall not place or use mops, brooms, or any equipment in traffic lanes or other locations in such a manner as

to create safety hazards. They will provide, place, and remove appropriate warning signs for wet or slippery floor areas caused by cleaning or waxing operations. General safety requirements shall be complied with in all activities.

- a. The Contractor shall make necessary provisions to protect all work areas and shall be responsible for full restoration of any damages and costs of restoration to the work areas. All damages to the work areas, incidental to the performance of the work described in these specifications shall be repaired or replaced by the Contractor at their expense.
- b. The Contractor shall make necessary provisions to protect structures and property from any and all damage arising out of, relating to or resulting from this work.
- c. The Contractor shall at all times keep the premises free from accumulations of waste materials or rubbish caused by their employees at work; and at the completion of the agreement, they shall remove all of their supplies and/or materials from and about the buildings and all tools, leaving the premises "broom clean" or its equivalent.
- d. The Contractor upon completion of the agreement, and before final payment as authorized by the Town of Huntersville or its agent, may be required to furnish the Town (at the Town's option) an affidavit certifying that all charges for labor, materials and any other expenses incurred by the Contractor pertaining to the execution of this Agreement have been paid in full, to the end that no liens of any kind or character (save and except those between the parties hereto) may be affixed against the above described properties. Final payment on the Agreement amount will be made only after final inspection and acceptance of all work to be performed by the Contractor, and the Contractor submits (at the Town's option) satisfactory releases of liens or claims for liens by the Contractor, laborers, and materials suppliers under their control.
- e. The Contractor shall be responsible for keeping the storage rooms provided by the Town for their equipment and supplies neat and orderly at all times.

6. Hold Harmless and Indemnification:

The Contractor shall indemnify and hold harmless the Town from and against any and all liability for personal injury and property damage arising out of or resulting from the negligent acts or omissions of the Contractor, its employees, agents and assigns, in the performance of this Agreement.

The Contractor shall comply with the provisions of the Americans with Disabilities Act (ADA) and all rules and regulations promulgated thereunder. The Contractor hereby agrees to indemnify the Town from and against all claims, suits, damages, costs, losses and expenses in any manner arising out of or connected with the failure of the Contractor, its subcontractors, agents, successors, assigns, officers or employees to comply with provisions of the ADA or the rules and regulations promulgated thereunder.

7. Hourly Rates:

The Contractor shall submit to the Town a statement of hourly rates for each class of employee to be used in the performance of each type of work of the contract, such rates are to be used in computing additions to or deductions from the monthly payment to the Contractor for changes to the specified duties and services, or for extra work required by the owner.

8. Emergency Cleaning Requests:

The Town reserves the right to request emergency cleanings to be provided by the Contractor on an as needed basis with a quick response time. Costs for these services will be paid at the cost per hour rates quoted above in number 7.

9. Contractor's Personnel:

Prior to beginning of work, Contractor must supply to the Town a list of employees and/or supervisors to be used in performing services in the Town buildings. **Contractor must have a criminal background check on each employee**

within the ten (10) day period before the start date of the contract. Any new personnel hired shall also have a criminal background check within the ten (10) day period prior to their starting to perform any janitorial services at the facility. The Contractor shall also provide the phone numbers for contact persons including all supervisors and owner(s).

NAME	PHONE NUMBER	JOB TITLE

The Contractor shall be responsible for instructing its employees as to the rules and regulations governing the buildings, including all emergency equipment and phone numbers of emergency personnel.

- a. The Contractor or their general foreman shall visit the building daily to review the work of their personnel and to discuss work schedules, complaints, and other details with the Town’s facility manager.
- b. The Contractor shall employ a thoroughly qualified foreman for full time supervision of the work of the contract. The foreman shall lay out work schedules and confer with the general foreman in this regard. He/she shall maintain an accurate log of routine duties performed, which shall be available for inspection by the Town’s facility Manager. He shall see that their staff maintains proper discipline and conduct. He shall train their crew members in such a manner as to have someone responsible to perform their duties should he be absent. He shall become familiar with the location of fire alarms and fire extinguisher equipment. For emergency purposes, he shall be familiar with the telephone numbers of the fire department, Town police, and certain government personnel.
- c. The Contractor shall employ sufficient experienced personnel to adequately perform all of the specified duties and services. All such personnel shall wear an identification badge or company uniform shirt while on duty. They shall become familiar with the particular requirements of the occupants of the various offices within their allotted areas.
- d. The Contractor shall submit to the Town’s facility manager if requested, the name and home addresses of any of their employees performing work on the contract or visiting the building.
- e. Should the Town advise the Contractor in writing that an Officer, servant, agent, or any other person under their jurisdiction or supervision relative to this contract, is for any reason objectionable, or unsatisfactory the Contractor shall after receipt of written notice from the Town replace the individual unless as a result of a hearing held by the Contractor’s authorized representative with the Town’s representative such notice is withdrawn or dismissed.
- f. No Contractor’s employees are to have family, friends, or associates with them while they are working in their assigned work areas.

10. Deficient Performance.

The Contractor shall perform any janitorial services omitted and correct any janitorial services deemed insufficient or inadequate by the Town within twenty-four (24) hours of receipt of notice from the Town’s facility manager that such services have been omitted or performed inadequately. The Town may communicate this notice to the Contractor in person, by phone, by email, or otherwise in writing.

EXHIBIT A
MINIMUM INSURANCE REQUIREMENTS

The Work under this Contract shall not commence until the Contractor has obtained all required insurance and verifying certificates of insurance have been approved in writing by the Town. The Town shall be named as additional insured on all policies. These certificates shall document that coverages afforded under the policies will not be cancelled, reduced in amount or coverages eliminated until at least thirty (30) days after mailing written notice, by certified mail, return receipt requested, to the insured and the Town of such alteration or cancellation. If endorsements are needed to comply with the notification or other requirements of this article copies of the endorsements shall be submitted with the certificates.

a. **Worker's Compensation and Employer's Liability**

The Contractor shall provide and maintain, until final acceptance, workmen's compensation insurance, as required by law, as well as employer's liability coverage with minimum limits of \$100,000.

b. **Comprehensive General Liability Insurance**

The Contractor shall provide and maintain, until final acceptance, comprehensive general liability insurance, including coverage for premises operations, independent contractors, completed operations, products and contractual exposures, as shall protect such contractors from claims arising out of any bodily injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operations be by the Contractor or by any subcontractor, or by anyone directly or indirectly employed by either of them and the minimum limits of such insurance shall be as follows:

Bodily Injury:	\$1,000,000 per occurrence/\$2,000,000 aggregate
Property Damage:	\$100,000 per occurrence / \$300,000 aggregate

Such coverage for completed operations must be maintained for at least two (2) years following final acceptance of the Work performed under the contract.

c. **Deductible**

Any deductible, if applicable to loss covered by insurance provided, is to be borne by the Contractor.

d. **Other Insurance**

The Contractor shall obtain such additional insurance as may be required by the Town or by the General Statutes of North Carolina including motor vehicle insurance, in amounts not less than the statutory limits.

e. **Proof of Carriage**

The Contractor shall furnish the Town with satisfactory proof of carriage of the insurance required before written approval is granted by the Town.

EXHIBIT B
SCOPE OF SERVICES AND FREQUENCY OF PERFORMANCE

All services indicated below shall be performed at the frequency indicated for the fixed monthly fee indicated on the face of the Contract. "DLY" means three days per week; "WK" means once per week; "MO" means once per month; and "YR" means once per year.

<i>Areas/Tasks</i>	<i>DLY</i>	<i>WK</i>	<i>MO</i>	<i>YR</i>
Main Office/Front Desks				
Trash Containers- empty containers and replace liners as needed	X			
Horizontal furniture surface (reasonably clear of paper) dust	X			
Desktops- spot clean to remove bottle/cup rings	X			
Carpets- Vacuum	X			
Telephones- Clean and Sanitize	X			
Small Carpet stains (2" diameter max)- spot clean	X			
Hard Floors - dust mop/sweep	X			
Hard Floors - spot mop to remove spills and stains	X			
Hard Floor - damp mop		X		
Wall -Hung pictures- dust		X		
Baseboards		X		
Ceiling vents and ledges that can be reached form the floor - dust			X	
Upholstery furniture - vacuum			X	
Restrooms				
Toilets and urinals - clean with a germicidal disinfectant	X			
Sinks - clean with non-abrasive cleaner and disinfectant	X			
Hand Dryers- clean with non-abrasive cleaner and disinfectant	X			
Door knobs/Push Plates - clean with germicidal disinfectant	X			
Bright metal parts of fixtures - clean/polish	X			
Trash Containers - empty containers and replace liners	X			
Paper Towel, toilet paper and soap dispensers - clean and replenish	X			
Walls - spot clean to remove soap splashes, fingerprints/ smudges	X			
Partition walls - clean with germicidal disinfectant	X			
Hard floors - sweep, then mop with detergent disinfectant solution	X			
Partition tops - dust		X		
Ceiling vents and ledges that can be reached from the floor - dust		X		
Hard floor - scrub with detergent disinfectant solution and rinse thoroughly			X	
Floor Drains - add water and enzymes			X	
Public Areas				
Trash Containers - empty containers and replace liners	X			
Carpets/Rugs - Vacuum	X			
Small Carpet stains (2" diameter max) - spot clean	X			
Hard Floor - dust mop and spot clean	X			
Glass partitions and Entry doors - clean to remove fingerprints and smudges	X			
Rubber Mats- sweep	X			
Wall surfaces around light switches - spot clean	X			

Water fountains - clean with disinfectant solution, then polish	X			
Hard Floors -damp mop with neutral cleaner		X		
Baseboards and low vents - dust		X		
Upholster furniture - vacuum and/or clean and disinfect		X		
Ceiling vents and ledges that can be reached from the floor - dust		X		
Ledges and hand rails - dust		X		
Blinds - dust			X	

Kitchen /Café Area				
Trash containers - empty containers and replace liners	X			
Trash containers and adjacent wall surfaces - wipe with all-purpose cleaner	X			
Countertops and cabinets - wipe with all purpose cleaner	X			
Sinks - wash with non-abrasive cleaner and disinfect	X			
Bright metal parts of fixtures - polish	X			
Microwave ovens - clean inside and out	X			
Tables and chairs - wipe with all purpose cleaner	X			
Hard floors - sweep and damp mop with neutral cleaner	X			
Exterior surfaces of refrigerator/appliances - wipe with all purpose cleaner		X		
Wall surfaces around light switches - spot clean		X		
Multipurpose Room				
Trash Containers - empty containers and replace liners	X			
Countertops and cabinets - wipe with all purpose cleaner	X			
Sink - wash with all purpose cleaner	X			
Bright metal parts of fixtures - polish	X			
Hard Floors - sweep	X			
Hard floors - Damp Mop with neutral cleaner		X		



1009 Kensington Ave
Gastonia, NC 28054
704-674-7572

Proposal Submitted To:

Name: Huntersville Recreation Center
Address: 11836 Verhoeff Dr.
City: Huntersville
State: NC Zip Code: 28078

Job Name: Cleaning service

Other info: _____

Date of Proposal: March 15, 2021

We hereby submit estimates and specifications for:

Seven day cleaning & floor buffing
(\$1000.00) (\$249.99)

We hereby propose to furnish complete labor and material – in accordance with the above specifications, for the sum of \$ 1249.99 US dollars, payment to be made as follows:

Tate's Janitorial Inc.

All material is guaranteed to be as set forth. All work to be completed in a workmanlike manner according to standard practices. Any changes from above specifications involving additional cost, will be made only by request in writing and will be an additional charge over the original estimate. All agreements are contingent upon strikes, accidents or Acts of God. Owner to carry fire and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.

Authorized Signature: _____

Note: This proposal may be withdrawn or subject to change if not accepted within 7 days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are hereby authorized to do the work specified. Payment will be made as outlined above.

Date: X _____

Signature: X _____

Signature: _____

Tate's Janitorial Service

Business and Residential Cleaning of Carpets, Floors, Tables, etc.

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Michael Jaycocks, Director

Date: April 5, 2021

Subject: Adopt Resolution to approve contract with Trane USA, Inc. for HVAC services at Town Center. *(Michael Jaycocks)*

EXPLAIN REQUEST:

Approve the renewal for the Trane contract for the Huntersville Town Center HVAC system.

ACTION RECOMMENDED:

Approve the renewal for the Trane contract for the Huntersville Town Center HVAC system.

FINANCIAL IMPLICATIONS:

\$6,770 from the approved fy21 budget

ATTACHMENTS:

1. Trane HVAC services TC resolution
2. Huntersville Town Center Trane Contract 2021

**RESOLUTION TO APPROVE CONTRACT WITH TRANE
USA, INC. FOR HVAC SERVICES**

WHEREAS, the Town has received the attached contract from Trane USA, Inc., a North Carolina corporation, for HVAC services; and

WHEREAS, The Town desires to contract with Trane USA, Inc. for the prescribed services and to approve the Contract;

NOW THEREFORE, be it **RESOLVED** that the Town of Huntersville Board of Commissioners:

1. Approves the Contract with Trane USA, Inc., a North Carolina corporation for janitorial services (the "Contract") attached hereto as Exhibit A.
2. The Board authorizes the Town Manager for the Town of Huntersville to execute the Contract on behalf of the Town, including any amendment(s), work orders, or notices to proceed for additional services, not to exceed \$500 per additional service.
3. The Board authorizes the Town Manager to, on the advice of counsel, to take any actions necessary to execute the provisions of this resolution.

Adopted this the _____ day of _____, 2021.

ATTEST:

Janet Pierson, Town Clerk

John Aneralla, Mayor

Approved as to Form:

Emily Sloop, Town Attorney



Trane U.S. Inc.
4501 South Tryon Street
Charlotte, NC 28217-0969
Phone: (704) 525-9600, Fax: (704) 525-8582
Service Contact: (704) 525-9600

~~January 15, 2021~~ REV 3/10/21

Michael Jaycocks
Parks & Recreation Director
Town of Huntersville
PO Box 2879
Huntersville, NC 28070

Site Address:
Huntersville Town Center
105 Gilead Rd
Huntersville, NC 28078
United States

ATTENTION: Michael Jaycocks

SUBJECT: Continuation of Service Agreement

Your Trane Service Agreement is scheduled for renewal on **2/1/21**. To assure that there will be no interruption of service and benefits to Huntersville City of your Service Agreement will be extended through **1/31/22**. The adjusted Service Fees for the renewal term for all sites is set forth in the following table:

Contract Year	Annual Amount USD	Payment USD	Payment Term
Year 1 (MERV 8)	6,770.00	564.17	Monthly

The Annual Amount and Payment information set forth above DO NOT include applicable sales tax. Applicable sales taxes will be included upon generation of the invoice for the renewed Service Agreement. Payment of applicable sales tax is the responsibility of the Customer.

If there is any reason why this Service Agreement should not be extended through this period, please notify Trane in writing 30 days prior to the renewal date indicated above. If so notified, Trane can continue at your discretion to provide services beyond the renewal date at our standard time and material rates.

☐ Service Fee Discount. A one-time 3.00 % discount is offered for full payment of 1 year(s) in advance of the commencement of the Service Agreement. Invoice would be issued at start of the Agreement and is due net 15 days from date of invoice. Tax will be calculated based upon the pre-discounted price. This Service Fee discount is for advance payment only under the terms stated in this section and is not applicable to credit card transactions. Please check the box to select this discount option.

SCOPE OF SERVICE

The Scope of Service for the new agreement period will remain the same as delivered in the current period.

TERMS & CONDITIONS

Terms & Conditions for the renewal period are attached.

- Iran Divestment List. With the execution hereof, Company certifies that they are not on the Iran Final Divestment List created by the N.C. State Treasurer and will not contract with anyone on such List in performance of the work hereunder.**

CLARIFICATIONS

If Huntersville City of accounting procedures require a purchase order for the renewal term, please provide your purchase order number to Trane no less than 30 days prior to the renewal date.

We value your business and look forward to continuing to serve and contribute to your organization's success.

Sincerely,

Ethan Robinson
Account Manager
Trane

COVID-19 NATIONAL EMERGENCY CLAUSE

The parties agree that they are entering into this Agreement while the nation is in the midst of a national emergency due to the Covid-19 pandemic ("Covid-19 Pandemic"). With the continued existence of Covid-19 Pandemic and the evolving guidelines and executive orders, it is difficult to determine the impact of the Covid-19 Pandemic on Trane's performance under this Agreement. Consequently, the parties agree as follows:

1. Each party shall use commercially reasonable efforts to perform its obligations under the Agreement and to meet the schedule and completion dates, subject to provisions below;
2. Each party will abide by any federal, state (US), provincial (Canada) or local orders, directives, or advisories regarding the Covid-19 Pandemic with respect to its performance of its obligations under this Agreement and each shall have the sole discretion in determining the appropriate and responsible actions such party shall undertake to so abide or to safeguard its employees, subcontractors, agents and suppliers;
3. Each party shall use commercially reasonable efforts to keep the other party informed of pertinent updates or developments regarding its obligations as the Covid-19 Pandemic situation evolves; and
4. If Trane's performance is delayed or suspended as a result of the Covid-19 Pandemic, Trane shall be entitled to an equitable adjustment to the project schedule and/or the contract price.

CUSTOMER ACCEPTANCE

Authorized Representative

Printed Name

Title

Purchase Order

Acceptance Date

Trane's License Number:

Huntersville Town Center

Equipment	Qty	Manufacturer	Model Number	Serial Number	Asset Tag
75 Ton Packaged Industrial Rooftop	1	Trane	SFHFF754LH	C09H02128	RTU 1
50 Ton Packaged Industrial Rooftop	1	Trane	SFHFF504LH	C09H02129	RTU 2

Description

Intellipak Rooftop Cooling Pre-Season Annual Start Up
Intellipak Midseason Running Inspection

Quantity Per Term

1
1

Equipment	Qty	Manufacturer	Model Number	Serial Number	Asset Tag
Split System Air Conditioner	1	Daikin Industries Ltd	FTXS18DVJU		SS #1
Split System Air Conditioner	1	Daikin Industries Ltd	FTXS18DVJU		SS #2
Split System Air Conditioner	1	Daikin Industries Ltd	FTXS18DVJU		SS #3

Description

Split System Air Conditioner Cooling Pre-Season Annual Start Up
Split System Air Conditioner Midseason Running Inspection

Quantity Per Term

1
1

Equipment	Qty	Manufacturer	Model Number	Serial Number	Asset Tag
Computer Room Air Conditioner	1	Liebert Corporation	MMD24E7P00		LIEBERT #1

Description

Liebert Cooling Pre-Season Annual Inspection
Liebert Midseason Running Inspection

Quantity Per Term

1
1

Equipment	Qty	Manufacturer	Model Number	Serial Number	Asset Tag
Tracer Summit Building Management Systems (BMTS)	1	Trane	SUMMIT	E09K50725	

Description

Controls System Analysis

Quantity Per Term

2

Terms and Conditions (Service)

"Company" shall mean Trane U.S. Inc..

1. Agreement. These terms and conditions ("Terms") are an integral part of Company's offer and form the basis of any agreement (the "Agreement") resulting from Company's proposal (the "Proposal") for the following commercial services as stated in the Proposal (collectively, the "Services"): inspection, maintenance and repair (the "Maintenance Services") on equipment (the "Covered Equipment"), specified Additional Work (if any), and, if included in the Proposal, Intelligent Services, Energy Assessment, Energy Performance Solutions, and any other services using remote connectivity (collectively and individually referred to in these Terms as "Energy and Building Performance Services"). **COMPANY'S TERMS ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT.**

2. Connected Services. In addition to these terms and conditions, the Connected Services Terms of Service ("Connected Services Terms"), available at <https://www.trane.com/TraneConnectedServicesTerms>, as updated from time to time, are incorporated herein by reference and shall apply to the extent that Company provides Customer with Connected Services, as defined in the Connected Services Terms.

3. Acceptance. The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent ("Customer") delivered to Company within 30 days from the date of the Proposal. If Customer accepts the Proposal by placing an order, without the addition of any other terms and conditions of sale or any other modification, Customer's order shall be deemed acceptance of the Proposal subject to these Terms and Conditions. If Customer's order is expressly conditioned upon Company's acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company's Terms and Conditions attached or referenced serves as Company's notice of objection to Customer's terms and as Company's counter-offer to perform in accordance with the Proposal and Company Terms and Conditions. If Customer does not reject or object in writing to Company within 10 days, Company's counter-offer will be deemed accepted. Customer's acceptance of performance by Company will in any event constitute an acceptance by Customer of Company's Terms and Conditions. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or Terms and Conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability, other than Customer's obligation to pay for Services provided by Company to the date of cancellation.

4. Fees and Taxes. Fees for the Services (the "Service Fees") are as set forth in the Proposal. Except as otherwise stated in the Proposal, Service Fees are based on performance during regular business hours. Charges for performance outside Company's normal business hours shall be billed separately according to the then prevailing overtime or emergency labor/labour rates. In addition to the stated Service Fees, Customer shall pay all taxes not legally required to be paid by Company or, alternatively, shall provide Company with an acceptable tax exemption certificate.

5. Payment. Payment is due upon receipt of Company's invoice. Service Fees shall be paid no less frequently than quarterly and in advance of performance of the Services. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to the lesser of the maximum allowable legal interest rate or 1.5% of the principal amount due at the end of each month. Without liability to Customer, Company may discontinue performance whenever payment is overdue. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due or otherwise enforcing this Agreement.

6. Customer Breach. Each of the following constitutes a breach by Customer and shall give Company the right, without an election of remedies, to suspend performance or terminate this Agreement by delivery of written notice declaring termination. Upon termination, Customer shall be liable to the Company for all Services furnished to date and all damages sustained by Company (including lost profit and overhead): (a) Any failure by Customer to pay amounts when due; (b) any general assignment by Customer for the benefit of its creditors, Customer's bankruptcy, insolvency, or receivership; (c) Any representation or warranty furnished by Customer in connection with this Agreement is false or misleading in any material respect when made; or (d) Any failure by Customer to perform or comply with any material provision of this Agreement.

7. Performance. Company shall perform the Services in accordance with industry standards generally applicable in the state or province where the Services are performed under similar circumstances when Company performs the Services. Company may refuse to perform where working conditions could endanger property or put people at risk. Unless otherwise agreed by Customer and Company, at Customer's expense and before the Services begin, Customer will provide any necessary access platforms, catwalks to safely perform the Services in compliance with OSHA, state, or provincial industrial safety regulations or any other applicable industrial safety standards or guidelines. This Agreement presupposes that all major pieces of Covered Equipment are in proper operating condition as of the date hereof. Services furnished are premised on the Covered Equipment being in a maintainable condition. In no event shall Company have any obligation to replace Covered Equipment that is no longer maintainable. During the first 30 days of this Agreement, or upon initial inspection, and/or upon seasonal start-up (if included in the Services), if an inspection by Company of Covered Equipment indicates repairs or replacement is required, Company will provide a written quotation for such repairs or replacement. If Customer does not authorize such repairs or replacement, Company may remove the unacceptable equipment from the Covered Equipment and adjust the Service Fees accordingly. Customer authorizes Company to utilize Customer's telephone line or network infrastructure to connect to controls, systems and/or equipment provided or serviced by Company and to provide Services contracted for or otherwise requested by Customer, including remote diagnostic and repair service. Customer acknowledges that Company is not responsible for any adverse impact to Customer's communications and network infrastructure. Company may elect to install/attach to Customer equipment or provide portable devices (hardware and/or software) for execution of control or diagnostic procedures. Such devices shall remain the personal proprietary property of Company and in no event shall become a fixture of Customer locations. Customer shall not acquire any interest, title or equity in any hardware, software, processes, and other intellectual or proprietary rights to devices used in connection with the Services on Customer equipment. Company may remove such devices at its discretion. Parts used for any repairs made will be those selected by Company as suitable for the repair and may be parts not manufactured by Company.

8. Customer Obligations. Customer shall: (a) Provide Company reasonable and safe access to the Covered Equipment and areas where Company is to work; (b) Follow manufacturer recommendations concerning teardown and internal inspection, major overhaul, restoration or refurbishing of the Covered Equipment; unless expressly stated in the Scope of Services statement, Company is not performing any manufacturer recommended teardown and internal inspection, major overhaul, restoration or refurbishing of the Covered Equipment; and (c) Where applicable, unless water treatment is expressly included in the Services, provide professional cooling tower water treatment in accordance with any reasonable recommendations provided by Company.

9. Exclusions. Unless expressly included in the Covered Equipment or the Services, the Services do not include, and Company shall not be responsible for or liable to the Customer for any claims, losses, damages or expenses suffered by the Customer in any way connected with, relating to or arising from, any of the following: (a) Any guarantee of room conditions or system performance; (b) Inspection, maintenance, repair, replacement of or services for: chilled water and condenser water pumps and piping; electrical disconnect switches or circuit breakers; motor starting equipment that is not factory mounted and interconnecting power wiring; recording or portable instruments, gauges or thermometers; non-moving parts or non-maintainable parts of the system, including, but not limited to, storage tanks; pressure vessels, shells, coils, tubes, housings, castings, casings, drain pans, panels, duct work; piping: hydraulic, hydronic, pneumatic, gas, or refrigerant; insulation; pipe covering; refractory material; fuses, unit cabinets; electrical wiring; ductwork or conduit; electrical distribution system; hydronic structural supports and similar items; the appearance of decorative casing or cabinets; damage sustained by other equipment or systems; and/or any failure, misadjustment or design deficiencies in other equipment or systems; (c) Damage, repairs or replacement of parts made necessary as a result of electrical power failure, low voltage, burned out main or branch fuses, low water pressure, vandalism, misuse or abuse, wear and tear, end of life failure, water damage, improper operation, unauthorized alteration of equipment, accident, acts or omissions of Customer or others, damage due to freezing weather, calamity, malicious act, or any Event of Force Majeure; (d) Any damage or malfunction resulting from vibration, electrolytic action, freezing, contamination, corrosion, erosion, or caused by scale or sludge on internal tubes except where water treatment protection services are provided by Company as part of this Agreement; (e) Furnishing any items of equipment, material, or labor/labour, or performing special tests recommended or required by insurance companies or federal, state, or local governments; (f) Failure or inadequacy of any structure or foundation supporting or surrounding the equipment to be worked on or any portion thereof; (g) Building access or alterations that might be necessary to repair or replace Customer's existing equipment; (h) The normal function of starting and stopping equipment or the opening and closing of valves, dampers or regulators normally installed to protect equipment against damage; (i) Valves that are not factory mounted: balance, stop, control, and other valves external to the device unless specifically included in the Agreement; (j) Any responsibility for design or redesign of the system or the Covered Equipment, obsolescence, safety tests, or removal or reinstallation of valve bodies and dampers; (k) Any services, claims, or damages arising out of Customer's failure to comply with its obligations under this Agreement; (l) Failure of Customer to follow manufacturer recommendations concerning teardown and internal inspection, overhaul and refurbishing of equipment; (m) Any claims, damages, losses, or expenses, arising from or related to conditions that existed in, on, or upon the premises before the effective date of this Agreement ("Pre-Existing Conditions"), including, without limitation, damages, losses, or expenses involving pre-existing building envelope issues, mechanical issues, plumbing issues, and/or indoor air quality issues involving mold/mould and/or fungi; (n) Replacement of refrigerant is excluded, unless replacement of refrigerant is expressly stated as included within the Services, in which case replacement shall in no event exceed the stated percentage of rated system charge per year expressly stated in the Services; (o) crane or rigging costs; (p) Any Services, claims, or damages arising out of refrigerant not supplied by Trane. Customer shall be responsible for: (i) The cost of any additional replacement refrigerant; (ii) Operation of any equipment; and (iii) Any claims, damages, losses, or expenses, arising from or related to work done by or services provided by individuals or entities that are not employed by or hired by Company.

10. Limited Warranty. Company warrants that: (a) the material manufactured by Company and provided to Customer in performance of the Services is free from defects in material and manufacture for a period of 12 months from the earlier of the date of equipment start-up or replacement; and (b) the labor/labour portion of the Maintenance Services and Additional Work has been properly performed for a period of 90 days from date of completion (the "Limited Warranty"). Company obligations of equipment start-up, if any are stated in the Proposal, are coterminous with the Limited Warranty period. Defects must be reported to Company within the Limited Warranty period. Company's obligation under the Limited Warranty is limited to repairing or replacing the defective part at its option and to correcting any labor/labour improperly performed by Company. No liability whatsoever shall attach to Company until the Maintenance Services and Additional Work have been paid for in full. Exclusions from this Warranty include claims, losses, damages and expenses in any way connected with, related to or arising from failure or malfunction of equipment due to the following: wear and tear, end of life failure, corrosion; erosion; deterioration; Customer's failure to follow the Company-provided maintenance plan; unauthorized or improper maintenance; unauthorized or improper parts or material; refrigerant not supplied by Trane; and modifications made by others to equipment. Company shall not be obligated to pay for the cost of lost refrigerant or lost product. Some components of equipment manufactured by Company may be warranted directly from the component supplier, in which case this Limited Warranty shall not apply to those components and any warranty of such components shall be the warranty given by such component supplier. Notwithstanding the foregoing, all warranties provided herein terminate upon termination or cancellation of this Agreement. Equipment, material and/or parts that are not manufactured by Company are not warranted by Company and have such warranties as may be extended by the respective manufacturer. **THE REMEDIES SET FORTH IN THIS LIMITED WARRANTY ARE THE SOLE AND EXCLUSIVE REMEDIES FOR WARRANTY CLAIMS PROVIDED BY COMPANY TO CUSTOMER UNDER THIS AGREEMENT AND ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, CONDITIONS AND REMEDIES, WHETHER IN CONTRACT, WARRANTY, STATUTE OR TORT (INCLUDING NEGLIGENCE), EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE. COMPANY EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES, ENDORSEMENTS OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF QUALITY, FITNESS, MERCHANTABILITY, DURABILITY AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE OR REGARDING PREVENTION BY THE SCOPE OF SERVICES, OR ANY COMPONENT THEREOF. NO REPRESENTATION OR WARRANTY OF ANY KIND, INCLUDING WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, IS MADE REGARDING PREVENTING, ELIMINATING, REDUCING OR INHIBITING ANY MOLD, FUNGUS, BACTERIA, VIRUS, MICROBIAL GROWTH, OR ANY OTHER CONTAMINANTS (INCLUDING COVID-19 OR ANY SIMILAR VIRUS) (COLLECTIVELY, "CONTAMINANTS"), WHETHER INVOLVING OR IN CONNECTION WITH EQUIPMENT, ANY COMPONENT THEREOF, SERVICES OR OTHERWISE. IN NO EVENT SHALL TRANE HAVE ANY LIABILITY FOR THE PREVENTION, ELIMINATION, REDUCTION OR INHIBITION OF THE GROWTH OR SPREAD OF SUCH CONTAMINANTS INVOLVING OR IN CONNECTION WITH ANY EQUIPMENT, ANY COMPONENT THEREOF, SERVICES OR OTHERWISE AND CUSTOMER HEREBY SPECIFICALLY ACKNOWLEDGES AND AGREES THERETO.**

11. Indemnity. To the maximum extent permitted by law, Company and Customer shall indemnify and hold harmless each other from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or personal property, to the extent caused by the negligence or misconduct of the indemnifying party, and/or its respective employees or other authorized agents in connection with their activities within the scope of this Agreement. Neither party shall indemnify the other against claims, damages, expenses, or liabilities to the extent attributable to the acts or omissions of the other party or third parties. If the parties are both at fault, the obligation to indemnify shall be proportional to their relative fault. The duty to indemnify and hold harmless will continue in full force and effect, notwithstanding the expiration or early termination of this Agreement, with respect to any claims based on facts or conditions that occurred prior to expiration or termination of this Agreement.

12. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION REFRIGERANT LOSS, PRODUCT LOSS, LOST REVENUE OR PROFITS, OR LIABILITY TO THIRD PARTIES), OR PUNITIVE DAMAGES WHETHER BASED IN CONTRACT, WARRANTY, STATUTE, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL THEORY OR FACTS. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE TOTAL AND AGGREGATE LIABILITY OF THE COMPANY TO THE CUSTOMER WITH RESPECT TO ANY AND ALL CLAIMS CONNECTED WITH, RELATED TO OR ARISING FROM THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, WHETHER BASED IN CONTRACT, WARRANTY, STATUTE, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL THEORY OR FACTS, SHALL NOT EXCEED THE COMPENSATION RECEIVED BY COMPANY OVER THE 12 MONTH PERIOD PRECEDING THE DATE OF OCCURRENCE FOR THE SERVICES AND ADDITIONAL WORK FOR THE LOCATION WHERE THE LOSS OCCURRED. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY DAMAGES (WHETHER DIRECT OR INDIRECT) RESULTING FROM MOLD/MOULD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR OTHER CONTAMINATES OR AIRBORNE BIOLOGICAL AGENTS. TO THE MAXIMUM EXTENT ALLOWED BY LAW, COMPANY SHALL NOT BE LIABLE FOR ANY OF THE FOLLOWING IN CONNECTION WITH PROVIDING THE ENERGY AND BUILDING PERFORMANCE SERVICES: INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION; CUSTOMER'S NETWORK SECURITY; COMPUTER VIRUS; COMMUNICATION FAILURE; THEFT OR DESTRUCTION OF DATA; GAPS IN DATA COLLECTED; AND UNAUTHORIZED ACCESS TO CUSTOMER'S DATA OR COMMUNICATIONS NETWORK.

13. COVID-19 LIMITATION ON LIABILITY. The transmission of COVID-19 may occur in a variety of ways and circumstances, many of the aspects of which are currently not known. HVAC systems, products, services and other offerings have not been tested for their effectiveness in reducing the spread of COVID-19, including through the air in closed environments. **IN NO EVENT WILL TRANE BE LIABLE UNDER THIS AGREEMENT OR OTHERWISE FOR ANY ACTION OR CLAIM, WHETHER BASED ON WARRANTY, CONTRACT, TORT OR OTHERWISE, FOR ANY BODILY INJURY (INCLUDING DEATH) OR ANY OTHER LIABILITIES, DAMAGES OR COSTS RELATED TO COVID-19 (INCLUDING THE SPREAD, TRANSMISSION OR CONTAMINATION THEREOF) (COLLECTIVELY, "COVID-19 LIABILITIES") AND CUSTOMER HEREBY EXPRESSLY RELEASES TRANE FROM ANY SUCH COVID-19 LIABILITIES.**

14. Asbestos and Hazardous Materials. The Services expressly exclude any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos polychlorinated biphenyl ("PCB"), or other hazardous materials (collectively, "Hazardous Materials"). Customer warrants and represents that there are no Hazardous Materials on the premises that will in any way affect Company's performance, except as set forth in a writing signed by Company disclosing the existence and location of any Hazardous Materials in all areas within which Company will be performing. Should Company become aware of or suspect the presence of Hazardous Materials, Company may immediately stop work in the affected area and notify Customer. Customer will be responsible for correcting the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for and shall indemnify and hold harmless Company (including its employees, agents and subcontractors) from and against any loss, claim, liability, fees, penalties, injury (including death) or liability of any nature, and the payment thereof, arising out of or relating to any Hazardous Materials on or about the premises, not brought onto the premises by Company. Company shall be required to resume performance only in the absence of Hazardous Materials or when the affected area has been rendered harmless. In no event shall Company be obligated to transport or handle Hazardous Materials, provide any notices to any governmental agency, or examine the premises site for the presence of Hazardous Materials.

15. Insurance. Company agrees to maintain the following insurance during the term of this Agreement with limits not less than shown below and will, upon request from Customer, provide a Certificate of evidencing the following coverage:

Commercial General Liability	\$2,000,000 per occurrence
Automobile Liability	\$2,000,000 CSL
Workers Compensation	Statutory Limits

If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company or its insurer waive rights of subrogation.

16. Force Majeure. Company's duty to perform under this Agreement is contingent upon the non-occurrence of an Event of Force Majeure. If Company is unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon 10 days' notice to Customer, in which event Customer shall pay Company for all parts of the Services furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; lightning; tornado; storm; fire; civil disobedience; pandemic; insurrections; riots; labor/labour disputes; labor/labour or material shortages from the usual sources of supply; sabotage; restraint by court order or public authority (whether valid or invalid), and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company; and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.

17. Maintenance Services Other Than Solely Scheduled Service. If Company's Maintenance Services hereunder are not limited solely to Scheduled Service, the following provisions shall also apply: (a) Required restoration shall be performed by Customer at its cost prior to Company being obligated to perform hereunder; (b) any changes, adjustments, service or repairs made to the Equipment by any party other than Company, unless approved by Company in writing, may, at Company's option, terminate Company's obligation to render further service to the Equipment so affected; in such case no refund of any portion of the Service Fees shall be made; and (c) Customer shall (i) promptly notify Company of any unusual performance of Equipment; (ii) permit only Company personnel to

repair or adjust Equipment and/or controls during the Term or a Renewal Term; and (ii) utilize qualified personnel to properly operate the Equipment in accordance with the applicable operating manuals and recommended procedures.

18. General. Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state or province in which Company performs the Services. Any dispute arising under or relating to this Agreement shall be decided by litigation in a court of competent jurisdiction located in the state or province in which the Services are performed. To the extent the premises are owned and/or operated by any agency of the United States Federal Government, determination of any substantive issue of law shall be according to the United States Federal common law of Government contracts as enunciated and applied by United States Federal judicial bodies and boards of contract appeals of the United States Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the Services. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other Terms of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, without the written consent of Company. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties hereto and their permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original. Customer may not assign, transfer, or convey this Agreement, or any part hereof, or its right, title or interest herein, without the written consent of Company. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties' respective successors and assigns. No failure or delay by the Company in enforcing any right or exercising any remedy under this Agreement shall be deemed to be a waiver by the Company of any right or remedy.

19. Equal Employment Opportunity/Affirmative Action Clause. Company is a federal contractor that complies fully with Executive Order 11246, as amended, and the applicable regulations contained in 41 C.F.R. Parts 60-1 through 60-60, 29 U.S.C. Section 793 and the applicable regulations contained in 41 C.F.R. Part 60-741; and 38 U.S.C. Section 4212 and the applicable regulations contained in 41 C.F.R. Part 60-250 Executive Order 13496 and Section 29 CFR 471, appendix A to subpart A, regarding the notice of employee rights in the United States and with Canadian Charter of Rights and Freedoms Schedule B to the Canada Act 1982 (U.K.) 1982, c. 11 and applicable Provincial Human Rights Codes and employment law in Canada.

20. U.S. Government Services. The following provision applies only to direct sales by Company to the US Government. The Parties acknowledge that all items or services ordered and delivered under this Agreement are Commercial Items as defined under Part 12 of the Federal Acquisition Regulation (FAR). In particular, Company agrees to be bound only by those Federal contracting clauses that apply to "commercial" suppliers and that are contained in FAR 52.212-5(e)(1). Company complies with 52.219-8 or 52.219-9 in its service and installation contracting business. **The following provision applies only to indirect sales by Company to the US Government.** As a Commercial Item Subcontractor, Company accepts only the following mandatory flow down provisions: 52.219-8; 52.222-26; 52.222-35; 52.222-36; 52.222-39; 52.247-64. If the Services are in connection with a U.S. Government contract, Customer certifies that it has provided and will provide current, accurate, and complete information, representations and certifications to all government officials, including but not limited to the contracting officer and officials of the Small Business Administration, on all matters related to the prime contract, including but not limited to all aspects of its ownership, eligibility, and performance. Anything herein notwithstanding, Company will have no obligations to Customer unless and until Customer provides Company with a true, correct and complete executed copy of the prime contract. Upon request, Customer will provide copies to Company of all requested written communications with any government official related to the prime contract prior to or concurrent with the execution thereof, including but not limited to any communications related to Customer's ownership, eligibility or performance of the prime contract. Customer will obtain written authorization and approval from Company prior to providing any government official any information about Company's performance of the Services that are the subject of the Proposal or this Agreement, other than the Proposal or this Agreement.

21. Limited Waiver of Sovereign Immunity. If Customer is an Indian tribe (in the U.S.) or a First Nation or Band Council (in Canada), Customer, whether acting in its capacity as a government, governmental entity, a duly organized corporate entity or otherwise, for itself and for its agents, successors, and assigns: (1) hereby provides this limited waiver of its sovereign immunity as to any damages, claims, lawsuit, or cause of action (herein "Action") brought against Customer by Company and arising or alleged to arise out of the furnishing by Company of any product or service under this Agreement, whether such Action is based in contract, tort, strict liability, civil liability or any other legal theory; (2) agrees that jurisdiction and venue for any such Action shall be proper and valid (a) if Customer is in the U.S., in any state or United States court located in the state in which Company is performing this Agreement or (b) if Customer is in Canada, in the superior court of the province or territory in which the work was performed; (3) expressly consents to such Action, and waives any objection to jurisdiction or venue; (4) waives any requirement of exhaustion of tribal court or administrative remedies for any Action arising out of or related to this Agreement; and (5) expressly acknowledges and agrees that Company is not subject to the jurisdiction of Customer's tribal court or any similar tribal forum, that Customer will not bring any action against Company in tribal court, and that Customer will not avail itself of any ruling or direction of the tribal court permitting or directing it to suspend its payment or other obligations under this Agreement. The individual signing on behalf of Customer warrants and represents that such individual is duly authorized to provide this waiver and enter into this Agreement and that this Agreement constitutes the valid and legally binding obligation of Customer, enforceable in accordance with its terms.

1-26.130-7 (0720)
Supersedes 1-26.130-7 (0919)

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Pattie Ellis

Date: April 5, 2021

Subject: Approve budget amendment appropriating funds in the amount of \$120,000 from Fund Balance to Land for Church - Holbrooks-Dellwood Property. (*Pattie McGinnis*)

EXPLAIN REQUEST:

By Board Action at the December 7, 2020 meeting, the Board approved the contract for the property acquisition for the Church Street-Holbrooks Road to Dellwood Drive Project. This request is to fund the land and related expenses of \$120,000. (105400.0550.20013).

ACTION RECOMMENDED:

Approve Budget Amendment

FINANCIAL IMPLICATIONS:

Decrease in fund balance of \$120,000.

ATTACHMENTS:

None

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Stephen Trott, Director

Date: April 5, 2021

Subject: Adopt Resolution to accept the engineering and surveying on-call services work contract. *(Stephen Trott)*

EXPLAIN REQUEST:

On Call Engineering and Surveying Services for two year term.

ACTION RECOMMENDED:

Approval

FINANCIAL IMPLICATIONS:

As needed for projects

ATTACHMENTS:

1. Engineering On Call Resolution and Contracts



**RESOLUTION OF THE TOWN OF HUNTERSVILLE TO ACCEPT THE ENGINEERING AND SURVEYING
ON-CALL SERVICES WORK CONTRACT**

Whereas the Town of Huntersville proposes to enter into an agreement for professional engineering and surveying services for On-Call Services for projects;

Whereas G.S. 143-64.31 requires the initial solicitation and evaluation of firms to perform architectural, engineering, surveying and alternative construction delivery services (collectively "design services") to be based on qualifications and without regard to fee; and

Whereas engineering and surveying services required were put out for proposals and scored based on qualifications. A scoring summary is attached for reference; and

Whereas the most qualified proposers selected were RK&K LLP, STV Engineers Inc, Michael Baker Engineering Inc, Kimley-Horn and Associates, and RS&H Inc, for Professional Engineering and Surveying Services attached as Exhibit A;

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Board of Commissioners approves and authorizes Contracts with the firms for Professional Engineering and Surveying Services attached herein as Exhibit A is approved.
2. The Board authorizes the Town Manager to execute task orders and any amendment(s) for additional services, up to \$150,000;
3. The Board hereby authorizes the Town Manager, acting on advice of counsel, to take any actions necessary to effect the provisions of this Resolution;
4. This Resolution shall be effective as of the date its adoption.

Adopted this 5th day of April, 2021.

ATTEST:

TOWN OF HUNTERSVILLE

Town Clerk

Town Mayor

APPROVED AS TO FORM:

Town Attorney

Scoring Chart for RFQ

On-Call Engineering and Surveying						RFQ Due: 1/7/2021				Date Posted: 12/3/2020					
#:	Firm Name	Contact	Email	Electronic:	1 Copy of Letter of Interest: *	1 Letter of Interest Loose Leaf: *	Cover Letter 2 page max:	Eval Factors 8-9 page max:	Supportive Info 8-9 page max:	Small/ Minority Business (Main, Sub, Both, None)	HUB (Main, Sub, Both, None)	20 page max:	Signed RS2 Form:	Total Score:	Avg. Total Score:
1	AECOM	Dominic Geiser	mickey.geiser@aecom.com	Y	Y	N	Y	Y	Y	Sub	None	Y	Y	87.44	21.86
2	American Engineering	Chris Johnson	cjohnson@american-ea.com	Y	Y	N	Y	Y	Y	Sub	Sub	Y	Y	91.48	22.87
3	AMT	Nick Ramirez	nramirez@amtengineering.com	Y	Y	N	Y	Y	Y	Sub	Sub	Y	Y	91.53	22.88
4	Dewberry	Nathan Chapman	nchapman@dewberry.com	Y	Y	N	Y	Y	Y	None	None	Y	Y	93.38	23.34
5	DRMP	Mike Hage	mhage@drmp.com	Y	Y	N	Y	N	Y	None	None	Y	Y	96.23	24.06
6	Jordan Grant**	Matthew Grant	mattg@jordan-grant.com	Y	Y	N	Y	Y	Y	Main	None	Y	N	50.73	12.68
7	KCA	Glenn Mumford	gmumford@kcaeng.com	Y	Y	N	Y	N	Y	Sub	Sub	Y	Y	88.30	22.07
8	Kimley-Horn	Joe Wilson	joe.wilson@kimley-horn.com	Y	Y	Y	Y	Y	Y	Sub	None	Y	Y	98.45	24.61
9	McGill	Doug Chapman	doug.chapman@mcgillassociates.com	Y	Y	Y	Y	Y	Y	None	None	Y	Y	87.81	21.95
10	Mead & Hunt	Rick DeCola	rick.decola@meadhunt.com	Y	Y	N	Y	Y	Y	None	None	Y	Y	95.83	23.96
11	Michael Baker	Todd Buckner	Todd.Buckner@mbakerintl.com	Y	Y	N	Y	Y	Y	None	None	Y	Y	98.20	24.55
12	NV5	Michael Dozzi	mike.dozzi@NV5.com	Y	Y	N	Y	Y	Y	Sub	None	Y	Y	92.01	23.00
13	RK&K	Roman Prokopovych	rprokopovych@rkk.com	Y	Y	Y	Y	N	Y	Sub	None	Y	Y	100.47	25.12
14	RKA	Alan Morrison	amorrison@rameykemp.com	Y	Y	Y	Y	N	Y	Main	None	Y	Y	81.55	20.39
15	RS&H	Scott Cole	scott.cole@rsandh.com	Y	Y	N	Y	Y	Y	Sub	None	Y	Y	100.83	25.21
16	SEPI	Jake Carpenter	jcarpenter@sepiinc.com	Y	Y	Y	Y	Y	Y	Sub	Main	Y	Y	89.71	22.43
17	Stewart	Doug Taylor	dtaylor@stewartinc.com	Y	Y	Y	Y	Y	Y	None	None	Y	Y	82.93	20.73
18	STV	Max Buchanan	Max.Buchanan@stvinc.com	Y	Y	N	Y	Y	N	Sub	None	Y	Y	98.15	24.54
19	TGS	Robert Raynor	araynor@tgsengineers.com	Y	Y	N	Y	Y	Y	None	None	Y	Y	88.27	22.07
20	Thomas & Hutton	Mike Barnes	barnes.m@tandh.com	Y	Y	Y	Y	Y	Y	None	None	Y	Y	84.30	21.07
21	Timmons	Jeff Hochanadel	jeff.hochanadel@timmons.com	Y	Y	N	Y	Y	Y	Sub	Sub	Y	Y	87.03	21.76
22	Wetherill	Greg Purvis	Gpurvis@wetherilleng.com	Y	Y	N	Y	N	Y	Both	Main	Y	Y	88.42	22.10
23	Wood	Andy Degroat	andy.degroat@woodplc.com	Y	Y	N	Y	Y	Y	None	None	Y	Y	65.03	16.26
24	(Firm Name) 24	(Name) 24													
25	(Firm Name) 25	(Name) 25													
26	(Firm Name) 26	(Name) 26													

1st
2nd
3rd
4th
5th

*= Due to COVID-19 Digital Copies are being accepted in lieu of loose leaf/hard copies.

* Due to COVID-19 emails are accepted.



101 Huntersville-Concord Road
Huntersville, NC 28078
(704) 875-6541

CONTRACT FOR ON- CALL ENGINEERING AND SURVEYING SERVICES

FIRM: Name Kimley-Horn and Associates
Address 200 South Tryon Street Suite 200
City, State, Zip Charlotte, NC 28202 **Phone** 704-954-6175
Project Manager Name Joe Wilson, PE
Project Manager email joe.wilson@kimley-horn.com

PROJECT:
ADDRESS: Huntersville, NC

This Contract for Professional Services, and all exhibits, (collectively this "Contract") is entered into this 17 day of March, 2021 by and between, the Town of Huntersville, a municipal corporation of the State of North Carolina, (the "Town") and Kimley-Horn and Associaes (the "Firm") located at 200 South Tryon Street Suite 200 Charlotte, NC 28202

For and in consideration of the mutual promises set forth in this Contract, the parties do mutually agree as follows:

1. Scope of Services. The Firm agrees to perform for the Town the following services according to the following requirements:

The Firm agrees to provide services as needed to complete each project. Such services shall constitute the "Work." The Task Order Sheet is attached as Exhibit B, which is incorporated herein by reference. A new Scope of Services and Pricing Sheet shall be attached with each new project and task order. The terms of this Contract, with the exception of the Scope of Services and Pricing Sheet, shall apply to each project, unless otherwise agreed. The Firm represents to the Town that the hourly billing rates are the Firms standard billing rates. The Firm may adjust the hourly rates shown on the attached Exhibit C only if and to the extent that the Firm's standard billing rates are adjusted. The Firm shall provide thirty (30) days advanced notice to the Town in writing of any increases to the Firm's standard billing rates. Upon receipt of such notice, the Town shall have the option of terminating this Agreement within the thirty (30) day notice period given by the Firm. Any meetings not included in the Scope of Services in Exhibit B will be considered Additional Services. Additional Services will be identified either in writing or by verbal communication but must be approved in writing by Town before proceeding to perform such Additional Services. An illustration of the project area can be found in Exhibit D.

The Firm will be responsible for providing employees to complete the Work in accordance with Town standards. In addition to the indemnification obligations contained in the STANDARD TERMS AND CONDITIONS attached to this Contract, the Firm further agrees to defend, indemnify and save harmless the Town for claims and liabilities resulting from negligence, errors or omissions of the Firm, including, but not limited to, the employees, technicians or subcontractors.

The Firm agrees to coordinate its Work with the work of any other separate professional services, contractors or with the work of the Town's own forces to avoid delaying or interfering with their work.

The Town reserves the right to terminate this Contract or an individual project, based on the Firm's breach of this contract (ex: schedule, responsiveness, quality of work, accuracy of documents etc.) The

2. Contract Insurance. Firm shall be required to purchase and maintain during its performance under this Contract insurance coverage as shown on the Insurance Requirements as stated in Exhibit A, which is incorporated herein by reference. With the exception of Worker's Compensation and Professional Liability policies, all insurance purchased shall have a specific endorsement, copy of which shall be provided to the Town, naming the Town as an additional insured and providing that such insurance will not be cancelled without providing thirty (30) days advance written notice to the Town.
3. Standard Terms and Conditions. The attached Standard Terms and Conditions shall be a part of this Contract and each project. Such Standard Terms and Conditions are hereby incorporated by reference, and all parties agree to be bound thereby.
4. Time for Performance of the Work. The Firm shall begin the Work within fourteen (14) days of receipt of the task order and Notice to Proceed for each project from the Town. The Work must be completed no later than 9 months from the Notice to Proceed.
5. Payment for Services. In consideration of the Work and services as described in the Scope of Services, the Town will pay the Firm, in accordance with the submitted fee schedule, the sum described in each task order and the Scope of Services provided, which shall be paid thirty (30) days after receipt of undisputed invoices delivered. The Firm will invoice the Town upon completion of the Work.

STANDARD TERMS & CONDITIONS

1. **Acceptance.** Firm's acknowledgment of the terms of this Contract constitutes an agreement to (i) all terms and conditions set forth or referenced herein, (ii) Exhibits A, B, C and D, attached hereto, and (iii) any other terms and conditions of a written agreement signed by Firm and the Town that deals with the same subject matter as this Contract (collectively, the "Contract Documents"). The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Firm and the Town with respect to the performance of the Work as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." Except as provided herein, no additional or supplemental provision or provisions in variance herewith that may appear in Firm's quotation, acknowledgment, invoice or in any other communication from Firm to the Town shall be deemed accepted by or binding on the Town. The Town hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until the Town's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by the Town are subject to correction.
2. **Entire Agreement.** The Contract Documents constitute and represent the complete and entire agreement between the Town and Firm and supersede all previous communications, either written or verbal with respect to the subject matter of this Contract.
3. **Changes, Additions, Deletions.** No changes, additions, deletions or substitutions of scope of work, specifications, terms and conditions, quantity, unit of issue, delivery date, delivery charges or price will be permitted without the prior written approval from the Town. However, the Firm will not be liable for delays caused by circumstances beyond its control including without limitation, delays caused by acts of God, the Town or its other consultants/contractors, federal, state, and local government authorities, strikes, riots, civil unrest, war, or unknown or concealed conditions, and if such delays occur, the Firm will be entitled to an equitable adjustment in the time for the performance of the Work and compensation.
4. **Relationship of the Parties.** The Firm is an independent Professional Company and not an affiliate of the Town. The conduct and control of the Work will lie solely with the Firm. The Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between the Firm and the Town. Employees of the Firm shall remain subject to the exclusive control and supervision of the Firm, which is solely responsible for their compensation.
5. **Prices.** If Firm's price or the regular market price of any of the Work covered hereunder is lower than the price stated in the Contract Documents on the date of performance of the Work, Firm agrees to give the Town the benefit of such lower price on such Work. In no event shall Firm's price be higher than the price contained in the Bid Form or Firm's Standard Billing Rate attached as Exhibits B&C, unless otherwise agreed in writing.
6. **Taxes.** Any applicable taxes shall be invoiced as a separate item.
7. **Substitutions.** No substitutions or cancellations shall be permitted without prior written approval from the Town.
8. **Indemnification.** To the greatest extent allowed by the law the Contractor shall indemnify and hold harmless the Town, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees ("Claims"), but only to the extent the negligence of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim. In the event that any portion of the Work performed under the Contract shall be defective in any respect whatsoever, the Contractor shall indemnify and save harmless the Town, its officers, agents, employees and assigns from all loss or the payment of all sums of money, but only to the extent the negligence of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim.
9. **Invoices and Payment Terms.** Invoice and Payment Terms are set forth in Section 5 in the Contract for Professional Services. All invoices and statements shall reference the Contract number and be submitted to: Town of Huntersville, Accounts Payable, PO Box 664, Huntersville, North Carolina 28070.
10. **Anti-Discrimination.** During the performance of the Contract, Firm shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.
11. **Insurance.** The Firm shall provide such insurance coverages as the Town shall specify in Exhibit A, including, but not limited to, minimum acceptable coverage and limits, as well as a minimum acceptable insurance rating for an insurance provider. The Firm shall provide the Town with a North Carolina Certificate of Insurance and such endorsements as may be required by the Contract Documents PRIOR to the commencement of any Work under the Contract and agrees to maintain such insurance until the completion of the Contract. Such certificates of insurance shall be considered part of the Contract.
12. **Ethics in Public Contracting.** By submitting their prices and acceptance of this Contract, the Firm certifies that their proposal was made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public

employee having official responsibility for this procurement transaction any payment, loan, subscription, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

13. **Applicable Laws and Courts.** This Contract shall be governed in all respects by the laws of the State of North Carolina. All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of the Contract, shall be governed in all respects by the laws of the State of North Carolina and venue shall be proper only in a court of competent jurisdiction located in Mecklenburg County, North Carolina. The Firm represents and warrants that it shall comply with all applicable federal, state and local laws, regulations and orders.
14. **Strict Compliance.** The Town may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
15. **Assignment.** The Firm shall not assign, subcontract or otherwise transfer any interest in the Contract without the prior written approval of the Town.
16. **General Provisions.** The Town's remedies as set forth herein are not exclusive. Any delay or omission by the Town in exercising any right hereunder, or any waiver by the Town of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default.
17. **Warranties.** The Firm warrants it shall adhere to all applicable laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Mecklenburg, and the Town of Huntersville in the performance of the Work outlined in this Contract and any attached specifications. The Firm warrants that any finished Work completed hereunder shall also adhere to all applicable laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Mecklenburg, and the Town of Huntersville. The Firm warrants that all Work will be performed in accordance with this Contract and the standard of care ordinarily used by members of the Firm's profession practicing under similar circumstances and at the same time in Mecklenburg County. The Firm makes no additional warranties, express or implied, in connection with the Work. In addition to any other rights available at law or in equity, the Town shall be entitled to consequential and incidental damages.
18. **Quality and Workmanship.** All Work shall be performed in accordance with this Contract and the applicable standard of care.
19. **Default.** Either Party may terminate the Contract, in whole or in part, upon thirty (30) days written notice upon breach of the other Party. In the event of a breach by the Firm, addition to any other remedies available to the Town in law or equity, the Town may procure upon such terms as the Town shall deem appropriate, services substantially similar to those so terminated, in which case the Firm shall be liable to the Town for any excess costs for such similar services and any expenses incurred in connection therewith. This Contract shall not terminate if the alleged default is cured with the thirty (30) day notice period. In the event this Contract is terminated by the Town for the default of the Firm, the Town shall be entitled to keep and use all work provided by the Firm for use in finishing the Project.
20. **Termination for Convenience.** The Town shall have the right, without assigning any reason therefore, to terminate any Work under the Contract, in whole or in part, at any time at its complete discretion by providing ten (10) day notice in writing from the Town to the Firm. If the Contract is terminated by the Town in accordance with this paragraph, the Firm will be paid for all Work performed and reimbursable expenses incurred up to the effective date of the termination. The Town will not be liable to the Firm for any costs for materials acquired or contracted for, if such costs were incurred prior to the date of this Contract.
21. **Assignment.** Firm may not assign, pledge, or in any manner encumber Firm's rights under this Contract, or delegate the performance of any of its obligations hereunder, without the Town's prior, express written consent.
22. **No Third Party Beneficiaries.** There shall be no intended nor incidental third party beneficiaries of this Contract. The Firm shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third party beneficiaries.
23. **Valid Contract.** In order for this Contract for Professional Services to be valid, it must be executed by the Town Manager or his or her authorized designee, and must be pre-audited in that manner required by the Local Government Budget and Fiscal Control Act, as the same may be amended.
24. **Verification of Work Authorization.** Firm shall comply with, and require all contractors and subcontractors to comply with, the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, "Verification of Work Authorization," sometimes known as E-verify for all contractors and subcontractors.
25. **Iran Divestment List.** With the execution hereof, Firm, certifies that they are not on the Iran Final Divestment List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.58, and will not contract with anyone on such List in performance of the Work hereunder.

26. **Severability.** If any provision of this Contract is found to be invalid or unlawful, then remainder of this Agreement shall not be affected thereby, and each remaining provision shall be valid and enforced to the fullest extent permitted by law.
27. **Availability of Funds.** Any and all payments to the Firm are dependent upon and subject to the availability of funds to the Town for the purpose set forth in this agreement.
28. **Companies that Boycott Israel List.** With the execution hereof, Firm, certifies that they are not on the Companies that Boycott Israel List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.80, and will not contract with anyone on such List in performance of the work hereunder.

EXHIBIT A

MINIMUM INSURANCE REQUIREMENTS

The Work under this Contract shall not commence until the Firm has obtained all required insurance and verifying certificates of insurance have been approved in writing by the Town. The Town shall be named as additional insured on all policies. These certificates shall document that coverages afforded under the policies will not be cancelled, reduced in amount or coverages eliminated until at least thirty (30) days after mailing written notice, by certified mail, return receipt requested, to the insured and the Town of such alteration or cancellation. If endorsements are needed to comply with the notification or other requirements of this article copies of the endorsements shall be submitted with the certificates.

a. Worker's Compensation and Employer's Liability

The Firm shall provide and maintain, until final acceptance, workmen's compensation insurance, as required by law, as well as employer's liability coverage with minimum limits of \$100,000.

b. Comprehensive General Liability Insurance

The Firm shall provide and maintain, until final acceptance, comprehensive general liability insurance, including coverage for premises operations, independent contractors, completed operations, products and contractual exposures, as shall protect such contractors from claims arising out of any bodily injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operations be by the Firm or by any subcontractor, or by anyone directly or indirectly employed by either of them and the minimum limits of such insurance shall be as follows:

Bodily Injury:	\$1,000,000 per occurrence/\$2,000,000 aggregate
Property Damage:	\$100,000 per occurrence / \$300,000 aggregate

Such coverage for completed operations must be maintained for at least two (2) years following final acceptance of the Work performed under the contract.

c. Deductible

Any deductible, if applicable to loss covered by insurance provided, is to be borne by the Firm.

d. Other Insurance

The Firm shall obtain such additional insurance as may be required by the Town or by the General Statutes of North Carolina including motor vehicle insurance, in amounts not less than the statutory limits.

e. Proof of Carriage

The Firm shall furnish the Town with satisfactory proof of carriage of the insurance required before written approval is granted by the Town.

EXHIBIT B
Task Order Sheet

[Sample Task Order Form]:

Services	Fee Type	Fee
	SUB TOTAL	
Additional Items - optional		
	SUB TOTAL	
NOT TO EXCEED TOTAL =		

EXHIBIT C
FIRM'S STANDARD HOURLY BILLING RATES

[Attach copy]

EXHIBIT D
PROJECT AREA



101 Huntersville-Concord Road
Huntersville, NC 28078
(704) 875-6541

CONTRACT FOR ON- CALL ENGINEERING AND SURVEYING SERVICES

FIRM: Name Rummel, Klepper & Kahl, LLP
Address 700 East Pratt Street, Suite 500
City, State, Zip Balt., MD 21202 **Phone** 980-235-0011
Project Manager Name Roman Prokopovych
Project Manager email rprokopovych@rkk.com

PROJECT:
ADDRESS: Huntersville, NC

This Contract for Professional Services, and all exhibits, (collectively this "Contract") is entered into this 4th day of March, 20 21 by and between, the Town of Huntersville, a municipal corporation of the State of North Carolina, (the "Town") and Rummel, Klepper & Kahl, LLP (the "Firm") located at 700 East Pratt Street, Suite 500 Baltimore, MD 21202

For and in consideration of the mutual promises set forth in this Contract, the parties do mutually agree as follows:

1. **Scope of Services.** The Firm agrees to perform for the Town the following services according to the following requirements:

The Firm agrees to provide services as needed to complete each project. Such services shall constitute the "Work." The Task Order Sheet is attached as Exhibit B, which is incorporated herein by reference. A new Scope of Services and Pricing Sheet shall be attached with each new project and task order. The terms of this Contract, with the exception of the Scope of Services and Pricing Sheet, shall apply to each project, unless otherwise agreed. The Firm represents to the Town that the hourly billing rates are the Firm's standard billing rates. The Firm may adjust the hourly rates shown on the attached Exhibit C only if and to the extent that the Firm's standard billing rates are adjusted. The Firm shall provide thirty (30) days advanced notice to the Town in writing of any increases to the Firm's standard billing rates. Upon receipt of such notice, the Town shall have the option of terminating this Agreement within the thirty (30) day notice period given by the Firm. Any meetings not included in the Scope of Services in Exhibit B will be considered Additional Services. Additional Services will be identified either in writing or by verbal communication but must be approved in writing by Town before proceeding to perform such Additional Services. An illustration of the project area can be found in Exhibit D.

The Firm will be responsible for providing employees to complete the Work in accordance with Town standards. In addition to the indemnification obligations contained in the STANDARD TERMS AND CONDITIONS attached to this Contract, the Firm further agrees to defend, indemnify and save harmless the Town for claims and liabilities resulting from negligence, errors or omissions of the Firm, including, but not limited to, the employees, technicians or subcontractors.

The Firm agrees to coordinate its Work with the work of any other separate professional services, contractors or with the work of the Town's own forces to avoid delaying or interfering with their work.

The Town reserves the right to terminate this Contract or an individual project, based on the Firm's breach of this contract (ex: schedule, responsiveness, quality of work, accuracy of documents etc.) The

Town reserves the right to remove any or all work described in Exhibit B Task Order Sheet at any time and for any reason, and no payment will be made by the Town to the Firm for any work removed.

2. Contract Insurance. Firm shall be required to purchase and maintain during its performance under this Contract insurance coverage as shown on the Insurance Requirements as stated in Exhibit A, which is incorporated herein by reference. With the exception of Worker's Compensation and Professional Liability policies, all insurance purchased shall have a specific endorsement, copy of which shall be provided to the Town, naming the Town as an additional insured and providing that such insurance will not be cancelled without providing thirty (30) days advance written notice to the Town.
3. Standard Terms and Conditions. The attached Standard Terms and Conditions shall be a part of this Contract and each project. Such Standard Terms and Conditions are hereby incorporated by reference, and all parties agree to be bound thereby.
4. Time for Performance of the Work. The Firm shall begin the Work within fourteen (14) days of receipt of the task order and Notice to Proceed for each project from the Town. The Work must be completed no later than 9 months from the Notice to Proceed.
5. Payment for Services. In consideration of the Work and services as described in the Scope of Services, the Town will pay the Firm, in accordance with the submitted fee schedule, the sum described in each task order and the Scope of Services provided, which shall be paid thirty (30) days after receipt of undisputed invoices delivered. The Firm will invoice the Town upon completion of the Work.

In witness thereof, the contracting parties, by their authorized agents, affix their signatures and seals at Huntersville, North Carolina, this _____ day of _____, 20_____.

Private Engineering Firm

Name: B. Keith Skinner
Name of Firm (type or print)

By: B. Keith Skinner
(Signature)

Title: PARTNER

Town of Huntersville

Anthony Roberts-Town Manager

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Pattie McGinnis-Finance Director

STANDARD TERMS & CONDITIONS

1. **Acceptance.** Firm's acknowledgment of the terms of this Contract constitutes an agreement to (i) all terms and conditions set forth or referenced herein, (ii) Exhibits A, B, C and D, attached hereto, and (iii) any other terms and conditions of a written agreement signed by Firm and the Town that deals with the same subject matter as this Contract (collectively, the "Contract Documents"). The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Firm and the Town with respect to the performance of the Work as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." Except as provided herein, no additional or supplemental provision or provisions in variance herewith that may appear in Firm's quotation, acknowledgment, invoice or in any other communication from Firm to the Town shall be deemed accepted by or binding on the Town. The Town hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until the Town's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by the Town are subject to correction.
2. **Entire Agreement.** The Contract Documents constitute and represent the complete and entire agreement between the Town and Firm and supersede all previous communications, either written or verbal with respect to the subject matter of this Contract.
3. **Changes, Additions, Deletions.** No changes, additions, deletions or substitutions of scope of work, specifications, terms and conditions, quantity, unit of issue, delivery date, delivery charges or price will be permitted without the prior written approval from the Town. However, the Firm will not be liable for delays caused by circumstances beyond its control including without limitation, delays caused by acts of God, the Town or its other consultants/contractors, federal, state, and local government authorities, strikes, riots, civil unrest, war, or unknown or concealed conditions, and if such delays occur, the Firm will be entitled to an equitable adjustment in the time for the performance of the Work and compensation.
4. **Relationship of the Parties.** The Firm is an independent Professional Company and not an affiliate of the Town. The conduct and control of the Work will lie solely with the Firm. The Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between the Firm and the Town. Employees of the Firm shall remain subject to the exclusive control and supervision of the Firm, which is solely responsible for their compensation.
5. **Prices.** If Firm's price or the regular market price of any of the Work covered hereunder is lower than the price stated in the Contract Documents on the date of performance of the Work, Firm agrees to give the Town the benefit of such lower price on such Work. In no event shall Firm's price be higher than the price contained in the Bid Form or Firm's Standard Billing Rate attached as Exhibits B&C, unless otherwise agreed in writing.
6. **Taxes.** Any applicable taxes shall be invoiced as a separate item.
7. **Substitutions.** No substitutions or cancellations shall be permitted without prior written approval from the Town.
8. **Indemnification.** To the greatest extent allowed by the law the Contractor shall indemnify and hold harmless the Town, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees ("Claims"), but only to the extent the fault of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim. In the event that any portion of the Work performed under the Contract shall be defective in any respect whatsoever, the Contractor shall indemnify and save harmless the Town, its officers, agents, employees and assigns from all loss or the payment of all sums of money, but only to the extent the fault of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim.
9. **Invoices and Payment Terms.** Invoice and Payment Terms are set forth in Section 5 in the Contract for Professional Services. All invoices and statements shall reference the Contract number and be submitted to: Town of Huntersville, Accounts Payable, PO Box 664, Huntersville, North Carolina 28070.
10. **Anti-Discrimination.** During the performance of the Contract, Firm shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.
11. **Insurance.** The Firm shall provide such insurance coverages as the Town shall specify in Exhibit A, including, but not limited to, minimum acceptable coverage and limits, as well as a minimum acceptable insurance rating for an insurance provider. The Firm shall provide the Town with a North Carolina Certificate of Insurance and such endorsements as may be required by the Contract Documents PRIOR to the commencement of any Work under the Contract and agrees to maintain such insurance until the completion of the Contract. Such certificates of insurance shall be considered part of the Contract.
12. **Ethics in Public Contracting.** By submitting their prices and acceptance of this Contract, the Firm certifies that their proposal was made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public

employee having official responsibility for this procurement transaction any payment, loan, subscription, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

13. **Applicable Laws and Courts.** This Contract shall be governed in all respects by the laws of the State of North Carolina. All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of the Contract, shall be governed in all respects by the laws of the State of North Carolina and venue shall be proper only in a court of competent jurisdiction located in Mecklenburg County, North Carolina. The Firm represents and warrants that it shall comply with all applicable federal, state and local laws, regulations and orders.
14. **Strict Compliance.** The Town may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
15. **Assignment.** The Firm shall not assign, subcontract or otherwise transfer any interest in the Contract without the prior written approval of the Town.
16. **General Provisions.** The Town's remedies as set forth herein are not exclusive. Any delay or omission by the Town in exercising any right hereunder, or any waiver by the Town of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default.
17. **Warranties.** The Firm warrants it shall adhere to all applicable laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Mecklenburg, and the Town of Huntersville in the performance of the Work outlined in this Contract and any attached specifications. The Firm warrants that any finished Work completed hereunder shall also adhere to all applicable laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Mecklenburg, and the Town of Huntersville. The Firm warrants that all Work will be performed in accordance with this Contract and the standard of care ordinarily used by members of the Firm's profession practicing under similar circumstances and at the same time in Mecklenburg County. The Firm makes no additional warranties, express or implied, in connection with the Work. In addition to any other rights available at law or in equity, the Town shall be entitled to consequential and incidental damages.
18. **Quality and Workmanship.** All Work shall be performed in accordance with this Contract and the applicable standard of care.
19. **Default.** Either Party may terminate the Contract, in whole or in part, upon thirty (30) days written notice upon breach of the other Party. In the event of a breach by the Firm, addition to any other remedies available to the Town in law or equity, the Town may procure upon such terms as the Town shall deem appropriate, services substantially similar to those so terminated, in which case the Firm shall be liable to the Town for any excess costs for such similar services and any expenses incurred in connection therewith. This Contract shall not terminate if the alleged default is cured with the thirty (30) day notice period. In the event this Contract is terminated by the Town for the default of the Firm, the Town shall be entitled to keep and use all work provided by the Firm for use in finishing the Project.
20. **Termination for Convenience.** The Town shall have the right, without assigning any reason therefore, to terminate any Work under the Contract, in whole or in part, at any time at its complete discretion by providing ten (10) day notice in writing from the Town to the Firm. If the Contract is terminated by the Town in accordance with this paragraph, the Firm will be paid for all Work performed and reimbursable expenses incurred up to the effective date of the termination. The Town will not be liable to the Firm for any costs for materials acquired or contracted for, if such costs were incurred prior to the date of this Contract.
21. **Assignment.** Firm may not assign, pledge, or in any manner encumber Firm's rights under this Contract, or delegate the performance of any of its obligations hereunder, without the Town's prior, express written consent.
22. **No Third Party Beneficiaries.** There shall be no intended nor incidental third party beneficiaries of this Contract. The Firm shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third party beneficiaries.
23. **Valid Contract.** In order for this Contract for Professional Services to be valid, it must be executed by the Town Manager or his or her authorized designee, and must be pre-audited in that manner required by the Local Government Budget and Fiscal Control Act, as the same may be amended.
24. **Verification of Work Authorization.** Firm shall comply with, and require all contractors and subcontractors to comply with, the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, "Verification of Work Authorization," sometimes known as E-verify for all contractors and subcontractors.
25. **Iran Divestment List.** With the execution hereof, Firm, certifies that they are not on the Iran Final Divestment List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.58, and will not contract with anyone on such List in performance of the Work hereunder.

26. **Severability.** If any provision of this Contract is found to be invalid or unlawful, then remainder of this Agreement shall not be affected thereby, and each remaining provision shall be valid and enforced to the fullest extent permitted by law.
27. **Availability of Funds.** Any and all payments to the Firm are dependent upon and subject to the availability of funds to the Town for the purpose set forth in this agreement.
28. **Companies that Boycott Israel List.** With the execution hereof, Firm, certifies that they are not on the Companies that Boycott Israel List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.80, and will not contract with anyone on such List in performance of the work hereunder.

EXHIBIT A

MINIMUM INSURANCE REQUIREMENTS

The Work under this Contract shall not commence until the Firm has obtained all required insurance and verifying certificates of insurance have been approved in writing by the Town. The Town shall be named as additional insured on all policies. These certificates shall document that coverages afforded under the policies will not be cancelled, reduced in amount or coverages eliminated until at least thirty (30) days after mailing written notice, by certified mail, return receipt requested, to the insured and the Town of such alteration or cancellation. If endorsements are needed to comply with the notification or other requirements of this article copies of the endorsements shall be submitted with the certificates.

a. **Worker's Compensation and Employer's Liability**

The Firm shall provide and maintain, until final acceptance, workmen's compensation insurance, as required by law, as well as employer's liability coverage with minimum limits of \$100,000.

b. **Comprehensive General Liability Insurance**

The Firm shall provide and maintain, until final acceptance, comprehensive general liability insurance, including coverage for premises operations, independent contractors, completed operations, products and contractual exposures, as shall protect such contractors from claims arising out of any bodily injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operations be by the Firm or by any subcontractor, or by anyone directly or indirectly employed by either of them and the minimum limits of such insurance shall be as follows:

Bodily Injury:	\$1,000,000 per occurrence/\$2,000,000 aggregate
Property Damage:	\$100,000 per occurrence / \$300,000 aggregate

Such coverage for completed operations must be maintained for at least two (2) years following final acceptance of the Work performed under the contract.

c. **Deductible**

Any deductible, if applicable to loss covered by insurance provided, is to be borne by the Firm.

d. **Other Insurance**

The Firm shall obtain such additional insurance as may be required by the Town or by the General Statutes of North Carolina including motor vehicle insurance, in amounts not less than the statutory limits.

e. **Proof of Carriage**

The Firm shall furnish the Town with satisfactory proof of carriage of the insurance required before written approval is granted by the Town.

EXHIBIT B
Task Order Sheet

[Sample Task Order Form]:

Services	Fee Type	Fee
	SUB TOTAL	
Additional Items - optional		
	SUB TOTAL	
NOT TO EXCEED TOTAL =		

EXHIBIT C
FIRM'S STANDARD HOURLY BILLING RATES

[Attach copy]

EXHIBIT D
PROJECT AREA



101 Huntersville-Concord Road
Huntersville, NC 28078
(704) 875-6541

CONTRACT FOR ON- CALL ENGINEERING AND SURVEYING SERVICES

FIRM: Name RS&H Architects-Engineers-Planners, Inc. (RS&H)
Address 1520 South Boulevard, Suite 200
City, State, Zip Charlotte, NC 28203 **Phone** 704-752-0610
Project Manager Name Scott Cole, PE, CPM
Project Manager email Scott.cole@rsandh.com

PROJECT:
ADDRESS: Huntersville, NC

This Contract for Professional Services, and all exhibits, (collectively this "Contract") is entered into this ____ day of _____, 20____ by and between, the Town of Huntersville, a municipal corporation of the State of North Carolina, (the "Town") and RS&H Architects-Engineers-Planners, Inc. (the "Firm") located at 1520 South Blvd, Suite 200, Charlotte, NC 28203

For and in consideration of the mutual promises set forth in this Contract, the parties do mutually agree as follows:

1. Scope of Services. The Firm agrees to perform for the Town the following services according to the following requirements:

The Firm agrees to provide services as needed to complete each project. Such services shall constitute the "Work." The Task Order Sheet is attached as Exhibit B, which is incorporated herein by reference. A new Scope of Services and Pricing Sheet shall be attached with each new project and task order. The terms of this Contract, with the exception of the Scope of Services and Pricing Sheet, shall apply to each project, unless otherwise agreed. The Firm represents to the Town that the hourly billing rates are the Firms standard billing rates. The Firm may adjust the hourly rates shown on the attached Exhibit C only if and to the extent that the Firm's standard billing rates are adjusted. The Firm shall provide thirty (30) days advanced notice to the Town in writing of any increases to the Firm's standard billing rates. Upon receipt of such notice, the Town shall have the option of terminating this Agreement within the thirty (30) day notice period given by the Firm. Any meetings not included in the Scope of Services in Exhibit B will be considered Additional Services. Additional Services will be identified either in writing or by verbal communication but must be approved in writing by Town before proceeding to perform such Additional Services. An illustration of the project area can be found in Exhibit D.

The Firm will be responsible for providing employees to complete the Work in accordance with Town standards. In addition to the indemnification obligations contained in the STANDARD TERMS AND CONDITIONS attached to this Contract, the Firm further agrees to defend, indemnify and save harmless the Town for claims and liabilities resulting from negligence, errors or omissions of the Firm, including, but not limited to, the employees, technicians or subcontractors.

The Firm agrees to coordinate its Work with the work of any other separate professional services, contractors or with the work of the Town's own forces to avoid delaying or interfering with their work.

The Town reserves the right to terminate this Contract or an individual project, based on the Firm's breach of this contract (ex: schedule, responsiveness, quality of work, accuracy of documents etc.) The

Town reserves the right to remove any or all work described in Exhibit B Task Order Sheet at any time and for any reason, and no payment will be made by the Town to the Firm for any work removed.

Should Services be delayed at any time during the period of this Agreement due to changes ordered in the Services by Town, by labor disputes, fire, unavoidable casualties, pandemic, epidemic, public health emergency, or any causes beyond the Firm's control, or by other causes which the Town determines may justify the delay, then an extension for performance of this Agreement shall be granted to Firm by Town, but only upon written, mutual agreement of the parties.

2. Contract Insurance. Firm shall be required to purchase and maintain during its performance under this Contract insurance coverage as shown on the Insurance Requirements as stated in Exhibit A, which is incorporated herein by reference. With the exception of Worker's Compensation and Professional Liability policies, all insurance purchased shall have a specific endorsement, copy of which shall be provided to the Town, naming the Town as an additional insured and providing that such insurance will not be cancelled without providing thirty (30) days advance written notice to the Town.
3. Standard Terms and Conditions. The attached Standard Terms and Conditions shall be a part of this Contract and each project. Such Standard Terms and Conditions are hereby incorporated by reference, and all parties agree to be bound thereby.
4. Time for Performance of the Work. The Firm shall begin the Work within fourteen (14) days of receipt of the task order and Notice to Proceed for each project from the Town. The Work must be completed no later than 9 months from the Notice to Proceed.
5. Payment for Services. In consideration of the Work and services as described in the Scope of Services, the Town will pay the Firm, in accordance with the submitted fee schedule, the sum described in each task order and the Scope of Services provided, which shall be paid thirty (30) days after receipt of undisputed invoices delivered. The Firm will invoice the Town upon completion of the Work.

In witness thereof, the contracting parties, by their authorized agents, affix their signatures and seals at Huntersville, North Carolina, this _____ day of _____, 20_____.

Private Engineering Firm

Town of Huntersville

Name: **RS&H Architects-Engineers-Planners, Inc.**

Name of Firm (type or print)

Anthony Roberts-Town Manager

By: *Jennifer D. Farino*
(Signature) DocuSigned by:
679D1E857D98415...

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Title: **Vice President**

Pattie McGinnis-Finance Director

STANDARD TERMS & CONDITIONS

1. **Acceptance.** Firm's acknowledgment of the terms of this Contract constitutes an agreement to (i) all terms and conditions set forth or referenced herein, (ii) Exhibits A, B, C and D, attached hereto, and (iii) any other terms and conditions of a written agreement signed by Firm and the Town that deals with the same subject matter as this Contract (collectively, the "Contract Documents"). The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Firm and the Town with respect to the performance of the Work as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." Except as provided herein, no additional or supplemental provision or provisions in variance herewith that may appear in Firm's quotation, acknowledgment, invoice or in any other communication from Firm to the Town shall be deemed accepted by or binding on the Town. The Town hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until the Town's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by the Town are subject to correction.
2. **Entire Agreement.** The Contract Documents constitute and represent the complete and entire agreement between the Town and Firm and supersede all previous communications, either written or verbal with respect to the subject matter of this Contract.
3. **Changes, Additions, Deletions.** No changes, additions, deletions or substitutions of scope of work, specifications, terms and conditions, quantity, unit of issue, delivery date, delivery charges or price will be permitted without the prior written approval from the Town. However, the Firm will not be liable for delays caused by circumstances beyond its control including without limitation, delays caused by acts of God, the Town or its other consultants/contractors, federal, state, and local government authorities, strikes, riots, civil unrest, war, or unknown or concealed conditions, and if such delays occur, the Firm will be entitled to an equitable adjustment in the time for the performance of the Work and compensation.
4. **Relationship of the Parties.** The Firm is an independent Professional Company and not an affiliate of the Town. The conduct and control of the Work will lie solely with the Firm. The Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between the Firm and the Town. Employees of the Firm shall remain subject to the exclusive control and supervision of the Firm, which is solely responsible for their compensation.
5. **Prices.** If Firm's price or the regular market price of any of the Work covered hereunder is lower than the price stated in the Contract Documents on the date of performance of the Work, Firm agrees to give the Town the benefit of such lower price on such Work. In no event shall Firm's price be higher than the price contained in the Bid Form or Firm's Standard Billing Rate attached as Exhibits B&C, unless otherwise agreed in writing.
6. **Taxes.** Any applicable taxes shall be invoiced as a separate item.
7. **Substitutions.** No substitutions or cancellations shall be permitted without prior written approval from the Town.
8. **Indemnification.** To the greatest extent allowed by the law the Contractor shall indemnify and hold harmless the Town, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees ("Claims"), but only to the extent the fault of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim. In the event that any portion of the Work performed under the Contract shall be defective in any respect whatsoever, the Contractor shall indemnify and save harmless the Town, its officers, agents, employees and assigns from all loss or the payment of all sums of money, but only to the extent the fault of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim.
9. **Invoices and Payment Terms.** Invoice and Payment Terms are set forth in Section 5 in the Contract for Professional Services. All invoices and statements shall reference the Contract number and be submitted to: Town of Huntersville, Accounts Payable, PO Box 664, Huntersville, North Carolina 28070.
10. **Anti-Discrimination.** During the performance of the Contract, Firm shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.
11. **Insurance.** The Firm shall provide such insurance coverages as the Town shall specify in Exhibit A, including, but not limited to, minimum acceptable coverage and limits, as well as a minimum acceptable insurance rating for an insurance provider. The Firm shall provide the Town with a North Carolina Certificate of Insurance and such endorsements as may be required by the Contract Documents PRIOR to the commencement of any Work under the Contract and agrees to maintain such insurance until the completion of the Contract. Such certificates of insurance shall be considered part of the Contract.
12. **Ethics in Public Contracting.** By submitting their prices and acceptance of this Contract, the Firm certifies that their proposal was made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public

employee having official responsibility for this procurement transaction any payment, loan, subscription, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

13. **Applicable Laws and Courts.** This Contract shall be governed in all respects by the laws of the State of North Carolina. All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of the Contract, shall be governed in all respects by the laws of the State of North Carolina and venue shall be proper only in a court of competent jurisdiction located in Mecklenburg County, North Carolina. The Firm represents and warrants that it shall comply with all applicable federal, state and local laws, regulations and orders.
14. **Strict Compliance.** The Town may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
15. **Assignment.** The Firm shall not assign, subcontract or otherwise transfer any interest in the Contract without the prior written approval of the Town.
16. **General Provisions.** The Town's remedies as set forth herein are not exclusive. Any delay or omission by the Town in exercising any right hereunder, or any waiver by the Town of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default.
17. **Warranties.** The Firm warrants it shall adhere to all applicable laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Mecklenburg, and the Town of Huntersville in the performance of the Work outlined in this Contract and any attached specifications. The Firm warrants that any finished Work completed hereunder shall also adhere to all applicable laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Mecklenburg, and the Town of Huntersville. The Firm warrants that all Work will be performed in accordance with this Contract and the standard of care ordinarily used by members of the Firm's profession practicing under similar circumstances and at the same time in Mecklenburg County. The Firm makes no additional warranties, express or implied, in connection with the Work. In addition to any other rights available at law or in equity, the Town shall be entitled to consequential and incidental damages.
18. **Quality and Workmanship.** All Work shall be performed in accordance with this Contract and the applicable standard of care.
19. **Default.** Either Party may terminate the Contract, in whole or in part, upon thirty (30) days written notice upon breach of the other Party. In the event of a breach by the Firm, addition to any other remedies available to the Town in law or equity, the Town may procure upon such terms as the Town shall deem appropriate, services substantially similar to those so terminated, in which case the Firm shall be liable to the Town for any excess costs for such similar services and any expenses incurred in connection therewith. This Contract shall not terminate if the alleged default is cured with the thirty (30) day notice period. In the event this Contract is terminated by the Town for the default of the Firm, the Town shall be entitled to keep and use all work provided by the Firm for use in finishing the Project.
20. **Termination for Convenience.** The Town shall have the right, without assigning any reason therefore, to terminate any Work under the Contract, in whole or in part, at any time at its complete discretion by providing ten (10) day notice in writing from the Town to the Firm. If the Contract is terminated by the Town in accordance with this paragraph, the Firm will be paid for all Work performed and reimbursable expenses incurred up to the effective date of the termination. The Town will not be liable to the Firm for any costs for materials acquired or contracted for, if such costs were incurred prior to the date of this Contract.
21. **Assignment.** Firm may not assign, pledge, or in any manner encumber Firm's rights under this Contract, or delegate the performance of any of its obligations hereunder, without the Town's prior, express written consent.
22. **No Third Party Beneficiaries.** There shall be no intended nor incidental third party beneficiaries of this Contract. The Firm shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third party beneficiaries.
23. **Valid Contract.** In order for this Contract for Professional Services to be valid, it must be executed by the Town Manager or his or her authorized designee, and must be pre-audited in that manner required by the Local Government Budget and Fiscal Control Act, as the same may be amended.
24. **Verification of Work Authorization.** Firm shall comply with, and require all contractors and subcontractors to comply with, the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, "Verification of Work Authorization," sometimes known as E-verify for all contractors and subcontractors.
25. **Iran Divestment List.** With the execution hereof, Firm, certifies that they are not on the Iran Final Divestment List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.58, and will not contract with anyone on such List in performance of the Work hereunder.

26. **Severability.** If any provision of this Contract is found to be invalid or unlawful, then remainder of this Agreement shall not be affected thereby, and each remaining provision shall be valid and enforced to the fullest extent permitted by law.
27. **Availability of Funds.** Any and all payments to the Firm are dependent upon and subject to the availability of funds to the Town for the purpose set forth in this agreement.
28. **Companies that Boycott Israel List.** With the execution hereof, Firm, certifies that they are not on the Companies that Boycott Israel List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.80, and will not contract with anyone on such List in performance of the work hereunder.

EXHIBIT A

MINIMUM INSURANCE REQUIREMENTS

The Work under this Contract shall not commence until the Firm has obtained all required insurance and verifying certificates of insurance have been approved in writing by the Town. The Town shall be named as additional insured on all policies. These certificates shall document that coverages afforded under the policies will not be cancelled, reduced in amount or coverages eliminated until at least thirty (30) days after mailing written notice, by certified mail, return receipt requested, to the insured and the Town of such alteration or cancellation. If endorsements are needed to comply with the notification or other requirements of this article copies of the endorsements shall be submitted with the certificates.

a. Worker's Compensation and Employer's Liability

The Firm shall provide and maintain, until final acceptance, workmen's compensation insurance, as required by law, as well as employer's liability coverage with minimum limits of \$100,000.

b. Comprehensive General Liability Insurance

The Firm shall provide and maintain, until final acceptance, comprehensive general liability insurance, including coverage for premises operations, independent contractors, completed operations, products and contractual exposures, as shall protect such contractors from claims arising out of any bodily injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operations be by the Firm or by any subcontractor, or by anyone directly or indirectly employed by either of them and the minimum limits of such insurance shall be as follows:

Bodily Injury:	\$1,000,000 per occurrence/\$2,000,000 aggregate
Property Damage:	\$100,000 per occurrence / \$300,000 aggregate

Such coverage for completed operations must be maintained for at least two (2) years following final acceptance of the Work performed under the contract.

c. Deductible

Any deductible, if applicable to loss covered by insurance provided, is to be borne by the Firm.

d. Other Insurance

The Firm shall obtain such additional insurance as may be required by the Town or by the General Statutes of North Carolina including motor vehicle insurance, in amounts not less than the statutory limits.

e. Proof of Carriage

The Firm shall furnish the Town with satisfactory proof of carriage of the insurance required before written approval is granted by the Town.

EXHIBIT B
Task Order Sheet

[Sample Task Order Form]:

Services	Fee Type	Fee
	SUB TOTAL	
Additional Items - optional		
	SUB TOTAL	
NOT TO EXCEED TOTAL =		

EXHIBIT C

FIRM'S STANDARD HOURLY BILLING RATES

Prime Consultant – RS&H		
<i>Job Classification</i>	<i>Employee Name</i>	<i>Hourly Rate</i>
Project Manager	Scott Cole, PE	\$225.00
Senior Roadway Engineer	Jennifer Farino, PE	\$225.00
Senior Traffic Engineer	Tom Kelly, PE	\$185.00
Senior Traffic Engineer	Steve Haynie, PE	\$185.00
Senior Project Planner	Jenny Noonkester, AICP	\$185.00
Senior Traffic Engineer	Regina Bowman, PE, PTOE	\$165.00
Project Engineer	Allison Drake, PE	\$165.00
Roadway Engineer	Sean Kortovich, PE	\$145.00
NEPA Planner	Ford Tanner	\$125.00
Roadway Designer	Eric Bush, EI	\$105.00
Structure Designer	Matthew Acosta, EI	\$105.00
Traffic Designer	Ondrej Drobny, EI	\$105.00
Technician	Allison Harris	\$95.00
Subconsultant 1 – Vaughn and Melton		
<i>Job Classification</i>	<i>Employee Name</i>	<i>Hourly Rate</i>
Sr. Utility Coordinator	Nick Asaro, PLS	132.50
Sr. Survey Team Lead	Mark Parris, PLS	137.55

EXHIBIT D
PROJECT AREA



101 Huntersville-Concord Road
Huntersville, NC 28078
(704) 875-6541

CONTRACT FOR ON- CALL ENGINEERING AND SURVEYING SERVICES

FIRM: Name STV Engineers, Inc.
Address 900 West Trade Street, Suite 715
City, State, Zip Charlotte, NC 28202 **Phone** 704-372-1885
Project Manager Name Max Buchanan
Project Manager email Max.Buchanan@stvinc.com

PROJECT:
ADDRESS: Huntersville, NC

This Contract for Professional Services, and all exhibits, (collectively this "Contract") is entered into this ____ day of _____, 20____ by and between, the Town of Huntersville, a municipal corporation of the State of North Carolina, (the "Town") and STV Engineers, Inc. (the "Firm") located at 900 West Trade Street, Suite 715, Charlotte, NC 28202

For and in consideration of the mutual promises set forth in this Contract, the parties do mutually agree as follows:

1. **Scope of Services.** The Firm agrees to perform for the Town the following services according to the following requirements:

The Firm agrees to provide services as needed to complete each project. Such services shall constitute the "Work." The Task Order Sheet is attached as Exhibit B, which is incorporated herein by reference. A new Scope of Services and Pricing Sheet shall be attached with each new project and task order. The terms of this Contract, with the exception of the Scope of Services and Pricing Sheet, shall apply to each project, unless otherwise agreed. The Firm represents to the Town that the hourly billing rates are the Firm's standard billing rates. The Firm may adjust the hourly rates shown on the attached Exhibit C only if and to the extent that the Firm's standard billing rates are adjusted. The Firm shall provide thirty (30) days advanced notice to the Town in writing of any increases to the Firm's standard billing rates. Upon receipt of such notice, the Town shall have the option of terminating this Agreement within the thirty (30) day notice period given by the Firm. Any meetings not included in the Scope of Services in Exhibit B will be considered Additional Services. Additional Services will be identified either in writing or by verbal communication but must be approved in writing by Town before proceeding to perform such Additional Services. An illustration of the project area can be found in Exhibit D.

The Firm will be responsible for providing employees to complete the Work in accordance with Town standards. In addition to the indemnification obligations contained in the STANDARD TERMS AND CONDITIONS attached to this Contract, the Firm further agrees to defend, indemnify and save harmless the Town for claims and liabilities to the extent resulting from negligence, errors or omissions of the Firm, including, but not limited to, the employees, technicians or subcontractors.

The Firm agrees to coordinate its Work with the work of any other separate professional services, contractors or with the work of the Town's own forces to avoid delaying or interfering with their work.

The Town reserves the right to terminate this Contract or an individual project, based on the Firm's breach of this contract (ex: schedule, responsiveness, quality of work, accuracy of documents etc.)

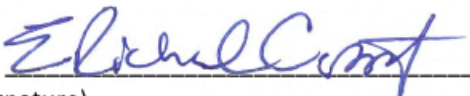
After giving written notice and opportunity to the Firm to cure the allegations of breach of this contract, the Town reserves the right to remove any or all work described in Exhibit B Task Order Sheet at any time and for any reason, and in such event the Town and Firm shall negotiate in good faith to make corresponding modifications to the Fee Schedule in Exhibit C and no payment will be made by the Town to the Firm for any work removed.

2. Contract Insurance. Firm shall be required to purchase and maintain during its performance under this Contract insurance coverage as shown on the Insurance Requirements as stated in Exhibit A, which is incorporated herein by reference. With the exception of Worker's Compensation and Professional Liability policies, all insurance purchased shall have a specific endorsement, copy of which shall be provided to the Town, naming the Town as an additional insured and providing that such insurance will not be cancelled without providing thirty (30) days advance written notice to the Town.
3. Standard Terms and Conditions. The attached Standard Terms and Conditions shall be a part of this Contract and each project. Such Standard Terms and Conditions are hereby incorporated by reference, and all parties agree to be bound thereby.
4. Time for Performance of the Work. The Firm shall begin the Work within fourteen (14) days of receipt of the task order and Notice to Proceed for each project from the Town. The Work must be completed no later than 9 months from the Notice to Proceed.
5. Payment for Services. In consideration of the Work and services as described in the Scope of Services, the Town will pay the Firm, in accordance with the submitted fee schedule, the sum described in each task order and the Scope of Services provided, which shall be paid thirty (30) days after receipt of undisputed invoices delivered. The Firm will invoice the Town upon completion of the Work. Firm shall accept all payments from the Town via wire/ACH into the Firm's designated account.

In witness thereof, the contracting parties, by their authorized agents, affix their signatures and seals at Huntersville, North Carolina, this _____ day of _____, 20_____.

Private Engineering Firm

Name: STV Engineers, Inc.
Name of Firm (type or print)

By: 
(Signature)

Title: Senior Vice President

Town of Huntersville

Anthony Roberts-Town Manager

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Pattie McGinnis-Finance Director

STANDARD TERMS & CONDITIONS

1. **Acceptance.** Firm's acknowledgment of the terms of this Contract constitutes an agreement to (i) all terms and conditions set forth or referenced herein, (ii) Exhibits A, B, C and D, attached hereto, and (iii) any other terms and conditions of a written agreement signed by Firm and the Town that deals with the same subject matter as this Contract (collectively, the "Contract Documents"). The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Firm and the Town with respect to the performance of the Work as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." Except as provided herein, no additional or supplemental provision or provisions in variance herewith that may appear in Firm's quotation, acknowledgment, invoice or in any other communication from Firm to the Town shall be deemed accepted by or binding on the Town. The Town hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until the Town's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by the Town are subject to correction.
2. **Entire Agreement.** The Contract Documents constitute and represent the complete and entire agreement between the Town and Firm and supersede all previous communications, either written or verbal with respect to the subject matter of this Contract.
3. **Changes, Additions, Deletions.** No changes, additions, deletions or substitutions of scope of work, specifications, terms and conditions, quantity, unit of issue, delivery date, delivery charges or price will be permitted without the prior written approval from the Town. However, the Firm will not be liable for delays caused by circumstances beyond its control including without limitation, delays caused by acts of God, the Town or its other consultants/contractors, federal, state, and local government authorities, strikes, riots, civil unrest, war, or unknown or concealed conditions, and if such delays occur, the Firm will be entitled to an equitable adjustment in the time for the performance of the Work and compensation.
4. **Relationship of the Parties.** The Firm is an independent Professional Company and not an affiliate of the Town. The conduct and control of the Work will lie solely with the Firm. The Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between the Firm and the Town. Employees of the Firm shall remain subject to the exclusive control and supervision of the Firm, which is solely responsible for their compensation.
5. **Prices.** In no event shall Firm's price be higher than the price contained in the Bid Form or Firm's Standard Billing Rate attached as Exhibits B&C, unless otherwise agreed in writing.
6. **Taxes.** Any applicable taxes shall be invoiced as a separate item.
7. **Substitutions.** No substitutions or cancellations shall be permitted without prior written approval from the Town.
8. **Indemnification.** To the greatest extent allowed by the law the Contractor shall indemnify and hold harmless the Town, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees ("Claims"), but only to the extent the fault of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim. In the event that any portion of the Work performed under the Contract shall be defective in any respect whatsoever, the Contractor shall indemnify and save harmless the Town, its officers, agents, employees and assigns from all loss or the payment of all sums of money, but only to the extent the fault of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim.
9. **Invoices and Payment Terms.** Invoice and Payment Terms are set forth in Section 5 in the Contract for Professional Services. All invoices and statements shall reference the Contract number and be submitted to: Town of Huntersville, Accounts Payable, PO Box 664, Huntersville, North Carolina 28070.
10. **Anti-Discrimination.** During the performance of the Contract, Firm shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.
11. **Insurance.** The Firm shall provide such insurance coverages as the Town shall specify in Exhibit A, including, but not limited to, minimum acceptable coverage and limits, as well as a minimum acceptable insurance rating for an insurance provider. The Firm shall provide the Town with a North Carolina Certificate of Insurance and such endorsements as may be required by the Contract Documents PRIOR to the commencement of any Work under the Contract and agrees to maintain such insurance until the completion of the Contract. Such certificates of insurance shall be considered part of the Contract.
12. **Ethics in Public Contracting.** By submitting their prices and acceptance of this Contract, the Firm certifies that their proposal was made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, deposit of money,

services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

13. **Applicable Laws and Courts.** This Contract shall be governed in all respects by the laws of the State of North Carolina. All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of the Contract, shall be governed in all respects by the laws of the State of North Carolina and venue shall be proper only in a court of competent jurisdiction located in Mecklenburg County, North Carolina. The Firm represents and warrants that it shall comply with all applicable federal, state and local laws, regulations and orders.
14. **Strict Compliance.** The Town may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
15. **Assignment.** The Firm shall not assign, subcontract or otherwise transfer any interest in the Contract without the prior written approval of the Town.
16. **General Provisions.** The Town's remedies as set forth herein are not exclusive. Any delay or omission by the Town in exercising any right hereunder, or any waiver by the Town of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default.
17. **Warranties.** The Firm warrants it shall adhere to all applicable laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Mecklenburg, and the Town of Huntersville in the performance of the Work outlined in this Contract and any attached specifications. The Firm warrants that any finished Work completed hereunder shall also adhere to all applicable laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Mecklenburg, and the Town of Huntersville. The Firm warrants that all Work will be performed in accordance with this Contract and the standard of care ordinarily used by members of the Firm's profession practicing under similar circumstances and at the same time in Mecklenburg County. The Firm makes no additional warranties, express or implied, in connection with the Work. In addition to any other rights available at law or in equity, the Town shall be entitled to consequential and incidental damages.
18. **Quality and Workmanship.** All Work shall be performed in accordance with this Contract and the applicable standard of care.
19. **Default.** Either Party may terminate the Contract, in whole or in part, upon thirty (30) days written notice upon breach of the other Party. In the event of a breach by the Firm, addition to any other remedies available to the Town in law or equity, the Town may procure upon such terms as the Town shall deem appropriate, services substantially similar to those so terminated, in which case the Firm shall be liable to the Town for any excess costs for such similar services and any expenses incurred in connection therewith. This Contract shall not terminate if the alleged default is cured with the thirty (30) day notice period. In the event this Contract is terminated by the Town for the default of the Firm, the Town shall be entitled to keep and use all work provided by the Firm for use in finishing the Project.
20. **Termination for Convenience.** The Town shall have the right, without assigning any reason therefore, to terminate any Work under the Contract, in whole or in part, at any time at its complete discretion by providing ten (10) day notice in writing from the Town to the Firm. If the Contract is terminated by the Town in accordance with this paragraph, the Firm will be paid for all Work performed and reimbursable expenses incurred up to the effective date of the termination. The Town will not be liable to the Firm for any costs for materials acquired or contracted for, if such costs were incurred prior to the date of this Contract.
21. **Assignment.** Firm may not assign, pledge, or in any manner encumber Firm's rights under this Contract, or delegate the performance of any of its obligations hereunder, without the Town's prior, express written consent.
22. **No Third Party Beneficiaries.** There shall be no intended nor incidental third party beneficiaries of this Contract. The Firm shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third party beneficiaries.
23. **Valid Contract.** In order for this Contract for Professional Services to be valid, it must be executed by the Town Manager or his or her authorized designee, and must be pre-audited in that manner required by the Local Government Budget and Fiscal Control Act, as the same may be amended.
24. **Verification of Work Authorization.** Firm shall comply with, and require all contractors and subcontractors to comply with, the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, "Verification of Work Authorization," sometimes known as E-verify for all contractors and subcontractors.
25. **Iran Divestment List.** With the execution hereof, Firm, certifies that they are not on the Iran Final Divestment List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.58, and will not contract with anyone on such List in performance of the Work hereunder.
26. **Severability.** If any provision of this Contract is found to be invalid or unlawful, then remainder of this Agreement shall not be affected thereby, and each remaining provision shall be valid and enforced to the fullest extent permitted by law.

27. **Availability of Funds.** Any and all payments to the Firm are dependent upon and subject to the availability of funds to the Town for the purpose set forth in this agreement.
28. **Companies that Boycott Israel List.** With the execution hereof, Firm, certifies that they are not on the Companies that Boycott Israel List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.80, and will not contract with anyone on such List in performance of the work hereunder.

EXHIBIT A

MINIMUM INSURANCE REQUIREMENTS

The Work under this Contract shall not commence until the Firm has obtained all required insurance and verifying certificates of insurance have been approved in writing by the Town. The Town shall be named as additional insured on all policies. These certificates shall document that coverages afforded under the policies will not be cancelled, reduced in amount or coverages eliminated until at least thirty (30) days after mailing written notice, by certified mail, return receipt requested, to the insured and the Town of such alteration or cancellation. If endorsements are needed to comply with the notification or other requirements of this article copies of the endorsements shall be submitted with the certificates.

a. **Worker's Compensation and Employer's Liability**

The Firm shall provide and maintain, until final acceptance, workmen's compensation insurance, as required by law, as well as employer's liability coverage with minimum limits of \$100,000.

b. **Comprehensive General Liability Insurance**

The Firm shall provide and maintain, until final acceptance, comprehensive general liability insurance, including coverage for premises operations, independent contractors, completed operations, products and contractual exposures, as shall protect such contractors from claims arising out of any bodily injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operations be by the Firm or by any subcontractor, or by anyone directly or indirectly employed by either of them and the minimum limits of such insurance shall be as follows:

Bodily Injury:	\$1,000,000 per occurrence/\$2,000,000 aggregate
Property Damage:	\$100,000 per occurrence / \$300,000 aggregate

Such coverage for completed operations must be maintained for at least two (2) years following final acceptance of the Work performed under the contract.

c. **Deductible**

Any deductible, if applicable to loss covered by insurance provided, is to be borne by the Firm.

d. **Other Insurance**

The Firm shall obtain such additional insurance as may be required by the Town or by the General Statutes of North Carolina including motor vehicle insurance, in amounts not less than the statutory limits.

e. **Proof of Carriage**

The Firm shall furnish the Town with satisfactory proof of carriage of the insurance required before written approval is granted by the Town.

EXHIBIT B
Task Order Sheet

[Sample Task Order Form]:

Services	Fee Type	Fee
	SUB TOTAL	
Additional Items - optional		
	SUB TOTAL	
NOT TO EXCEED TOTAL =		

EXHIBIT C
FIRM'S STANDARD HOURLY BILLING RATES

[Attach copy]

EXHIBIT D
PROJECT AREA



101 Huntersville-Concord Road
Huntersville, NC 28078
(704) 875-6541

CONTRACT FOR ON- CALL ENGINEERING AND SURVEYING SERVICES

FIRM: Name Michael Baker Engineering, Inc.
Address 8000 Regency Parkway, Suite 600
City, State, Zip Cary, NC 27518 **Phone** 919-481-5710
Project Manager Name Todd Buckner, PE
Project Manager email todd.buckner@mbakerintl.com

PROJECT:
ADDRESS: Huntersville, NC

This Contract for Professional Services, and all exhibits, (collectively this "Contract") is entered into this ____ day of _____, 20____ by and between, the Town of Huntersville, a municipal corporation of the State of North Carolina, (the "Town") and _____ (the "Firm") located at _____

For and in consideration of the mutual promises set forth in this Contract, the parties do mutually agree as follows:

1. Scope of Services. The Firm agrees to perform for the Town the following services according to the following requirements:

The Firm agrees to provide services as needed to complete each project. Such services shall constitute the "Work." The Task Order Sheet is attached as Exhibit B, which is incorporated herein by reference. A new Scope of Services and Pricing Sheet shall be attached with each new project and task order. The terms of this Contract, with the exception of the Scope of Services and Pricing Sheet, shall apply to each project, unless otherwise agreed. The Firm represents to the Town that the hourly billing rates are the Firm's standard billing rates. The Firm may adjust the hourly rates shown on the attached Exhibit C only if and to the extent that the Firm's standard billing rates are adjusted. The Firm shall provide thirty (30) days advanced notice to the Town in writing of any increases to the Firm's standard billing rates. Upon receipt of such notice, the Town shall have the option of terminating this Agreement within the thirty (30) day notice period given by the Firm. Any meetings not included in the Scope of Services in Exhibit B will be considered Additional Services. Additional Services will be identified either in writing or by verbal communication but must be approved in writing by Town before proceeding to perform such Additional Services. An illustration of the project area can be found in Exhibit D.

The Firm will be responsible for providing employees to complete the Work in accordance with Town standards. In addition to the indemnification obligations contained in the STANDARD TERMS AND CONDITIONS attached to this Contract, the Firm further agrees to, indemnify and save harmless the Town for claims and liabilities resulting from negligence, errors or omissions of the Firm, including, but not limited to, the employees, technicians or subcontractors.

The Firm agrees to coordinate its Work with the work of any other separate professional services, contractors or with the work of the Town's own forces to avoid delaying or interfering with their work.

The Town reserves the right to terminate this Contract or an individual project, based on the Firm's breach of this contract (ex: schedule, responsiveness, quality of work, accuracy of documents etc.) The

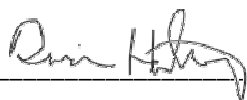
Town reserves the right to remove any or all work described in Exhibit B Task Order Sheet at any time and for any reason, and no payment will be made by the Town to the Firm for any work removed.

2. Contract Insurance. Firm shall be required to purchase and maintain during its performance under this Contract insurance coverage as shown on the Insurance Requirements as stated in Exhibit A, which is incorporated herein by reference. With the exception of Worker's Compensation and Professional Liability policies, all insurance purchased shall have a specific endorsement, copy of which shall be provided to the Town, naming the Town as an additional insured and providing that such insurance will not be cancelled without providing thirty (30) days advance written notice to the Town.
3. Standard Terms and Conditions. The attached Standard Terms and Conditions shall be a part of this Contract and each project. Such Standard Terms and Conditions are hereby incorporated by reference, and all parties agree to be bound thereby.
4. Time for Performance of the Work. The Firm shall begin the Work within fourteen (14) days of receipt of the task order and Notice to Proceed for each project from the Town. The Work must be completed no later than 9 months from the Notice to Proceed.
5. Payment for Services. In consideration of the Work and services as described in the Scope of Services, the Town will pay the Firm, in accordance with the submitted fee schedule, the sum described in each task order and the Scope of Services provided, which shall be paid thirty (30) days after receipt of undisputed invoices delivered. The Firm will invoice the Town upon completion of the Work.

In witness thereof, the contracting parties, by their authorized agents, affix their signatures and seals at Huntersville, North Carolina, this _____ day of _____, 20_____.

Private Engineering Firm

Name: Michael Baker Engineering, Inc.
Name of Firm (type or print)

By: 
(Signature)

Title: Vice President

Town of Huntersville

Anthony Roberts-Town Manager

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Pattie McGinnis-Finance Director

STANDARD TERMS & CONDITIONS

1. **Acceptance.** Firm's acknowledgment of the terms of this Contract constitutes an agreement to (i) all terms and conditions set forth or referenced herein, (ii) Exhibits A, B, C and D, attached hereto, and (iii) any other terms and conditions of a written agreement signed by Firm and the Town that deals with the same subject matter as this Contract (collectively, the "Contract Documents"). The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Firm and the Town with respect to the performance of the Work as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." Except as provided herein, no additional or supplemental provision or provisions in variance herewith that may appear in Firm's quotation, acknowledgment, invoice or in any other communication from Firm to the Town shall be deemed accepted by or binding on the Town. The Town hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until the Town's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by the Town are subject to correction.
2. **Entire Agreement.** The Contract Documents constitute and represent the complete and entire agreement between the Town and Firm and supersede all previous communications, either written or verbal with respect to the subject matter of this Contract.
3. **Changes, Additions, Deletions.** No changes, additions, deletions or substitutions of scope of work, specifications, terms and conditions, quantity, unit of issue, delivery date, delivery charges or price will be permitted without the prior written approval from the Town. However, the Firm will not be liable for delays caused by circumstances beyond its control including without limitation, delays caused by acts of God, the Town or its other consultants/contractors, federal, state, and local government authorities, strikes, riots, civil unrest, war, pandemics or epidemics, including Covid-19 virus strains, or unknown or concealed conditions, and if such delays occur, the Firm will be entitled to an equitable adjustment in the time for the performance of the Work and compensation.
4. **Relationship of the Parties.** The Firm is an independent Professional Company and not an affiliate of the Town. The conduct and control of the Work will lie solely with the Firm. The Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between the Firm and the Town. Employees of the Firm shall remain subject to the exclusive control and supervision of the Firm, which is solely responsible for their compensation.
5. **Prices.** If Firm's price of any of the Work covered hereunder is lower than the price stated in the Contract Documents on the date of performance of the Work, Firm agrees to give the Town the benefit of such lower price on such Work. In no event shall Firm's price be higher than the price contained in the Bid Form or Firm's Standard Billing Rate attached as Exhibits B&C, unless otherwise agreed in writing.
6. **Taxes.** Any applicable taxes shall be invoiced as a separate item.
7. **Substitutions.** No substitutions or cancellations shall be permitted without prior written approval from the Town.
8. **Indemnification.** To the greatest extent allowed by the law the Contractor shall indemnify and hold harmless the Town, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees ("Claims"), but only to the extent of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim.
9. **Invoices and Payment Terms.** Invoice and Payment Terms are set forth in Section 5 in the Contract for Professional Services. All invoices and statements shall reference the Contract number and be submitted to: Town of Huntersville, Accounts Payable, PO Box 664, Huntersville, North Carolina 28070.
10. **Anti-Discrimination.** During the performance of the Contract, Firm shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.
11. **Insurance.** The Firm shall provide such insurance coverages as the Town shall specify in Exhibit A, including, but not limited to, minimum acceptable coverage and limits, as well as a minimum acceptable insurance rating for an insurance provider. The Firm shall provide the Town with a North Carolina Certificate of Insurance and such endorsements as may be required by the Contract Documents PRIOR to the commencement of any Work under the Contract and agrees to maintain such insurance until the completion of the Contract. Such certificates of insurance shall be considered part of the Contract.
12. **Ethics in Public Contracting.** By submitting their prices and acceptance of this Contract, the Firm certifies that their proposal was made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, deposit of money,

services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

13. **Applicable Laws and Courts.** This Contract shall be governed in all respects by the laws of the State of North Carolina. All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of the Contract, shall be governed in all respects by the laws of the State of North Carolina and venue shall be proper only in a court of competent jurisdiction located in Mecklenburg County, North Carolina. The Firm represents and warrants that it shall comply with all applicable federal, state and local laws, regulations and orders.
14. **Strict Compliance.** The Town may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
15. **Assignment.** The Firm shall not assign, subcontract or otherwise transfer any interest in the Contract without the prior written approval of the Town.
16. **General Provisions.** The Town's remedies as set forth herein are not exclusive. Any delay or omission by the Town in exercising any right hereunder, or any waiver by the Town of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default.
17. **Warranties.** Notwithstanding any clause in this Contract or the Contract Documents to the contrary, the Firm expressly disclaims all express or implied warranties with respect to the performance of its professional services, and it is agreed that the quality of such services shall be judged solely as to whether the Firm performed its services consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances. It is further agreed that the Firm shall not provide indemnification of any indemnitee other than to the extent damages are caused by the Subconsultant's willful misconduct or negligence, and shall not be required to defend any indemnitee against professional negligence.
18. **Quality and Workmanship.** All Work shall be performed in accordance with this Contract and the applicable standard of care.
19. **Default.** Either Party may terminate the Contract, in whole or in part, upon thirty (30) days written notice upon breach of the other Party. In the event of a breach by the Firm, addition to any other remedies available to the Town in law or equity, the Town may procure upon such terms as the Town shall deem appropriate, services substantially similar to those so terminated, in which case the Firm shall be liable to the Town for any excess costs for such similar services and any expenses incurred in connection therewith. This Contract shall not terminate if the alleged default is cured with the thirty (30) day notice period. In the event this Contract is terminated by the Town for the default of the Firm, the Town shall be entitled to keep and use all work provided by the Firm for use in finishing the Project.
20. **Termination for Convenience.** The Town shall have the right, without assigning any reason therefore, to terminate any Work under the Contract, in whole or in part, at any time at its complete discretion by providing ten (10) day notice in writing from the Town to the Firm. If the Contract is terminated by the Town in accordance with this paragraph, the Firm will be paid for all Work performed and reimbursable expenses incurred up to the effective date of the termination. The Town will not be liable to the Firm for any costs for materials acquired or contracted for, if such costs were incurred prior to the date of this Contract.
21. **Assignment.** Firm may not assign, pledge, or in any manner encumber Firm's rights under this Contract, or delegate the performance of any of its obligations hereunder, without the Town's prior, express written consent.
22. **No Third Party Beneficiaries.** There shall be no intended nor incidental third party beneficiaries of this Contract. The Firm shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third party beneficiaries.
23. **Valid Contract.** In order for this Contract for Professional Services to be valid, it must be executed by the Town Manager or his or her authorized designee, and must be pre-audited in that manner required by the Local Government Budget and Fiscal Control Act, as the same may be amended.
24. **Verification of Work Authorization.** Firm shall comply with, and require all contractors and subcontractors to comply with, the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, "Verification of Work Authorization," sometimes known as E-verify for all contractors and subcontractors.
25. **Iran Divestment List.** With the execution hereof, Firm, certifies that they are not on the Iran Final Divestment List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.58, and will not contract with anyone on such List in performance of the Work hereunder.
26. **Severability.** If any provision of this Contract is found to be invalid or unlawful, then remainder of this Agreement shall not be affected thereby, and each remaining provision shall be valid and enforced to the fullest extent permitted by law.
27. **Availability of Funds.** Any and all payments to the Firm are dependent upon and subject to the availability of funds to the Town for the purpose set forth in this agreement.

28. **Companies that Boycott Israel List.** With the execution hereof, Firm, certifies that they are not on the Companies that Boycott Israel List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.80, and will not contract with anyone on such List in performance of the work hereunder.
29. **Limitation of Liability.** To the fullest extent permitted by law, the Parties expressly agree: (i) that neither Party shall be liable to the other for any special, incidental, indirect, exemplary or consequential loss, damage, expense or cost (including, without limitation, losses of use, revenue, income, profit, financing, productivity, business and/or reputation) arising out of or relating in any way to the Services, Work, Contract, or Project; (ii) that the Firm is entitled to rely on the accuracy of any information or documentation furnished to it by the Town in connection with the Contract, and shall not be liable for any site, legal or environmental condition or requirement relating to the services that is not disclosed or is unknown to the Firm prior to the execution of the Contract; (iii) that the Firm shall not be liable for any failure to perform to the extent such failure is caused by any event, occurrence or circumstance beyond the reasonable control of the Firm; and (iv) that the Firm's total aggregate liability (whether such liability is based in contract, warranty, tort, equity, strict liability, statute, common law and/or any other claim or theory) for any loss, damage, expense or cost of whatsoever kind of nature arising out of or relating in any way to the services, Agreement or Project shall not exceed the net sum actually paid to the Firm for the Firm's work. Each of the foregoing limitations set forth in (i) through (iv) immediately above are separate and independent of the other, and shall survive the termination or completion of the Services, work, Contract, and/or Project.

EXHIBIT A

MINIMUM INSURANCE REQUIREMENTS

The Work under this Contract shall not commence until the Firm has obtained all required insurance and verifying certificates of insurance have been approved in writing by the Town. The Town shall be named as additional insured on all policies. These certificates shall document that coverages afforded under the policies will not be cancelled, reduced in amount or coverages eliminated until at least thirty (30) days after mailing written notice, by certified mail, return receipt requested, to the insured and the Town of such alteration or cancellation. If endorsements are needed to comply with the notification or other requirements of this article copies of the endorsements shall be submitted with the certificates.

a. **Worker's Compensation and Employer's Liability**

The Firm shall provide and maintain, until final acceptance, workmen's compensation insurance, as required by law, as well as employer's liability coverage with minimum limits of \$100,000.

b. **Comprehensive General Liability Insurance**

The Firm shall provide and maintain, until final acceptance, comprehensive general liability insurance, including coverage for premises operations, independent contractors, completed operations, products and contractual exposures, as shall protect such contractors from claims arising out of any bodily injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operations be by the Firm or by any subcontractor, or by anyone directly or indirectly employed by either of them and the minimum limits of such insurance shall be as follows:

Bodily Injury:	\$1,000,000 per occurrence/\$2,000,000 aggregate
Property Damage:	\$100,000 per occurrence / \$300,000 aggregate

Such coverage for completed operations must be maintained for at least two (2) years following final acceptance of the Work performed under the contract.

c. **Deductible**

Any deductible, if applicable to loss covered by insurance provided, is to be borne by the Firm.

d. **Other Insurance**

The Firm shall obtain such additional insurance as may be required by the Town or by the General Statutes of North Carolina including motor vehicle insurance, in amounts not less than the statutory limits.

e. **Proof of Carriage**

The Firm shall furnish the Town with satisfactory proof of carriage of the insurance required before written approval is granted by the Town.

EXHIBIT B
Task Order Sheet

[Sample Task Order Form]:

Services	Fee Type	Fee
	SUB TOTAL	
Additional Items - optional		
	SUB TOTAL	
NOT TO EXCEED TOTAL =		

EXHIBIT C
FIRM'S STANDARD HOURLY BILLING RATES

[Attach copy]

EXHIBIT D
PROJECT AREA

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Larry Davis, IT Director

Date: April 5, 2021

Subject: Approve Lease with Segra to provide a fiber connection to the Police Department.
(*Larry Davis*)

EXPLAIN REQUEST:

The Town has pursued a fiber connection between the Town Center and Police Department for backup and redundancy of our IT-related systems, including internet and data access. NCDOT delays of construction at Gilead Road prohibited our previous vendor from executing the contract. The Town canceled the contract, and no money was paid to the vendor. Staff is proposing a new lease with Segra, which has existing fiber across I-77. The attached lease provides a fiber connection for six years at a lower cost than the previous proposal. Staff recommends approval of the agreement.

ACTION RECOMMENDED:

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

1. Segra MSA Coversheet_Town of Huntersville
2. Segra Exhibit A 534306_Town of Huntersville_preaudit included
3. Town of Huntersville_SEGRA Custom Exhibit B 03-11-2021 CLEAN
4. Segra Data and Voice SLA_Sept-2020



MASTER SERVICE AGREEMENT

Cover Page

Seller Information

Lumos Networks, Inc.
Lumos Networks of West Virginia, Inc.
South Carolina Telecommunications Group Holdings, LLC
and/or their corporate affiliates, all doing business as Segra

1500 Hampton Street
Columbia, SC 29201

SEGRA Legal Notices to:
Michael D. Baldwin, Vice-President
1500 Hampton Street
Columbia, SC 29201

Customer Care:
1500 Hampton Street
Columbia, SC 29201
Customer Care 1-833-GO-SEGRA
help@segra.com

Agreement Exhibits:

Customer Information

Town of Huntersville

Primary Address:
105 Gilead Rd
Huntersville, NC 28078-7825

Billing Address:
Larry Davis
105 Gilead Rd
Huntersville, NC 28078-7825

Address for Legal Notices (if different from above):
Larry Davis
105 Gilead Rd
Huntersville, NC 28078-7825

(704) 875-7000
ldavis@huntersville.org

Exhibit A: Pricing and Location Detail
Exhibit B: General Terms and Conditions
Exhibit C: Service Level Agreement

This Master Service Agreement (Agreement) is entered into effective as of the date of last signature below (Effective Date) by and between Seller and Customer (as defined herein). Seller and Customer may be referred to herein individually as a party or collectively as the parties. By execution of this Agreement, Customer hereby acknowledges that it has reviewed and shall be bound by any Service Order, the General Terms and Conditions and all other exhibits attached hereto and incorporated herein by reference, as well as the terms of this Cover Page. Any additional or different terms or conditions in any communication by Customer (whether in a purchase order or otherwise) are rejected and shall be null and void. The signatory represents that he/she is an authorized representative of Customer and that he/she has the authority to legally and financially commit Customer. Customer agrees that it has had an opportunity to review and agrees to this Cover Page, as governed by the Agreement.

Seller: _____ Town of Huntersville

By: _____ By: _____

Print Name: _____ Print Name: _____

Title: _____ Title: _____

Date: _____ Date: _____



EXHIBIT A SERVICE ORDER

Primary Address

Town of Huntersville
105 Gilead Rd
Huntersville NC 28078-7825

Primary Contact

Larry Davis
(704) 875-7000
ldavis@huntersville.org

Quote # - 534306**Quote Date - 12/29/2020****Contract Term - 72 Months****AE - Chris Leonard**

Service Location	City, State	MRC Summary*	NRC Summary
105 Gilead Rd	Huntersville NC, 28078-7825	\$825.00	
9630 Julian Clark Ave	Huntersville NC, 28078-3468	\$825.00	

*Summary of Services - See attached Location Detail pages for individual quantities, unit pricing, features, equipment, applied discounts and details for each location, the terms of which are hereby incorporated into this Agreement.

Account Level Charges	Quantity	MRC	MRC Summary	NRC Summary
Total for all service locations*			\$1,650.00	\$0.00

*The pricing above does not include taxes or regulatory fees and surcharges including facility access charges, network access charges, administration fee, 911 fees, universal service charges, and federal, state and local taxes. All such taxes, fees and surcharges shall be paid by Customer and will be shown on invoices to Customer.

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Patty McGinnis - Finance Director



Location Detail - 1

Address

Town of Huntersville
105 Gilead Rd
Huntersville NC 28078-7825

Primary Contact

Larry Davis
ldavis@huntersville.org
(704) 875-7000

Quote # - 534306

Quote Date - 12/29/2020
Contract Term - 72 Months

Product Name	Features/Charges	Qty	MRC	Discount	Total MRC	NRC
Dark Fiber	Custom	1	\$825.00		\$825.00	

Site Total***\$825.00****\$0.00**

*The services priced on this document do not include taxes or regulatory fees and surcharges, facility access charges, network access charges, administration fee, 911 fees, universal service charges, along with federal, state and local taxes. All such taxes, fees and surcharges shall be paid by Customer and will be shown on invoices to Customer.

Site Information	Name	Phone	Email
Data Vendor			
PBX Vendor			
Wiring Vendor			
Demarc Contact			

Additional Notes and/or Equipment Deployed at Customer Location**'A' Location - SEGRA DarkFiber Service**

2 strands / KMZ Provided

Zero NRC/Construction



Location Detail - 2

Address

Town of Huntersville
9630 Julian Clark Ave
Huntersville NC 28078-3468

Primary Contact

Larry Davis
ldavis@huntersville.org
(704) 875-7000

Quote # - 534306

Quote Date - 12/29/2020
Contract Term - 72 Months

Product Name	Features/Charges	Qty	MRC	Discount	Total MRC	NRC
Dark Fiber	Custom	1	\$825.00		\$825.00	

Site Total*	\$825.00	\$0.00
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*The services priced on this document do not include taxes or regulatory fees and surcharges, facility access charges, network access charges, administration fee, 911 fees, universal service charges, along with federal, state and local taxes. All such taxes, fees and surcharges shall be paid by Customer and will be shown on invoices to Customer.

Site Information	Name	Phone	Email
Data Vendor			
PBX Vendor			
Wiring Vendor			
Demarc Contact			

Additional Notes and/or Equipment Deployed at Customer Location

'Z' Location - SEGRA DarkFiber Service

2 strands / KMZ Provided

Zero NRC/Construction



EXHIBIT B
MASTER SERVICE AGREEMENT
CUSTOM TERMS AND CONDITIONS FOR
THE TOWN OF HUNTERSVILLE, NC

RECITALS

These Custom Terms and Conditions apply to the Master Service Agreement between Seller and Customer.

AGREEMENT

1. Definitions.

1.1. Acceptable Use Policy. Found at www.segra.com/acceptable-use-policy/ and incorporated herein by reference.

1.2. Acceptance Date. Following notice to the Customer that the Service is installed, the date when Customer notifies Seller that the Service is functioning properly, or seventy-two (72) hours after notice of installation, whichever comes first.

1.3. Affiliate. Any company that controls, is controlled by, or is under common control with, another company.

1.4. Confidential Information. As set out in Section 23 (Confidentiality) of this Agreement.

1.5. Chronic Trouble. As set out in Section 12.4 (Chronic Trouble) of this Agreement.

1.6. Default. As set out in Section 12 (Events of Default) of this Agreement.

1.7. Due Date. The date thirty (30) days after date of Seller's invoice.

1.8. Effective Date. The date that Customer executes this Agreement.

1.9. Exhibit A. For the purposes of this Agreement, used interchangeably with the term "Service Order."

1.10. Force Majeure. Causes beyond a party's reasonable control, including, without limitation, denial of use of poles or other facilities of a utility company or municipality; labor disputes, strikes, lock-outs or work stoppages; acts of war or terrorism; criminal, illegal or unlawful acts; weather, fire, flood, or natural causes; mechanical or power failures; fiber cuts; governmental acts; or any order, law or ordinance in any way restricting the operation of the Services or any other condition or circumstance beyond the reasonable control of a party which could not have been avoided with the exercise of reasonable diligence.

1.11. Law. All laws, ordinances, regulations, judicial or administrative orders, and rules, whether local, State, or Federal which may be applicable to Seller or Customer.

1.12. Liquidated Damages. Any Termination Fee as set out in this Agreement.

1.13. MRC. Monthly Recurring Charge as stated in the Service Order.

1.14. Notice of Election. Written notice from indemnitor to the indemnitee that the indemnitor elects to assume control of the defense and settlement of that claim.

1.15. Privacy Policy. Found at www.segra.com/segra-privacy-policy/ and incorporated herein by reference.

1.16. Regulatory Requirement. A rule, regulation, Law, order or decision that the Federal Communications Commission, a state Public Utility or Service Commission, a court of competent jurisdiction or other governmental entity issues.

1.17. Seller. Lumos Networks, Inc., a Virginia corporation; Lumos Networks of West Virginia, Inc., a Virginia corporation; or South Carolina Telecommunications Holdings Group, LLC, a South Carolina limited liability company and/or their corporate affiliates, doing business as SEGRA.

1.18. Services. Enhanced broadband services and other communications services provided to Customer as specified by any order between the parties and subject to the terms and conditions of this Agreement. As used in this Agreement, the term "Service(s)" may include Off-Net Services as defined below:

1.18.1. On-Net Service(s). Services provided by Seller that are entirely within the Seller's network.

1.18.2. Off-Net Services. Services provided by Seller for Customer geographic locations outside of Seller's service area or not currently connected to the Seller's network. Also, commonly referred to as "Type II" Services.

1.19. Service Charges. Amounts paid by Customer to Seller under this Agreement.

1.20. Service Date. The first billing date following the date when Service has been tested and made available by Seller to Customer, which date shall be determined solely by Seller, and on which date Seller will commence Customer billing.

1.21. Service Order. Orders for specific Services, issued in accordance with the provisions of this Agreement. Each Service Order shall contain specific provisions with respect to prices, features, locations, description of Service duration and other terms as appropriate. For the purposes of this Agreement, used interchangeably with the term "Exhibit A."

1.22. Term. The Term length and dates of this Agreement.

1.22.1. Initial Term. The initial term of this Agreement, commencing on the Service Date, and ending after the number of term length months set out on the Service Order, or if not indicated on the Service Order, then as set out in Section 3.1 (Term) herein.

1.22.2. Extension Term. Any term extension agreed to in writing between the parties past the Initial Term.

1.22.3. Year to Year Term. A period after the Initial Term or any Extension Term where Seller continues to provide Service to Customer without any term extension agreed to in

writing between the parties.

1.23. Termination Fee. Any fees charged to Customer for its early termination as set out in this Agreement, whether Pre-Installation, Post-Installation, or Default.

2. Scope of Agreement.

2.1. Scope. In accordance with the terms and conditions of this Agreement, Seller agrees to provide to Customer and Customer agrees to purchase from Seller the Service(s) specified in the Service Order. Said Service Order may be amended from time to time to add additional Services. Any such amendment must be agreed to in writing by both parties.

2.2. Service Orders. Each Service Order shall identify at a minimum: (i) the specific Service(s) to be provided; (ii) an Initial Term length for the Service(s); (iii) the Service location(s); and (iv) the applicable Service Charges for each Service.

3. Term.

3.1. This Agreement shall be effective as of the Effective Date. The Initial Term for the Services shall commence on the Service Date. Unless otherwise stated in the Service Order, the Initial Term length of this Agreement shall be for a period of five (5) years commencing on the Service Date. Upon the expiration of the Initial Term, so long as the Customer is not in Default hereunder beyond any applicable cure period, the Term will automatically renew for additional Year to Year periods unless: (i) a written amendment is executed by the parties further extending the Term or (ii) either party provides written notice of its intent not to renew the Agreement a minimum of thirty (30) days prior to the expiration of the Initial or any subsequent Extension term. During any Year to Year term, the terms or conditions for the Services and/or the prices may not remain the same.

3.2. Upon notice to the Customer that the Service is installed, Customer shall have a period of seventy-two (72) hours to confirm that the Service is functioning properly. Unless Customer delivers written notice to Seller within such seventy-two (72) hour period that the Service is not functioning in accordance with the Service Order, billing will run its normal course and shall begin regardless of whether Customer is otherwise prepared to accept delivery of the ordered Service. In the event that Customer notifies Seller within seventy-two (72) hours that the Service is not installed and functioning properly, Seller shall correct any deficiencies in the Service and deliver a new notice to Customer, after which the process stated herein shall restart.

3.3. Unless otherwise addressed in an amendment executed by the parties, the term length for any additional Services added at any time during the Initial Term or any Extension Term, shall be extended for the term length set out in the Service Order. The Service Date for any additional Services shall be determined by the same methodology as used for the Initial Term.

4. Charges and Fees.

4.1. As compensation for Service(s) provided, Customer agrees to pay Seller monthly Service Charges at the rates set forth in the Service Order. Unless otherwise specified in the Service Order, Seller will commence billing Customer for both nonrecurring and recurring Service Charges on the Service Date. All Service Charges shall be due monthly in advance for Service to be provided during the upcoming month, except for Service Charges that are dependent upon usage of Service, which will be billed in arrears. If payment is not received by Seller by the Due Date, the balance due shall be subject to an interest charge on delinquent amounts at the lower of one and one-half percent (1½%) per month, or the highest rate permissible at law, until paid.

4.2. Any recurring Service Charges accrued after the Acceptance Date but prior to the Service Date will be prorated and invoiced to Customer on the Service Date. Invoice dates may vary according to the Service provided and according to Seller's billing cycles.

4.3. Additional nonrecurring Service Charges may apply if Customer requests any changes to the Service Order after the Effective Date, including any changes to Customer's requested date of service. If any of the information provided by Customer used in calculating the rates and terms stated in the Service Order is determined to be inaccurate, the rates and terms in the Service Order will be adjusted to reflect the accurate information.

4.4. Customer is responsible for paying any building entry costs or legal costs as set out herein.

4.5. Notwithstanding any provision or inference to the contrary, no payment due under this Agreement is subject to reduction, set-off or adjustment of any nature by Customer. In no event shall the malfunction or non-operation of Customer's interconnection facilities (including local access) relieve Customer of its obligation to pay for the Service.

4.6. Customer shall provide Seller with credit information as requested, and delivery of Service is subject to Seller's credit approval in its sole discretion. Seller may require Customer to make an advance payment before Service is provided. Any advance payment will be credited to Customer's initial invoice. Seller may, at any time during the Term as a condition to Seller's acceptance of any service order or as a condition to Seller's continuation of

Service, also require Customer to: (i) make a deposit; (ii) provide a letter or credit from a commercial bank or trust company acceptable to Seller; or (iii) provide another deposit/credit assurance acceptable to Seller. The deposit/credit assurance will not exceed Customer's estimated Service Charges for three (3) months of Service. At such time as the provision of Service to Customer is terminated, the amount of any cash deposit will be credited to Customer's account and any credit balance which may remain will be refunded, together with any interest on such cash Deposit at the prevailing rate as required by law.

4.7. **Disputed Invoices.** In order to dispute any portion of a Seller invoice, Customer must pay the undisputed portion of the invoice and submit written notice of the claim with sufficient detail including but not limited to: (a) the items on the invoices in dispute; (b) the nature of the dispute (c) documentation of Customer filing a trouble report, including the Seller ticket number or order number and (d) any other relevant information reasonably requested by Seller with respect to the affected Service(s) or the disputed amount. All claims must be submitted to Seller in writing within thirty (30) days from the date of the invoice for those Services or they are waived. If Customer has provided sufficient detail for investigation of the dispute, Seller will use reasonable efforts to resolve and communicate its resolution of the dispute within thirty (30) days of its receipt of the dispute notice. If the dispute is resolved in Seller's favor, any amounts to be paid by Customer shall be subject to the late payment charges under Section 4.1 above, retroactive to the Due Date of the disputed invoice and payable by Customer immediately. Disputed amounts resolved in Customer's favor shall be credited on Customer's next invoice.

4.8. **Taxes and Fees.** In addition to Charges, Customer shall pay all applicable taxes, fees, or surcharges imposed on or in connection with the Services that are the subject of this Agreement, including but not limited to applicable federal, state, and local sales, use, property, excise, telecommunications, or other taxes, franchise fees, federal and state universal service fund fees, and other state or local government charges or regulatory fees, excluding income taxes measured on Seller's net income. If Customer is entitled to an exemption from any applicable taxes or fees for a particular Service, Customer must provide Seller with a copy of Customer's tax exemption certificate or other documentation supporting Customer's certification of its entitlement. Seller will give effect to any such valid exemption proof on a prospective basis from the date of Seller's receipt of such exemption certificate. Tax-exempt status shall not relieve Customer of its obligation to pay applicable non-tax fees and surcharges. Seller reserves the right, from time to time, to change the surcharges under this Agreement to reflect costs, charges, or obligations imposed on Seller to the extent permitted, required, or otherwise not prohibited under applicable Law, such as universal service fund charges. Customer shall indemnify, defend and hold harmless Seller any damages, losses, claims or judgments arising out of any exemption claimed by Customer, including, without limitation, any liens, attachments, fines or penalties.

5. **Material Change In Law.** If a Regulatory Requirement has the effect of canceling, changing or superseding any material term or provision of this Agreement, then this Agreement will be deemed modified in such a way as the parties mutually agree is consistent with the form, intent and purpose of this Agreement and is necessary to comply with the Regulatory Requirement. If the parties cannot agree to modifications necessary to comply with a Regulatory Requirement within thirty (30) days after the Regulatory Requirement is effective, then either party may terminate this Agreement and/or any Service Order impacted by the Regulatory Requirement effective as of the date of notice by providing written notice to the other party.

6. Installation, Customer Premises, and Maintenance.

6.1. **Installation Review.** Seller may perform an installation review of each Service location prior to installation of the Service to determine serviceability, the need for additional work to provide the Services at Customer's location, or the need for additional work to acquire legal access to Customer's location. If during the installation review, Seller determines that additional work or legal access is required to enable Seller to deliver the Services to the service location, Seller will notify Customer that there may be additional Service Charges in excess of the amounts previously specified in the Service Order.

6.2. Notwithstanding Seller's installation review, Customer is responsible for ensuring that Seller has legal access to Customer's location, and for paying any costs required for Service installation, including but not limited to building entry costs or legal costs charged to Seller by Customer's landlord or the costs of acquiring private easements or access to serve Customer's premises. Seller may terminate this Agreement or terminate the Services for any location where Seller determines it is not economically feasible to proceed due to excess costs or difficulty in obtaining legal access. Seller reserves the right not to provide Service to locations owned by parties located outside of the United States. Customer reserves the right to reject the Agreement based on these additional charges.

6.3. Where Seller has equipment in place on a Customer's premises or Customer's end-user's premises, Customer shall allow Seller access to the premises to the extent reasonably determined by Seller for the installation, inspection and scheduled or emergency maintenance of any Seller equipment relating to the Service. Seller will use commercially reasonable efforts to notify Customer at least two (2) business days in advance of any regularly scheduled maintenance that will require access to the premises. Customer will be responsible for providing and maintaining, at its own expense, the level of power, heating and air conditioning, cleanliness and security necessary to maintain the proper environment for Seller's equipment on the premises, as well as protection from damage to Seller's equipment from lightning power surges and any fraudulent use of Seller's equipment by Customer, its employees, agents, or contractors. In the event Customer fails to do so, Customer shall reimburse Seller for the actual and reasonable cost of repairing or replacing any Seller equipment damaged or destroyed as a result of Customer's failure. Customer will

provide or assure a safe place to work and compliance with all Laws regarding the working conditions on the premises.

6.4. **Scheduled Maintenance.** Seller will conduct periodic maintenance of its equipment. Scheduled maintenance of Seller's network will not normally result in Service interruption or outage. However, in the event scheduled maintenance should require a Service interruption or outage, Seller will exercise commercially reasonable efforts to (i) provide Customer with three (3) days prior written notice of such scheduled maintenance, (ii) work with Customer in good faith to attempt to minimize any disruption in Customer's services that may be caused by such scheduled maintenance, and (iii) perform such scheduled maintenance during the non-peak hours of 12:00 a.m. (midnight) until 6:00 a.m., Eastern Prevailing Time. Maintenance, tests and adjustments shall be completed within a reasonable time. No credit will be allowed under this Agreement for any Service interruptions involved during such maintenance, tests, or adjustments.

6.5. **Emergency Maintenance.** Seller reserves the right to perform emergency maintenance on its system, network, equipment or facilities at any time and to the extent practicable, will provide Customer with prompt notice thereof. Seller will, in good faith, attempt to minimize any disruption to Customer's Service.

7. Equipment.

7.1. **Seller Equipment.** Except as otherwise agreed, title to all equipment utilized by Seller to deliver the Services shall remain with Seller. Seller will provide and maintain its equipment in good working order. Customer shall make necessary arrangements so that Seller and its designated contractors will have access to such space and equipment at reasonable times for installing, inspecting, testing, adjusting, maintaining, repairing, replacing, and removing equipment owned or operated by Seller or its designated contractors as Seller deems appropriate. Customer shall not, and shall not permit others, to rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any Seller equipment without the prior written consent of Seller. Seller's equipment shall not be used for any purpose other than that for which Seller provides the same. Customer shall not take any action that causes the imposition of any lien or encumbrance on the equipment. Customer agrees (which agreement shall survive the expiration, termination or cancellation of this Agreement) to allow Seller to remove the equipment from the premises: (i) after termination, expiration or cancellation of the term of any Service in connection with which the Seller's equipment was used; or (ii) for repair, replacement or otherwise as Seller may determine is necessary or desirable, but Seller will use reasonable efforts to minimize disruptions to the Service caused thereby.

7.2. **Customer Provided Equipment.** Seller may install certain Customer-provided communications equipment upon agreement with Customer. However, upon installation of Service for the Customer, Seller shall not be responsible for the operation or maintenance of any such Customer-provided communication equipment. Seller undertakes no obligations and accepts no liability for the configuration, management, performance or any other issue relating to any Customer-provided equipment used for access to or the exchange of traffic in connection with the Service. Customer, at Customer's expense, shall maintain all apparatus and equipment provided by or on behalf of it in a good and workmanlike manner. If Seller investigates a Service interruption which arises out of malfunction or improper use of Customer's equipment, Customer shall remit to Seller within fifteen (15) days of receipt of invoice Seller's reasonable costs incurred arising out of said investigation. Customer shall bear the risk of loss through theft or casualty of any facilities or equipment owned or controlled by it or its customers regardless of the location of said facilities or equipment. Promptly upon notice from Seller, Customer shall eliminate any hazard, interference or Service obstruction that any such Customer Equipment is causing or reasonably may cause. Seller will cooperate with Customer in prosecuting a claim against the person or entity causing such damage. If Customer, its employees, agents, or contractors or Customer's end users causes damage to premises, circuits, facilities or equipment of a person or entity other than Seller, then Customer shall hold Seller harmless from any claim arising out of such damage.

7.3. **Interference.** Customer shall ensure that the characteristics and methods of operation of any circuits, facilities, or equipment provided by Customer or Customer's agents, or end users, and association thereof with circuits, facilities, or equipment used by Seller in providing Service or arranging for provision of any Off-Net Service, shall not interfere with or impair service over any such circuits, facilities and equipment of Seller, impair the privacy of any communications carried over Seller's circuits, facilities, or equipment; or create hazards to the contractors, agents, or employees of Seller or the public. If such characteristics or methods of operation are not in accordance with the foregoing provisions of this Section 7.3, Seller, where practicable, will notify Customer that temporary discontinuance of the use of Service or Off-Net Service may be required; however, where prior notice is impracticable, nothing contained in this Agreement shall be deemed to preclude Seller's immediate right to temporarily discontinue Customer's use of any or all Service(s). In case of any such temporary discontinuance, Customer will be notified as soon as reasonably practicable and, if reasonably practicable, given the opportunity to correct the condition which gave rise to the temporary discontinuance. During such period of temporary discontinuance, no Service interruption shall be deemed to have occurred. Customer shall use reasonable efforts to install and bear the cost, if any, of such additional facilities or protective apparatuses which, according to accepted telecommunications industry standards, reasonably are required to be installed because of the particular use or hazardous location of any Service provided by it. Seller shall not be responsible for providing or bearing the cost, if any, of facilities or protective apparatuses for Off-Net Service.

7.4. Within a reasonable time of its suspecting a fault with any Service and/or its equipment or that of the other party, Seller or Customer, as the case may be, shall take reasonable steps to determine if the suspected problem is within its own system, or, if it is suspected that such fault is on the system of the other party, use reasonable effort to notify

that party as soon as reasonably possible. Both Seller and Customer agree to work in a cooperative effort to attempt to identify system fault.

8. Service Moves; Portability.

8.1. Customer agrees to provide sixty (60) days written advance notice to Seller if Customer desires to move existing Services to a different location(s). As Seller may not provide Service(s) in all locations, moving existing Service(s) may not be feasible. Under such circumstances, Customer's request will be treated as a post-installation termination of the affected Service(s) and charged Post-Installation Termination Fees which will be treated as Liquidated Damages as set out in Section 13.2.2 (Effect of Termination: Post-Installation). Where Seller is able to relocate the affected Services, Customer shall enter into an amended Service Order and may be subject to any special construction charges incurred, any Off-Net provider charges incurred associated with the terminated Service, and changes in recurring fees.

8.2. If Customer cancels all or a portion of a Service Order prior to the end of the Initial Term or any exercised Extension Term and Customer would otherwise be subject to a Default Termination Fee under Section 12.2 (Customer's Default), Customer may avoid such Termination Fee (provided that Customer shall always be liable for non-recurring Service Charges, Off-Net Service Charges and any other similar Service-specific Charges for the terminated Service) by substituting new Service for the cancelled Service. The consideration to Seller for the new Service may be no less than the cost of the canceled Service. Customer must order substitute Service within sixty (60) days after the date of Customer's notice canceling the existing Service. If Customer exercises this portability option, Customer will be liable for (i) all termination liability charges for non-recurring Service Charges, Off-Net Service Charges, and any other third party provided facilities that are impacted by the replacement of the Service; and (ii) all installation one-time charges due to Seller for replacement Services that have not been waived; and (iii) any one-time local access Service Charges and the new monthly recurring local access Service Charges for the replacement Service that are actually incurred by Seller. Exercise of this option is restricted as provided herein, is available for On-Net Service only, and is subject to availability.

9. **Liability Limitation.** Customer's liability under this Section 9 is limited to the extent permitted by North Carolina law. In addition to Seller, this Section 9.0 shall apply to (i) any Seller Affiliate or any of Seller's or a Seller Affiliate's owners, managers/directors, officers, employees, or contractors and (ii) any third-party network provider or other third-party service provider with respect to the Services and Off-Net Services. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTIES FOR SPECIAL, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES INCLUDING, WITHOUT LIMITATION, LOST REVENUES OR PROFITS (OTHER THAN SELLER'S RIGHT TO PAYMENT UNDER THIS AGREEMENT), SUFFERED BY SUCH OTHER PARTY AS A RESULT OF THE PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, OR ITS ACTS OR OMISSIONS RELATED TO THIS AGREEMENT, WHETHER OR NOT ARISING FROM SOLE, JOINT OR CONCURRENT NEGLIGENCE, STRICT LIABILITY BREACH OF CONTRACT, BREACH OF WARRANTY OR ANY OTHER SOURCE EVEN IF THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ADDITIONALLY, IN NO EVENT WILL SELLER'S LIABILITY UNDER THIS AGREEMENT OR OTHERWISE ARISING OUT OF SELLER'S PROVISION OF SERVICES HEREUNDER EXCEED AN AMOUNT EQUAL TO THE PREVIOUS ONE MONTHS' CHARGES FOR THE SERVICES TO WHICH THE LIABILITY RELATES OR OTHERWISE ARISES OUT OF.

In no event will Seller be liable to Customer or any other person for interruption of Service or for any other loss, cost or damage caused by or related to improper use or maintenance of the equipment by Customer or any third party gaining access to the equipment through Customer in violation of this Agreement. Customer shall reimburse Seller for any damages incurred as a result thereof.

Seller's inability or failure to deliver any ordered Service by the requested Service Date shall not be a Default under this Agreement, and Seller shall not be liable to Customer or any third party for any damages as a result of Seller's inability or failure to deliver any such Service.

In no event shall Seller be liable for any damage arising out of the fault of facilities or equipment furnished by Customer or its end users or Customer's or its end users' agents or contractors, or others acting on their behalf or for any act or omission of Customer in furnishing of its services to others or for libel or slander or actions based on the content of communications transmitted over the circuits or equipment provided under this Agreement.

Seller shall have no liability or responsibility for the content of any communications transmitted via the Service (except for content solely created by Seller). Seller provides applications utilizing Internet protocol. Seller does not operate or control the information, services of others, opinions or other content of the Internet. Customer agrees that it shall make no claim whatsoever against Seller relating to the content of the Internet or respecting any information, product, service or software ordered through or provided by virtue of the Internet.

Notwithstanding any provision or inference to the contrary, in no event shall Seller be liable for delays in installation or restorations of any Off-net Service or out of mistakes, omissions, interruptions, errors or defects in transmission occurring as to Off-net Service.

Customer's EXCLUSIVE REMEDY for Seller's failure to provide the Services in accordance with this Agreement or applicable service level agreement shall be as service credits. Customer will have no other remedy nor will Seller have any other obligation or liability with respect to such failures. Any service credit paid to Customer shall not exceed the MRC stated in the Service Order for the affected Service. No credit allowances for Service interruptions shall be made for Service interruptions arising from or relating to: (i) any acts or omissions of an entity other than Seller, including, but not limited to, Customer, Customer's agents, employees, end users or other service providers connected to Seller's services, system, network, equipment or facilities; (ii) Customer's noncompliance with this agreement; (iii) any emergency or routine maintenance; any failure of any Off-Net Service (including, without limitation, any non-Seller

equipment or facilities used in connection with the affected service); (v) any period in which Seller is not given full access to its equipment or facilities for the purpose of investigating and correcting a Service interruption; (vi) any period in which Customer continues to use Service on an impaired basis or releases Service to Seller for maintenance purposes or for implementation of a Customer service order; or (vii) circumstances or causes beyond Seller's reasonable control as described in Section 16 (Force Majeure) below.

10. **Exclusion of Warranties.** Seller makes no warranty, whether express, implied or statutory, as to the description, quality, merchantability, title, noninfringement, completeness or fitness for any purpose of any Service or Off-Net Service or as to any matter, all of which warranties by Seller hereby are excluded and disclaimed. The Services are provided on an "as is" and "as available" basis. No advice or information given by Seller or its agents shall create a warranty. Seller does not warrant that the Services will be uninterrupted or error free or that any information, software or other material accessible on the Service is free of viruses, worms, Trojan horses or other harmful software components.

11. Indemnification.

11.1. Only to the extent permitted by North Carolina law, Customer agree to indemnify, defend and hold harmless Seller from and against all liability, loss, cost, damage and expense (including, without limitation, reasonable attorney's fees and the expense of litigation, administrative proceedings or arbitral proceedings) resulting in whole or in part from claims by any third party that personal injury, tangible personal or real property damage, or death, arise out of the following: (i) the negligent or willful misconduct, act or omission of Customer or any of its agents, servants, employees, officers, directors, contractors, subcontractors, or representatives; or (ii) the breach of, or failure to comply with, any term or condition of this Agreement by Customer or any of its agents, servants, employees, contractors, representatives, officers, directors, or subcontractors or (iii) proceedings to recover taxes, fines or penalties for failure of Customer to obtain or to maintain in effect any necessary approvals to acquire, use, operate, or maintain its system under applicable Law; (iv) claims arising out of actions for infringement of copyright or other proprietary right infringement; or (v) claims (including claims by governmental entities seeking to impose penal sanctions) arising out of libel and slander actions based on the content of communications transmitted over the circuits or equipment provided under this Agreement.

11.2. **Indemnification Procedures.** With respect to third-party claims, the following procedures shall apply:

11.2.1. Promptly after receipt by any entity entitled to indemnification under this Section 11 of notice of the commencement or threatened commencement of any civil, criminal, administrative, or investigative action or proceeding involving a claim in respect of which the indemnitee will seek indemnification pursuant to any such Section, the indemnitee shall notify the indemnitor of such claim in writing. No failure to so notify an indemnitor shall relieve it of its obligations under this Agreement except to the extent that it can demonstrate damages attributable to such failure. Within fifteen (15) business days following receipt of written notice from the indemnitee relating to any claim (but in no event later than five (5) business days prior to the due date of any answer or other papers required to be filed in response to a complaint, petition or other papers filed by the third party that initiated the action proceeding), the indemnitor shall provide the indemnitee with a Notice of Election.

11.2.2. If the indemnitor delivers a Notice of Election relating to any claim within the required notice period, the indemnitor shall be entitled to have sole control over the defense and settlement of such claim; provided that: (i) the indemnitee shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim; and (ii) the indemnitor shall obtain the prior written approval of the indemnitee before entering into any settlement of such claim or ceasing to defend against such claim. After the indemnitor has delivered a Notice of Election relating to any claim in accordance with the preceding paragraph, the indemnitor shall not be liable to the indemnitee for any legal expenses incurred by the indemnitee in connection with the defense of that claim. In addition, the indemnitor shall not be required to indemnify the indemnitee for any amount paid or payable by the indemnitee in the settlement of any claim for which the indemnitor has delivered a timely Notice of Election if such amount was agreed to without the written consent of the indemnitor.

11.2.3. If the indemnitor does not deliver a Notice of Election relating to any claim within the required notice period, the indemnitee shall have the right to defend the claim in such manner as it may deem appropriate, at the cost and expense of the indemnitor. The indemnitor shall promptly reimburse the indemnitee for all such costs and expenses.

12. Events of Default.

12.1. A "Default" shall occur under this Agreement upon: (i) Customer's failure to pay any invoice and such failure remains uncorrected for ten (10) days after receipt of written notice that a payment is past due; (ii) Customer's failure to pay any advance payment or deposit or to provide any credit assurance when due; (iii) Customer's insolvency, apparent inability to pay debts as they become due, or any filing of bankruptcy by or against Customer or a general assignment for the benefit of its creditors; (iv) Customer's violation of any applicable Laws, statutes, ordinances, codes or other legal requirements with respect to any Service that are not remedied within ten (10) days after written notice thereof (or such shorter period as may be required by law); or (v) either party fails to perform or observe any material term or condition of this Agreement and such failure remains uncured for more than thirty (30) days from the date of the non-breaching party's written notice thereof.

12.2. **Customer's Default.** If Customer is in Default, Seller may, in addition to any other

remedies it has under this Agreement or Law: (i) suspend its performance under this Agreement or any or all Service Orders without notice until Customer has remedied all breaches of this Agreement and paid in full all Service Charges then due, including, without limitation, any applicable interest charges; (ii) condition provision of Service and/or arrangement of provision of Off-Net Service or acceptance of any Service Order on Customer's assurance of payment and compliance with this Agreement, which may be in the form of a deposit or prepayment or such other means as Seller reasonably requires; or (iii) terminate this Agreement and/or any Service effective immediately and without any further notice; provided, that Customer's duty to pay all Service Charges due and owing at the time of termination and any Termination Fees shall survive such termination. Unless provided otherwise in the Service Order, the Termination Fee shall be equal to 100% of the remaining monthly recurring Service Charges, installation and nonrecurring costs and usage fees that otherwise would have been payable for the Service terminated for the unexpired portion of said Term. The Termination Fees shall be construed as liquidated damages and not as penalties, it being agreed that Seller's actual damages in the event of such termination would be impossible to ascertain and such amount is a reasonable estimate of such damages. All Termination Fees shall be promptly paid as a lump sum at the time of termination.

12.3. Seller's Default. If Seller is in Default, Customer may, in addition to any other remedies it has under the Agreement or Law, terminate this Agreement and/or any applicable Service effective on written notice to Seller, provided that Customer pays all amounts due and owing at the time of the termination.

12.4. Chronic Trouble. A Service is considered to have Chronic Trouble if it experiences; (i) three (3) or more Service Outages of 6 hours or more in any thirty (30) consecutive day period, or (ii) five (5) or more Service Outages of 6 hours or more in any six (6) month period. Customer shall have the right to terminate a Service with Chronic Trouble without penalty or further liability to Seller provided that written notice of termination is provided to Seller. If Customer does not exercise its termination right within thirty (30) days of the accrual of such right, such right shall lapse with respect to that instance of Chronic Trouble and the number of Service Outages shall be reset to zero for the purpose of this paragraph.

13. Effect of Termination.

13.1. Seller's Termination: Seller may terminate this Agreement and/or any applicable Service Order(s) effective immediately, if Seller does not maintain or loses any required regulatory, governmental or other certificates, permits, licenses or other authority to provide the Service or arrange for the provision of Off-Net Service. Under such circumstances, Customer shall not be liable for the Termination Fee related to the affected Services terminated.

13.2. Customer Termination:

13.2.1. Pre-Installation: If Customer terminates this Agreement after the Effective Date but prior to the installation of Service(s), Customer will pay Seller a Pre-Installation Termination Fee equal to three months of Monthly Recurring Charges (MRCs) and 100% of all costs paid to other third-party providers. Customer agrees that the Pre-Installation Termination Fee is a reasonable assessment of the costs and fees incurred by Seller to prepare services for installation. The Pre-Installation Termination Fee established in this Section 13.2.1 is in lieu of the charges set forth in Section 13.2.2 below for post-installation terminations.

13.2.2. Post-Installation: CUSTOMER UNDERSTANDS THAT ITS RATES ARE BASED UPON ITS COMMITMENT TO PURCHASE SERVICES FOR THE TERM OR EXTENSION TERM. IF CUSTOMER TERMINATES THIS AGREEMENT OR ANY SERVICES PROVIDED HEREUNDER AFTER INSTALLATION DURING THE INITIAL OR EXTENSION TERM FOR ANY REASON OTHER THAN FOR CAUSE, IT SHALL PAY TO SELLER AS LIQUIDATED DAMAGES, AND NOT A PENALTY, AN AMOUNT EQUAL TO 100% OF THE MONTHLY RECURRING CHARGES MULTIPLIED BY THE NUMBER OF MONTHS REMAINING IN THE THEN CURRENT TERM OR EXTENSION. In addition to the Post-Installation Termination Fee set forth above, Customer agrees to pay Seller any special construction charges incurred and any Off-Net provider charges incurred associated with the terminated Service.

13.2.3. Non-Appropriation of Funds. Seller acknowledges that Customer is a governmental entity, and the validity of this Agreement is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are unavailable and not appropriated for the performance of Customer's obligations under this Agreement, then this Agreement shall expire without penalty to Customer, thirty (30) days after written notice to Seller advising of the unavailability and non-appropriation of public funds. Customer must also provide Seller with official documentation of the unavailability and non-appropriation of public funds. It is expressly agreed that the Customer shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Agreement, but only as an emergency fiscal measure during a substantial fiscal crisis which affects generally its governmental operations.

14. Attorneys' Fees. If suit is brought by either party to enforce this Agreement including, without limitation, to collect any moneys due under this Agreement, the prevailing party shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorneys' fees, court costs, costs of investigation, and other related expenses incurred in connection therewith.

15. Waiver. The failure of either party to give notice of Default or to enforce or insist upon compliance with any of the terms or conditions of this Agreement, the waiver of any term or condition of this Agreement, or the granting of an extension of time for performance, shall not constitute the permanent waiver of any term or condition of this Agreement, and this Agreement and each of its provisions shall remain at all times in full force and effect until modified by the parties in writing.

16. Force Majeure. Neither party shall be liable for any failure of performance hereunder due to an event of Force Majeure. Notwithstanding anything to the contrary set forth herein, Customer agrees that payment obligations for Services provided hereunder shall be absolute and not subject to delay due to any event of Force Majeure. However, Customer will not be obligated to pay for the Services not provided during periods of Force Majeure, and either party may terminate without penalty an affected Services upon notice to the other if a Force Majeure Event continues uninterrupted for a period of sixty (60) days or longer. Unless waived by the Off-Net Service Provider, Customer shall be liable for any Off-Net Service termination fees that may be applicable.

17. No License. No license, under patents or otherwise, is granted by Seller to Customer or shall be implied or arise by estoppel in Customer's favor with respect to any circuit, apparatus, system or method used by Seller in connection with any Service or Off-Net Service. No license, under patents or otherwise, is granted by Customer to Seller or shall be implied or arise by estoppel in Seller's favor with respect to any circuit, apparatus, system or method used by Customer in connection with this Agreement.

18. No Joint Undertaking. Notwithstanding any other provision of this Agreement, this Agreement applies only to Services provided to Customer, and does not constitute the joint undertaking with Customer for the furnishing of any service to Customer's end users. None of the provisions of this Agreement shall apply or extend directly to the Customer's end users. Seller does not undertake to transmit messages or offer any telecommunications services to end users under this Agreement.

19. No Third-Party Benefits. Seller and Customer intend and agree that no person or entity other than the parties to this Agreement is or shall be entitled to bring any action to enforce any provision of this Agreement; and that the covenants, undertakings, and agreements contained herein shall be solely for the benefit of, and shall be enforceable only by, the parties or their respective successors and permitted assigns.

20. Dispute Resolution. In the event any dispute arises between the parties under this Agreement, the party seeking resolution of the dispute must submit written notice to the other describing the dispute and such party's desire to resolve the dispute in accordance with the provisions of this Section 20. If the parties are then unable to resolve such dispute in the normal course of business within fifteen (15) days after delivery of the written notice as provided herein, each of the parties shall appoint, within five (5) days thereafter, a designated representative who has authority to settle the dispute. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. The specific format for such discussions will be left to the discretion of the designated representatives; however, all reasonable requests for relevant information made by one party to the other party shall be honored. If the parties are unable to resolve issues related to the dispute within forty-five (45) days after the parties' appointment of the designated representatives, then either party may pursue any of its legal and/or equitable remedies.

21. Acceptable Use Policy. Customer's use of the Service shall comply with Seller's Acceptable Use Policy and Privacy Policy, which may be amended from time to time. Seller will notify Customer of complaints received by Seller regarding each incident of alleged violation of Seller's Acceptable Use Policy by Customer or third parties that have gained access to the Service through Customer. Customer shall promptly investigate all such complaints and take all necessary actions to remedy any violations. Seller may advise the complainant that Customer, its end-user or a third party that gained access to the Service through Customer and provide complainant with the necessary information to contact Customer directly to resolve the complaint. Customer shall identify a representative for the purposes of receiving such communications. Serious violations of Seller's or other Off-net Service providers' Acceptable Use Policy may result in interruption or termination of service.

22. Data Protection. During the performance of this Agreement, it may be necessary for Seller to transfer, process, and store billing and utilization data and other data necessary for Seller's operation of its network and for the performance of its obligations under this Agreement. The transfer, processing, and storing of such data may be to or from the United States. Customer hereby consents that Seller may (i) transfer, store, and process such data in the United States; and (ii) use such data for its own internal purposes and as allowed by Law. Seller herewith agrees that this data will not be disclosed to third parties without the knowledge and consent of Customer.

23. Confidentiality.

23.1. The parties agree that proprietary and/or confidential information ("Confidential Information") is defined as: (a) information in written, electronic or other tangible form that is clearly marked or labeled "Proprietary" or "Confidential" or words of similar import; or (b) information orally disclosed that the disclosing party specifically identifies as confidential at the time of disclosure, or thereafter confirms through written documentation provided within thirty (30) days of disclosure to be proprietary and/or confidential.

23.2. In the course of performance hereunder, the parties may have access to certain information, the ownership and confidential status of which is highly important to the other party. Neither party will disclose the other party's Confidential Information, directly or indirectly under any circumstances or by any means, to any third person without the express written consent of the other party, and neither party will copy, transmit, reproduce,

summarize, quote, or make commercial or other use whatsoever of the other party's Confidential Information, except as may be necessary to perform its duties hereunder. Each party will exercise the highest degree of care in safeguarding the other party's Confidential Information against loss, theft, or other inadvertent disclosure and take all commercially reasonable steps necessary to maintain such confidentiality to the same extent it protects its own Confidential Information.

23.3. Notwithstanding, information is not Confidential Information if it:

23.3.1. is or becomes publicly available through no fault or breach of this Agreement by either of the parties;

23.3.2. is intentionally released in writing to the general public by the party disclosing the information;

23.3.3. is lawfully obtained from third parties without breaching any provision of any non-disclosure agreement;

23.3.4. is previously known or developed by the receiving party independently of the disclosing party; or

23.3.5. must be disclosed pursuant to or as required by law, provided that sufficient notice is given to the disclosing party of any such requirement or request to permit the disclosing party to seek an appropriate protective order or exemption from such requirement or request, unless such notice is prohibited by said order. The above exceptions shall be narrowly construed and shall not be interpreted by the receiving party as justification for disregarding the obligations of confidence set forth in this Agreement merely because individual portions of the Confidential Information may be found to be within one or more exception, or otherwise, or because the Confidential Information is implied by but not specifically disclosed in information falling within the exception.

23.4. The provisions of this Section will survive the termination of the Services and any Service Order(s) issued hereunder.

23.5. Notwithstanding anything to the contrary in Section 23 above, Customer is subject to the public records laws as set out in NCGS 132-1 et seq.

24. **Assignment.** Except as otherwise provided herein, neither party may delegate, assign, or otherwise transfer any or all of its rights or duties pursuant to this Agreement without the prior written consent of the other, such consent to not be unreasonably withheld, provided, however, that Seller may assign or transfer this Agreement and any Service Orders to an affiliate or to a successor in the event of reorganization, including a merger or sale of substantially all of its assets, without the consent of Customer.

25. **Publicity.** Neither party may use the name, logos, trademarks, service marks or other proprietary identifying symbols of the other party in any press release, public statement, advertising, signage, marketing materials or other publicity materials in any medium without the other party's prior written consent.

26. **Order of Precedence.** In the event of any ambiguity and/or inconsistency between this Agreement and any Law covering any Services provided under this Agreement, the following descending order of precedence will control: (i) said Law; (ii) this Agreement and any amendments thereto; and (iii) exhibits to this Agreement, including Service Orders. No Service Order shall alter or amend the parties' obligations under this Agreement, unless the Service Order expressly modifies such sections and such alterations and amendments are countersigned by authorized signatories of the parties.

27. **Notices.** Except as otherwise required herein, all notices, demands, requests, or other communications which may be or are required to be given, served, or sent by Seller or Customer to the other pursuant to this Agreement shall be in writing and shall be mailed by first-class, registered, or certified mail, return receipt requested, postage prepaid, transmitted by hand delivery, or delivered by a national overnight delivery service, and addressed as set out on the Cover Sheet.

27.1. From time to time, Seller and Customer each may designate by notice in writing any new address to which any notice, demand, request, or other communication to it thereafter shall be given, served, or sent. All such notices shall be deemed to have been given on (i) the date delivered if delivered personally, (ii) the business day after dispatch if sent by overnight courier, or (iii) the third business day after posting if sent by U.S. Postal Service.

27.2. Customer shall provide a copy to Seller - Attn: Mr. Michael D. Baldwin, VP-Business & Legal Affairs or Attn: Mr. Steve Hamula, Director of Regulatory Affairs, of any notice requesting indemnification, damages or termination, or alleging default or force majeure or any other non-routine matter.

28. **Authority, Interpretation, Severability and Survival.** Except as otherwise provided for in this Agreement, Service provided by Seller set forth in each Service Order attached hereto is severable, and upon termination of any individual Service with respect to any Service Order, other Services shall continue unaffected. Similarly, if any part or provision of this Agreement or any other agreement, document or writing given pursuant to or in connection with this Agreement shall be invalid or unenforceable under applicable Law, said part or provision shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts or provisions of this Agreement and the parties hereby agree to negotiate with respect to any such invalid or unenforceable part or provision to the extent necessary to render the Agreement valid and enforceable. Each party warrants and represents that the signatories to this Agreement have full authority to enter into, sign and perform this Agreement on its behalf. This Agreement shall be interpreted to give effect to its fair meaning unless otherwise provided and shall be construed as though it were prepared

by Seller and Customer. Section headings in this Agreement are for convenience of reference only and shall not be used in the interpretation of this Agreement. If any part or any provision of this Agreement other than Section 4.0 (Charges and Fees) above or any other agreement, document, or writing given pursuant to or in connection with this Agreement shall be invalid or unenforceable under applicable Law, said part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts or provisions of this Agreement. Seller and Customer agree to use reasonable efforts to negotiate with respect to any such invalid or unenforceable part or provision to attempt to render such part or provision valid and enforceable. If Section 4.0 (Charges and Fees) above shall be invalid or unenforceable under applicable Law, then this Agreement may be terminated by Seller on notice to Customer. Notwithstanding any provision or inference to the contrary, the indemnification and hold harmless provisions contained in, and any monetary sums owed under this Agreement shall survive the termination of this Agreement.

29. **Insurance.** Both parties shall procure commercial general liability and, if necessary, commercial Umbrella Liability insurance, including, but not limited to contractual liability coverage from an insurer reasonably satisfactory to the other party, in the amount of at least Two Million Dollars (\$2,000,000.00) each occurrence. A party shall provide a Certificate of Insurance for such insurance to the other party upon request.

30. **Governing Law.** This Agreement shall be construed and enforced in accordance with, and the validity and performance of this Agreement shall be governed by, the laws of the State of North Carolina without regard to its choice of laws rules.

31. **Amendments.** No amendment, modification or discharge of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and duly executed by the party against whom enforcement of the amendment, modification, discharge or waiver is sought.

32. **Entire Agreement.** This Agreement (including its exhibits) constitutes the entire agreement between the parties with respect to the subject matter of this Agreement; and it supersedes all prior oral and written agreements, commitments, and understandings with respect to said subject matter.

33. **Execution.** To facilitate execution, this Agreement may be executed using electronic signatures, electronic copies, or in as many counterparts as may be required; and it shall not be necessary that the signatures of, or on behalf of, a party, or that the signatures of all persons required to bind a party, appear on each counterpart. It shall be sufficient that the signature of, or on behalf of, a party, or that the signatures of the persons required to bind a party, appear on one or more of the counterparts. All counterparts collectively shall constitute a single agreement. It shall be unnecessary in making proof of this Agreement to produce or account for more than one counterpart containing the respective signatures of, or on behalf of, the parties.



EXHIBIT C MASTER SERVICE AGREEMENT DATA & VOICE SERVICE LEVEL AGREEMENT

General. This Data & Voice Service Level Agreement (SLA) describes target network performance and service level metrics for end user data and voice services via Ethernet or TDM provided by Segra.

1. Access Circuit Network Availability.

- 1.1 "Network Availability" is the percentage of total minutes during a calendar month that the Services are available to the Customer. Network Availability is calculated as follows:

$$\text{Network Availability \%} = \frac{[(\text{Total Minutes in the Month}) - (\text{Sum of Total Outage Minutes})] \times 100}{\text{Total Minutes in the Calendar Month}}$$

The Services shall be deemed to be "unavailable" whenever an outage is recorded on a Segra trouble ticket classified as "major" or "critical" by Segra Network Operations Center which results in Customer not having the ability to transmit or receive packets by means of the Services, and "Total Outage Minutes" shall be deemed to be the length of time during which the Services are unavailable to the Customer, as reflected on such trouble tickets. "Total outage minutes" shall not include any outages (i) occurring during scheduled maintenance activities; (ii) attributable to any act or omission of Customer; (iii) attributable to Customer's applications, equipment or facilities; (iv) resulting from reasons of Force Majeure or other causes beyond the reasonable control of Segra or (v) lasting ten minutes or less.

- 1.2 The objective for Network Availability is 99.99 %. For any month in which the objective is not met, Customer will receive a credit, which may be applied towards Customer's subsequent monthly invoice(s), up to and not exceeding the monthly recurring charges for the affected Services [i.e., the portion(s) of the Services directly made unavailable as a result of the outage(s) in question] for each cumulative hour or portion thereof during which such Services are unavailable to the Customer (subject to the limitations set forth herein.) Unavailability and credits will be prorated and paid in 15-minute increments.

2. Access Circuit Mean Time to Repair

- 2.1 Mean Time to Repair (MTTR) is the average time required to repair service to an operational condition if service(s) are not active or Customer is experiencing consistent service degradation. The MTTR objective is four (4) hours depending on for outages due to electronic equipment failure and fiber optic facilities failure and ten (10) hours for outages due to fiber cuts.
- 2.2 If the MTTR is not met, Customer may request a credit, to be applied towards Customer's subsequent monthly invoice(s), up to and not exceeding the monthly recurring charges for each hour over the four-hour MTTR [i.e., the portion(s) of the Services directly made unavailable as a result of the outage(s) in question] per violation. For any month in which the objective is not met, customer may receive a credit for each location.
- 2.3 **Exclusion:** MTTR statistics will not include any time lost waiting on repair-related information from customer or access to customer premises.

3. Circuit Latency

- 3.1 "Average Latency" is the monthly average round-trip latency from a core network node to any other designated core network node on the Segra network, determined by measuring round-trip network responses over such portions of the network.
- 3.2 The objective for Average Latency is to not be greater than 8 milliseconds inside a Metropolitan Area. The objective for Average Latency is to not be greater than 30 milliseconds between Metropolitan markets. For any month in which the objective is not met, Customer will receive a credit, which may be applied towards Customer's monthly invoice, equal to 1/30 of the monthly recurring charges for the Services.

Latency = Sum of the roundtrip delay measurements for an On-Net Service
Total # of measurements for an On-Net Service

Metro Area Market 8ms Latency	WAN 30ms Latency	National 90ms Latency
Round trip where both sites A and Z are within the same Metro Area Market	Round trip between any 2 Metro Area Markets within the same WAN	Round trip between any two WANs
- Atlanta, GA - Asheville, NC - Charlotte, NC - Fayetteville, NC - Greensboro, NC - Raleigh, NC - Wilmington, NC - Pittsburgh, PA - Charleston, SC - Columbia, SC - Florence, SC - Greenville, SC - Myrtle Beach, SC - Ashburn, VA - Charlottesville, VA - Hampton Roads, VA - Harrisonburg, VA - Richmond, VA - Roanoke, VA - Waynesboro, VA - Charleston, WV - Morganton, WV	WAN defined by State Borders - Georgia - Kentucky - North Carolina - Maryland - Ohio - Pennsylvania - South Carolina - Virginia - West Virginia	

4. Circuit Jitter

- 4.1 “Average Jitter” is the monthly average variation in the time between packets arriving, as measured at designated portions of the Segra network, determined by measuring Jitter over such portions of the network during a calendar month.
- 4.2 The objective for Average Jitter is to not be greater than 2 milliseconds. For any month in which the objective is not met, customer will receive a credit of 1 days value monthly recurring charge specified in the agreement for each occurrence which the parameters are not met, which may be applied towards Customer’s monthly invoice, up to and not exceeding the monthly recurring charges for the Services.

5. Packet Loss

- 5.1 “Packet Loss” or “Frame Loss Ratio” is defined as the percentage of frames that are not successfully received compared to the total frames that are sent in a calendar month, except where any packet or frame loss is the result of an Excluded Disruption. The percentage calculation is based on frames that are transmitted from a network origination point and received at a network destination point (Segra network hub to Segra network hub). Packet Loss / Frame Loss Ratio is calculated as follows:

$$\text{Packet Loss / Frame Loss (\%)} = 100 (\%) - \text{Frames Received (\%)}$$

- 5.2 The Packet Delivery Service Level for Segra SIP solution is less than 0.25% (on average) of total IP packets dropped per month. The Packet Delivery Service Level will be measured by Segra between four (4) Segra North American Gateways, and is defined as the percentage of IP packets dropped between such Gateways.

Cumulative Unavailability per event (in hours: minutes: seconds)	Service Level Credit
0:00:01 – 00:30:00	No Credit
00:31:01– 01:30:00	1 day
01:30:01– or more	3 days

6. Missed Service Standard

- 6.1 Missed Service Standard is measured as three trouble tickets or missed service standards within a calendar month.
- 6.2 In the event that the objective for Missed Service Standard is exceeded then the affected site will be eligible for an additional 10% credit of the monthly recurring charge.

7. Service Credits

- 7.1 In order to receive any of the service credits described in this SLA, Customer must notify Segra within ninety days from the time Customer becomes eligible to receive a service credit. Failure to comply with this requirement will forfeit Customer's right to receive a service credit.
- 7.2 Reports are prepared and credits for documented occurrences are issued within 60 business days of receipt of Customer notice.

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Larry Davis, IT Director

Date: April 5, 2021

Subject: Approve lease with Technocom for ten Multifunction Copiers and one Plotter. *(Larry Davis)*

EXPLAIN REQUEST:

The Town issued an RFP on December 15, 2020, for ten Multifunction Copiers and one Plotter and received four responses. Staff interviewed the four proposing firms to confirm that they met the requirements. Four Town staff members performed a site visit to test and operate the proposed machines and were satisfied that they met expectations. The attached proposed lease is with Technocom, the low-cost bidder for a proposed 36-month lease as recommended by Staff.

ACTION RECOMMENDED:

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

1. Certificate of Incumbency and Authority
2. Town of Huntersville Amendment for Technocom agreement
3. Town of Huntersville Amendment
4. Town of Huntersville Municipal Lease
5. Town of Huntersville Service Agreement
6. Copier Bid Sheet

CERTIFICATE OF INCUMBENCY AND AUTHORITY

Lessee / Customer: HUNTERSVILLE TOWN OF
Lessor / Owner: Wells Fargo Financial Leasing, Inc

I, _____ do hereby certify that I am the duly qualified and
acting _____ of HUNTERSVILLE TOWN OF
("Entity"); with a chief executive office located at the following
address: _____,
that the person(s) whose names, titles/offices, and signatures appear below are duly elected (or
appointed) and are authorized to sign on behalf of said Entity and on behalf of Lessee / Customer
and hold on the date of this Certificate the offices set opposite their respective names; that the
signatures below are the genuine signatures of such persons; that each of such person is duly
authorized for and on behalf of said Entity to execute and deliver any Lease / Agreement
between said Entity and Wells Fargo Financial Leasing, Inc ("Lessor / Owner"), and all
ancillary agreements, (including without limitation, any guarantees, as applicable), documents
and instruments in connection therewith, including without limitation, assignments, schedules
and delivery and acceptance certificates (collectively, the "Agreement") and that the execution
and delivery of the Agreement for and on behalf of said Entity or the above mentioned Lessee /
Customer is not prohibited by or in any manner restricted by the terms of said Entity's (or
Lessee's / Owner's) Certificate of Incorporation or other organizational document, its by-laws or
any loan agreement, indenture or contract to which said Entity is a party or under which it is
bound. I do further certify that the foregoing authority shall remain in full force and effect and
Lessor / Owner (and any successor or assign of Lessor / Owner) shall be entitled to rely upon
same, until written notice of the modification, rescission or revocation of same, in whole or in
part, has been delivered to Lessor / Owner, but in any event, shall be effective with respect to
any documents executed or actions taken in reliance upon the foregoing authority prior to the
delivery to Lessor / Owner of such written notice, modification, rescission or revocation.

NAME	TITLE/OFFICE	SIGNATURE
_____	_____	X _____
_____	_____	X _____
_____	_____	X _____
_____	_____	X _____

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Entity this
day of _____, 20_____.

By: _____

Name:

Title:

[Entity Seal]



3330 Monroe Road
Charlotte, NC 28205
www.technocomUSA.com
(704) 847-5200

Amendment to “Equipment Sales/Service Maintenance Agreement”

The following changes to the Terms and Conditions between Technocom and Town of Huntersville have been approved by both parties:

- Removing the language, “The Customer shall pay all reasonable attorney’s fees incurred by TBS to attempt to collect any monies due to TBS”, which is item “H” under “Customer’s Responsibility”.
- Removing the language, “TBS reserves the right to increase the contract amount of this contract”, which is item “C” under “Term and Rate”.
- Removing the language, “Periodic billing increases per Section C of Term and Rate section may reflect a change in rate and payment of invoice shall be considered acceptance of the new contract rate”, which is item “D” under “Term and Rate”.
- Adding the following Governmental Provision, “You intend to do all things lawfully within your power to obtain and maintain funds from which Payments may be made, including making provision for such payments to the extent necessary in each budget or appropriation request submitted and adopted in accordance with applicable law. If your governing body fails to appropriate sufficient funds to pay all Payments and other amounts due and to become due hereunder in Your next fiscal period (“Non-Appropriation”), then (a) You shall promptly notify Us of such Non-Appropriation, (b) this Agreement will terminate as of the last day of the fiscal period for which appropriations were received.

Technocom

Signature

Printed Name

Date

Town of Huntersville

Signature

Printed Name

Date

AMENDMENT TO MUNICIPAL IMAGE MANAGEMENT AGREEMENT

THIS AMENDMENT TO MUNICIPAL IMAGE MANAGEMENT AGREEMENT is by and between **HUNTERSVILLE TOWN OF**, as Customer, and **WELLS FARGO FINANCIAL LEASING, INC.** as Owner.

BACKGROUND

A. By that certain Municipal Image Management Agreement, # **450-6838150-011**, dated _____, **20**____, by and between Owner and Customer, Owner has agreed to extend financing to Customer upon and subject to the terms and conditions set forth in the Municipal Image Management Agreement ("**Agreement**").

B. Owner and Customer desire to amend the terms and conditions of the Agreement, upon and subject to the terms and conditions of this Amendment.

C. All capitalized terms not otherwise defined herein will have the meanings set forth in the Agreement.

NOW, THEREFORE, in consideration of good and valuable consideration, the parties intending to be legally bound agree as follows:

1. EFFECT OF HANDWRITTEN CHANGES. The Parties to the Agreement acknowledge and agree that none of the hand-written (or typed, as the case may be) additions or deletions to the text of the terms and conditions of the Agreement shall be enforceable. Each of the provisions in the Agreement, as originally pre-printed on the front and/or back (or Pages 1 and/or 2) of the Agreement, shall remain in full force and effect, except to the extent expressly set forth herein.

2. APPLICABLE LAW; SEVERABILITY. The second sentence of Section 13 of the Agreement, which reads as follows, shall be deleted in its entirety:

"YOU AND WE HEREBY WAIVE YOUR AND OUR RESPECTIVE RIGHTS TO A TRIAL BY JURY IN ANY LEGAL ACTION."

3. EFFECTIVE DATE. This Amendment is executed to be effective the same day as the Agreement, and is incorporated into and made a part of the Agreement.

4. EFFECT OF AMENDMENT. All terms and conditions of the Agreement not expressly modified hereby remain in full force and are hereby ratified by the parties.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Amendment on the dates set forth below but effective as of the effective date of the Agreement, as set forth above.

HUNTERSVILLE TOWN OF

WELLS FARGO FINANCIAL LEASING, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date of Execution: _____

Date of Execution _____

Municipal Image Management Agreement

Wells Fargo Financial Leasing, Inc. | 800 Walnut, 4th floor | Des Moines, Iowa 50309 | Phone: 800-247-5083

Customer Information : Customer's Full Legal Name ("You" and "Your"): Town of Huntersville		Supplier Information: Supplier Name ("Supplier"): Technocom	
Address: 101 Huntersville-Concord Rd		Address: 3330 Monroe Rd	
City/State/Zip Code: Huntersville, NC 28078		City/State/Zip Code: Charlotte, NC 28205	
Telephone Number: 704-875-6541	Federal Tax ID#:	County: Mecklenburg	
Equipment Information: ☒ See Attached Equipment Schedule		Equipment Location (if different than address shown above):	
Quantity	Equipment Make, Model/Accessories	Serial Number	Starting Meter
			"Service Only" ☐
			☐

Term And Payment Information: Initial Term: 36 months		Payment*: \$2,438.00		(*plus applicable taxes)	
Payment Period is "Monthly" unless otherwise noted here:		Security Deposit: \$0		Documentation/Processing Fee: \$75.00	
Advance Payment: \$		applied to: ☐ 1st Payment		☐ Last Payment ☐ 1st and Last Payments	
Payment includes 0	B&W copies per month	Overages billed	at \$_____	per B&W copy*	
Payment includes 0	Color copies per month	Overages billed	at \$_____	per Color copy*	
Payment includes 0	B&W prints per month	Overages billed	at \$_____	per B&W print*	
Payment includes 0	Color prints per month	Overages billed	at \$_____	per Color print*	

You acknowledge and agree that this agreement (as amended from time to time, the "Agreement") represents the complete and exclusive agreement between You and Us regarding the subject matter herein and supersedes any other oral or written agreements between You and Us regarding such matters. This Agreement can be changed only by a written agreement between You and Us. Other agreements not stated herein (including, without limitation, those contained in any purchase order or service agreement between You and the Supplier) are not part of this Agreement.

1. EQUIPMENT RENTAL. You agree to rent from Us the personal property listed above (together with all existing and future accessories, attachments, replacements and embedded software, the "Equipment") upon the terms stated herein. This Agreement is binding on You as of the date You sign it. You agree that after You sign, We may insert or correct any information missing on this Agreement, including Your proper legal name, serial numbers and any other information describing the Equipment, and change the Payment by up to 15% due to a change in the Equipment or its cost or a tax or payment adjustment.

2. EQUIPMENT SERVICE; SUPPLIES; UNCONDITIONAL OBLIGATION. The Supplier has agreed to provide You with Equipment service during normal business hours and to provide You with all toner, developer and parts necessary for You to produce copies and prints, all of which are included in the Payment amount. However, You agree that: (a) You must separately purchase all other supplies, including, without limitation, copier paper, at Your own cost, and (b) You must separately purchase Equipment service outside the Supplier's normal business hours and any service, parts or supplies required by your misuse of the Equipment or failure to follow the manufacturer's suggested use instructions. You agree that: (i) We are a separate and independent company from the Supplier, manufacturer and any other vendor (collectively, "Vendors"), and the Vendors are NOT Our agents; (ii) No representation or warranty by any Vendor is binding on Us, and no Vendor has authority to waive or alter any term of this Agreement; (iii) You, not We, selected the Equipment and the Vendors based on Your own judgment; (iv) Your obligations hereunder are absolute and unconditional and are not subject to cancellation, reduction or setoff for any reason whatsoever (including, without limitation, any Equipment failure or any Vendor's failure to provide You with any Equipment service, parts or supplies), subject to Section 14; (v) We are not responsible for providing You with Equipment service, parts or supplies, or for any other obligations that the Supplier owes to You (even though We may, as a convenience to You and the Supplier, bill and collect monies owed by You to the Supplier), and no breach by the Supplier will excuse You from performing Your obligations to Us hereunder; and (vi) If the Equipment is unsatisfactory or if any Vendor fails to provide any service or fulfill any other obligation to You, You shall not make any claim against Us and shall continue to fully perform under this Agreement. With respect to any equipment designated as "Service Only", You acknowledge and agree that: (i) We do not own such equipment, (ii) such equipment is not provided or rented to You pursuant to the terms of this Agreement, (iii) the Supplier has agreed to provide service and supplies for such equipment in accordance with the terms of this Section 2, and (iv) the portion of the Payment attributable to such "service only" equipment includes payment only for the service and supplies provided by the Supplier pursuant to this Section 2 and not for the use or rental of such equipment.

3. PAYMENTS. You agree to pay Us an interim rent charge as reasonably calculated by Us for the period from the date the Equipment is delivered to You until the Commencement Date. The payment for this interim period will be based on the Payment prorated on a 30 day calendar month and will be added to Your first invoice. Each Payment Period, You agree to pay Us, by the due date set forth on Our invoice to You (i) the Payment, (ii) the applicable overage charges for each metered copy or print in excess of the applicable number of copies or prints included in the Payment, and (iii) applicable taxes and other charges provided for herein. You agree to pay the minimum Payment amount even if You do not make the applicable number of copies or prints in a given month. There are no "credits" that carry over from any Payment Period during which You make fewer than the applicable number of included copies or prints. You agree that We may increase the Payment and/or the applicable overage charges once each year during the Term, by an amount not to exceed 15% per year. At Our option, You will (a) provide Us by telephone or facsimile with the actual meter readings when We so request, (b) allow Us to attach an automatic meter reading device to the Equipment, or (c) allow Us access to the Equipment to obtain meter readings or audit the meter reading device. If We request You to provide Us with meter readings and You fail to do so within 7 days of Our request, then (i) We may estimate the number of copies and prints made and invoice You accordingly, and (ii) We will adjust the estimated charge for overages upon receipt of actual meter readings. Restrictive endorsements on checks will not be binding on Us. All payments received will be applied to past due amounts and to the current amount due in such order as We determine. Any security deposit that You pay is non-interest bearing, may be commingled with Our funds, may be applied by Us at any time to cure any default by You, and the unused portion will be returned to You after You have satisfied all of Your obligations hereunder. If We do not receive a payment in full on or before its due date, You shall pay a fee equal to the greater of 10% of the amount that is late or \$29.00 (or the maximum amount permitted by applicable law if less). You shall pay Us a returned check or non-sufficient funds charge of \$20.00 for any returned or dishonored check or draft.

4. TERM; AUTOMATIC RENEWAL. The term of this Agreement will begin on the date that it is accepted by Us or any later date that We designate (the "Commencement Date") and will continue for the number of months shown above (the "Initial Term"), subject to Section 14. As used herein, "Term" means the term presently in effect at any time, whether it is the Initial Term or a Renewal Term (defined below). **Unless You notify Us in writing at least 30 days before the end of the Term (the "Notice Period") that You intend to return the Equipment at the end of such Term, then: (a) this Agreement will automatically renew for an additional one-month period (a "Renewal Term") and (b) all terms of this Agreement will continue to apply.** If You do notify Us in writing within the Notice Period that You intend to return the Equipment at the end of the Term, then You shall return the Equipment pursuant to Section 12. **This Agreement is non-cancelable for the full Term, subject to Section 14.**

5. INDEMNIFICATION. To the extent permitted by applicable law, You shall indemnify and hold Us harmless from and against, any and all claims, actions, damages, liabilities, losses and costs (including but not limited to reasonable attorneys' fees) made against Us, or suffered or incurred by Us, arising directly or indirectly out of, or otherwise relating to, the delivery,

BY SIGNING BELOW, CUSTOMER ACKNOWLEDGES RECEIPT OF PAGE 2 OF THIS AGREEMENT AND AGREES TO THE TERMS ON BOTH PAGES 1 & 2

Customer: (identified above) Town of Huntersville		Wells Fargo Financial Leasing, Inc. ("We," "Us," "Our" and "Owner")	
By:	Date: ____ / ____ / ____	By:	Date: ____ / ____ / ____
Print name:	Title:	Print name:	Title:
		Agreement Number:	

installation, possession, ownership, use, loss of use, defect in or malfunction of the Equipment. This obligation shall survive the termination of this Agreement. We shall not be liable to You for any damages of any kind, including any liability for consequential damages, arising out of the use of or the inability to use the Equipment.

6. NO WARRANTIES. WE ARE PROVIDING THE EQUIPMENT TO YOU "AS IS". WE HAVE NOT MADE AND HEREBY DISCLAIM ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, ARISING BY APPLICABLE LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. The parties hereto agree that this Agreement is, or shall be treated as, a "finance lease" under Article 2A of the Uniform Commercial Code (the "UCC"). You hereby waive any and all rights and remedies conferred upon You by Article 2A of the UCC. If this Agreement is deemed to be a secured transaction, You hereby grant to Us a security interest in the Equipment and all proceeds thereof. You authorize Us to record UCC financing statements to protect Our interests in the Equipment. You may be entitled under Article 2A of the UCC to the promises and warranties (if any) provided to Us by the Supplier(s) in connection with or as part of the contract (if any) by which We acquire the Equipment, which warranty rights We assign to You for the Term (provided You are not in default). You acknowledge that You are aware of the name of the Supplier of each item of Equipment and You may contact the Supplier(s) for an accurate and complete statement of those promises and warranties (if any), including any disclaimers and limitations of them or of remedies.

7. DELIVERY; LOCATION; OWNERSHIP; USE AND MAINTENANCE. We are not responsible for delivery or installation of the Equipment. You are responsible for Equipment maintenance to the extent the Supplier does not provide the same. You will not remove the Equipment from the Equipment Location unless You first get Our permission. If the Equipment is moved to a new location, We may increase the Payment and/or "overage" charges by a reasonable amount in order to account for any increased costs to the Supplier in providing covered service, parts and supplies to You. You shall give Us reasonable access to the Equipment Location so that We may inspect the Equipment, and You agree to pay Our costs in connection therewith. We will own and have title to the Equipment (excluding any software) during the Agreement. If the Equipment includes any software: (i) We don't own the software, (ii) You are responsible for entering into any necessary software license agreements with the owners or licensors of such software, (iii) You shall comply with the terms of all such agreements, if any, and (iv) any default by You under any such agreements shall constitute a default by You under this Agreement. You agree that the Equipment is and shall remain personal property and without Our prior written consent, You shall not permit it to become (i) attached to real property or (ii) subject to liens or encumbrances of any kind. You represent that the Equipment will be used solely for performing one or more of Your governmental functions and not for personal, family or household purposes. You will use the Equipment in accordance with all laws, operation manuals, service contracts (if any) and insurance requirements, and shall not make any permanent alterations to it. At Your own cost, You will keep the Equipment in good working order and warrantable condition, ordinary wear and tear excepted ("Good Condition").

8. LOSS; DAMAGE; INSURANCE. You shall, at all times during this Agreement, (i) bear the risk of loss and damage to the Equipment and shall continue performing all Your obligations to Us even if it becomes damaged or suffers a loss, (ii) keep the Equipment insured against all risks of damage and loss ("Property Insurance") in an amount equal to its replacement cost, with Us named as sole "loss payee" (with a lender's loss payable endorsement if required by Owner or its Assignee), and (iii) carry public liability insurance covering bodily injury and property damage ("Liability Insurance") in an amount acceptable to Us, with Us named as an additional insured thereunder. You have the choice of satisfying these insurance requirements by providing Us with satisfactory evidence of Property and Liability Insurance ("Insurance Proof"), within 30 days of the Commencement Date. Such Insurance Proof must provide for at least 30 days prior written notice to Us before it may be cancelled or terminated and must contain other terms satisfactory to Us. With Our prior written consent, You may satisfy Your Property Insurance obligations under this Section 8 by means of a self-insurance program reasonably acceptable to Us. If you do not provide Us with Insurance Proof within 30 days of the Commencement Date, or if such insurance terminates for any reason, then (a) You agree that We have the right, but not the obligation, to obtain such Property Insurance and/or Liability Insurance in such forms and amounts from an insurer of Our choosing in order to protect Our interests ("Other Insurance"), and (b) You agree that We may charge you a periodic charge for such Other Insurance. This periodic charge will include reimbursement for premiums advanced by Us to purchase Other Insurance, billing and tracking fees, charges for Our processing and related fees associated with the Other Insurance, and a finance charge of up to 18% per annum (or the maximum rate allowed by law if less) on any advances We make for premiums (collectively, the "Insurance Charge"). We and/or one or more of our affiliates and/or agents may receive a portion of the Insurance Charge, which may include a profit. We are not obligated to obtain, and may cancel, Other Insurance at any time without notice to You. Any Other Insurance need not name You as an insured or protect Your interests. The Insurance Charge may be higher than if You obtained Property and Liability Insurance on Your own.

9. ASSIGNMENT. You shall not sell, transfer, assign or otherwise encumber (collectively, "Transfer") this Agreement, or Transfer or sublease any Equipment, in whole or in part, without Our prior written consent. We may, without notice to You, Transfer Our interests in the Equipment and/or this Agreement, in whole or in part, to a third party (an "Assignee"), in which case the Assignee will, to the extent of such Transfer, have all of Our rights and benefits but will not have to perform Our obligations (if any). Any Transfer by Us will not relieve Us of Our obligations hereunder. You agree not to assert against the Assignee any claim, defense or offset You may have against Us.

10. TAXES AND OTHER FEES. You are responsible for all taxes (including, without limitation, sales, use and personal property taxes, excluding only taxes based on Our income), assessments, license and registration fees and other governmental charges relating to this Agreement or the Equipment (collectively "Governmental Charges"). Sales or use taxes due upfront will be payable over the Initial Term, with a finance charge. You authorize Us to pay any Governmental Charges as they become due, and You agree to reimburse Us promptly upon demand for the full amount. You agree to pay Us a fee for Our administration of taxes related to the Equipment. You also agree to pay Us upon demand (i) for all costs of filing, amending and releasing UCC financing statements, and (ii) a documentation/processing fee in the amount set forth on Page 1 (or as otherwise agreed to). You also agree to pay Us a fee for additional services We may provide to You at Your request during this Agreement. You acknowledge that We may (on behalf of the Supplier) bill You for any supply freight fee that the Supplier charges for shipping supplies to You. If You so request and We permit the early termination (excluding a termination pursuant to an event of Non-Appropriation) of this Agreement, You acknowledge that there may be a cost or charge to You for such privilege. You agree that the fees and other amounts payable under this Agreement may include a profit to Us and/or the Supplier.

11. DEFAULT; REMEDIES. You will be in default hereunder if (1) You fail to pay any amount due hereunder within 15 days of the due date, (2) You breach or attempt to breach any other term, representation or covenant herein or in any other agreement now existing or hereafter entered into with Us or any Assignee, (3) an event of default occurs under any obligation You may now or hereafter owe to any affiliate of Us or any Assignee, (4) You file, or there is filed against You, a case or proceeding under any bankruptcy, insolvency or other similar laws, or (5) You suffer an adverse change in Your financial condition. If You default, We may do any or all of the following: (A) cancel this Agreement, (B) require You to promptly return the Equipment pursuant to Section 12, (C) take possession of and/or render the Equipment (including any software) unusable (and for such purposes You hereby authorize Us and Our designees to enter Your premises, with or without prior notice or other process of law), and sell, lease or otherwise dispose of the Equipment on such terms and in such manner as We may in Our sole discretion determine, (D) require You to pay to Us, on demand, liquidated damages in an amount equal to the sum of (i) all Payments and other amounts then due and past due, and (ii) all remaining Payments for the remainder of Your then-current fiscal period (such amounts specified in sub-clauses "i" through "ii" referred to below as the "Balance Due"), and/or (E) exercise any other remedy available to Us under law. You also agree to reimburse Us on demand for all reasonable expenses of enforcement (including, without limitation, reasonable attorneys' fees and other legal costs) and reasonable expenses of repossessing, holding, preparing for disposition, and disposition ("Remarketing") of the Equipment. In the event We are successful in Remarketing the Equipment, We shall give You a credit against the Balance Due in an amount equal to the present value of the proceeds received and to be received from Remarketing minus the above-mentioned costs (the "Net Proceeds"). If the Net Proceeds are less than the Balance Due, You shall be liable for such deficiency. Any delay or failure to enforce Our rights hereunder shall not constitute a waiver thereof. The remedies set forth herein are cumulative and may be exercised concurrently or separately.

12. RETURN OF EQUIPMENT. If You are required to return the Equipment under this Agreement, You shall, at Your expense, send the Equipment to any location(s) that We may designate and pay Us a handling fee of \$250.00. The Equipment must be properly packed for shipment, freight prepaid and fully insured, and must be received in Good Condition (defined in Section 7). All terms of this Agreement, including Your obligation to make Payments and pay all other amounts due hereunder shall continue to apply until the Equipment is received by Us in accordance with the terms of this Agreement. You are solely responsible for removing all data from any digital storage device, hard drive or other electronic medium prior to returning the Equipment or otherwise removing or allowing the removal of the Equipment from Your premises for any reason (and You are solely responsible for selecting an appropriate removal standard that meets Your business needs and complies with applicable laws). We shall not be liable for any losses, directly or indirectly arising out of, or by reason of the presence and/or use of any information, images or content retained by or resident in any Equipment returned to Us or repossessed by Us.

13. APPLICABLE LAW; SEVERABILITY. This Agreement shall be deemed fully executed and performed in the State in which You are located. **YOU AND WE HEREBY WAIVE YOUR AND OUR RESPECTIVE RIGHTS TO A TRIAL BY JURY IN ANY LEGAL ACTION.** If any amount charged or collected under this Agreement is greater than the amount allowed by law (an "Excess Amount"), then (i) any Excess Amount charged but not yet paid will be waived by Us and (ii) any Excess Amount collected will be refunded to You or applied to any other amount then due hereunder. Each provision hereof shall be interpreted to the maximum extent possible to be enforceable under applicable law. If any provision is construed to be unenforceable, such provision shall be ineffective only to the extent of such unenforceability without invalidating the remainder hereof.

14. GOVERNMENTAL PROVISIONS. You hereby represent, warrant and covenant to Us that: (a) You intend, subject only to this Section 14, to remit to Us all sums due and to become due under this Agreement for the full Term; (b) Your governing body has appropriated sufficient funds to pay all Payments and other amounts due during Your current fiscal period; (c) You reasonably believe that legally available funds in an amount sufficient to make all Payments for the full Term can be obtained; and (d) You intend to do all things lawfully within Your power to obtain and maintain funds from which Payments may be made, including making provision for such payments to the extent necessary in each budget or appropriation request submitted and adopted in accordance with applicable law. If Your governing body fails to appropriate sufficient funds to pay all Payments and other amounts due and to become due hereunder in Your next fiscal period ("Non-Appropriation"), then (i) You shall promptly notify Us of such Non-Appropriation, (ii) this Agreement will terminate as of the last day of the fiscal period for which appropriations were received, and (iii) You shall return the Equipment to Us pursuant to Section 12. Your obligations under this Agreement shall constitute a current expense and shall not in any way be construed to be a debt in contravention of any applicable constitutional or statutory limitations or requirements concerning Your creation of indebtedness, nor shall anything contained herein constitute a pledge of Your general tax revenues, funds or monies. You further represent, warrant and covenant to Us that: (a) You have the power and authority under applicable law to enter into this Agreement and the transactions contemplated hereby and to perform all of Your obligations hereunder, (b) You have duly authorized the execution and delivery of this Agreement by appropriate official action of Your governing body and You have obtained such other authorizations, consents and/or approvals as are necessary to consummate this Agreement, (c) all legal and other requirements have been met, and procedures have occurred, to render this Agreement enforceable against You in accordance with its terms, and (d) You have complied with all public bidding requirements applicable to this Agreement and the transactions contemplated hereby.

15. MISCELLANEOUS. You shall furnish Us or an Assignee with current financial statements, current budgets and/or proof of appropriations for each ensuing fiscal period upon request by Us or an Assignee. You authorize Us or an Assignee to (a) obtain credit reports or make credit inquiries in connection with this Agreement, and (b) provide Your credit application, information regarding Your account to credit reporting agencies, potential Assignees, Vendors and parties having an economic interest in this Agreement and/or the Equipment. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute the same document; provided, however, only the counterpart which is marked "Original" and is in Our possession shall constitute chattel paper under the UCC. You acknowledge that You have received a copy of this Agreement and agree that a facsimile or other copy containing Your faxed, copied or electronically transmitted signature may be treated as an original and will be admissible as evidence of this Agreement. You waive notice of receipt of a copy of this Agreement with Our original signature.



3330 Monroe Rd
Charlotte, NC 28205
Telephone: (704) 847-5200
Fax: (704) 847-5272
www.technocomusa.com

EQUIPMENT SALES / SERVICE MAINTENANCE AGREEMENT

Bill To	Town of Huntersville			Ship To:	Town of Huntersville		
Address	101 Huntersville- Concord			Address	101 Huntersville- Concord		
Address 2:				Address 2:			
City State:	Huntersville	NC	28078	City State:	Huntersville	NC	28078
Phone:	(704) 875-6541	Fax	(704) -	Phone:	(704) 875-6541	Fax	(704) -
Email:	ldavis@huntersville.org			Email:	ldavis@huntersville.org		
Contact:	Larry Davis			Contact:	Larry Davis		

Quantity	Model	Serial	Meter Read	ID	Price	Total
1	HP Managed MFP E87660z					
1	HP Managed MFP E87640z					
4	HP managed MFP E57540dn					
4	HP Managed MFP E67660z					
1	HP pagewide 4200XL					
	For Additional Equipment/Attachments see Schedule A					

NOTES:	Technocom will close out all applicable lease and ship back all the equipment at no additional charge to the Twon
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#C/P/S	Service & Supply Maintenance Programs	Per Copy	Cost
NO MIN	B&W TCMA / All-inclusive plan to include parts, service & supplies. MONTHLY All plans exclude paper, staples, freight and toner waste bottles unless otherwise stated in sales order	0.00650	
NO MIN	COLOR TCMA / All-inclusive plan to include parts, service & supplies. MONTHLY All plans exclude paper, staples, freight and toner waste bottles unless otherwise stated in sales order	0.04900	
	CPC -RENTAL / All-inclusive plan to include equipment, parts service & supplies. All plans exclude paper, staples, freight and toner waste bottles unless otherwise stated in sales order.		
	FCMA / Plan includes parts & service with supplies sold separately. MONTHLY All plans exclude paper, staples, freight and toner waste bottles unless otherwise stated in sales order.		
	FAX / Annual Plan includes parts & labor. ANNUALLY This plan excludes paper, drum, freight and toner cartridges unless otherwise stated in sales order		
# OF DEVICES	Platinum Protection Program Maintenance Agreement MONTHLY	Cost Per Device	
	Includes controller system updates, printer drivers, labor for remote and on-site support for printing, scanning, pc-faxing, and other copier related connectivity issues. Includes toner waste bottles and supply shipping charges.		
	B&W Overages Per Copy / \$ _____ Color Overages Per Copy / \$ _____		
	Cost Per Scan		

	Effective Date of this Agreement if other than Today's Date below	Total	
	PLATINUM PROTECTION PROGRAM PLAN RATES: 1-4 Devices: \$9.95 / per device - per month 5-9 Devices: \$7.95 / per device - per month 10+ Devices: \$5.95 / per device - per month TO DECLINE PLATINUM PROTECTION PROGRAM INITIAL BELOW: Customer Initials _____	TAX	
		Install	
		Documentation	
		Deposit	
		Balance	

THIS AGREEMENT IS NOT ACCEPTED UNTIL EXECUTED BY AN OFFICER OF TECHNOCOM

I have read and understand the terms and conditions as listed on the reverse side of contract.

Authorized Signature: _____	PO _____	Equipment To P/U:	Y	N
Title: _____	Today's Date: 3/9/2021	Model Serial		
		Leasing Co		
Sales Representative: _____	Install Date: _____	Cancel Maint	Y	N
Technocom Officer: _____	Date: _____	Trnsfr Maint to Units		

TERMS AND CONDITIONS

Definitions - The following terms are defined for purposes of the Maintenance Contract

1) Agreement – this Sales/Maintenance Contract. 2) Customer – the person who is the purchaser, owner or party in possession of Equipment. 3) TBS – TechnoCom Business Systems, Inc. 4) Consumable/Supply – any item which is consumed in the process of making copies or prints in Equipment, for example: toner, developer, etc. 5) Equipment – Copier, Facsimile, Printer, Scanner and options specified on page 1 of this Agreement. 6) Effective Date – the date, which this agreement is accepted, and TBS will begin maintenance coverage. 7) Part – any assembly, component or device contained in Equipment which does not have predetermined life expectancy and which is not ordinarily replaced on a prearranged schedule, for example; switch, seal, electronic components, etc.

EQUIPMENT PURCHASE/LEASE TERMS AND CONDITIONS

1) Purchaser agrees to purchase or lease items described above in accordance with the terms hereof. 2) Purchaser shall execute any documents and take any action necessary to complete any lease transaction described above and acknowledges that the lessor of the equipment may be a third party leasing company. 3) This order is effective and binding only when read and accepted by TBS management. 4) Customer assumes all responsibility if equipment is not operated under manufacturer specifications.

MAINTENANCE CONTRACT TERMS AND CONDITIONS

***Monthly Billings require a \$100.00 minimum.**

TBS's responsibility – During the terms of this agreement TBS will: A) Provide maintenance, cleaning and lubrication of the Equipment as reasonably requested by Customer, during our regularly scheduled business hours (8:00 a.m. to 5:00 p.m. Monday – Friday). B) Replace any items on the equipment indicated in coverage section of the Agreement, which have failed through normal use and which are necessary for proper operation or maintenance of the Equipment. **If PLATINUM PROTECTION PROGRAM is declined for any reason; network related issues (network printing, pc faxing, scanning, etc.), toner waste bottles, and supply shipping charges will not be covered under this agreement.**

Customer's Responsibility – During the terms of this agreement the Customer will: A) Promptly notify TBS service department of any problems or malfunctions with the Equipment and cease usage if so advised by TBS until corrections are made. B) Provide suitable personnel for special key operator training in order to promote better equipment performance and inform TBS when a new key operator is appointed. C) Provide electrical service, working areas and environmental conditions suitable for normal operations of Equipment as specified by equipment manufacturer. D) Provide access to TBS personnel to clean, inspect, service, repair or make alterations to Equipment at any time during TBS's normal business hours. E) Use only those Parts, and Supplies provided or approved by TBS. Approval shall be based upon generally accepted industry and manufacturer's standards. F) Inform TBS of any change in business location and assume responsibility for damage incurred as a result of changing the location of the Equipment. G) Pay all invoices within 10 days of issuance. H) The Customer shall pay all reasonable attorneys' fees incurred by TBS to attempt to collect any monies due to TBS.

I) Non-payment of invoices may result in TBS withholding services under this contract. J) Pay any applicable tax now or hereafter assessed, levied, or imposed by any federal, state or local authority. K) By authorizing this agreement, client cannot hold TBS responsible for failed computer resources (servers, computers, etc) or data loss.

Data Collection Software - Customer agrees (a) to install TBS selected meter reading and Equipment device information software (including any updates, patches, or replacement software) on one or more of Customer's workstations that are connected to Customer's network so that meter readings and Equipment device information can be retrieved from the Equipment and transmitted via the internet to TBS, (b) to the end-user license agreement for such software, (c) to keep the workstations on which the software is installed powered on and connected to the Equipment via Customer's network at all times, except during network outages, routine network maintenance, and and (d) not to disable, disassemble, reverse engineer, or otherwise interfere with the operation of the software. If TBS fails to receive meter readings or device information on the Equipment, TBS will give Customer notice that Customer is in breach of this Agreement. If Customer does not provide TBS with meter readings within five (5) days of the date of TBS's request, then (i) TBS may estimate the number of prints used and invoice Customer accordingly, (ii) **TBS will charge a fee in the amount of \$5.00 per piece of Equipment that TBS does not receive meter readings for each month until TBS receives meter readings**, and (iii) TBS will adjust the estimated charge for excess prints upon receipt of actual meter readings. If Customer does not provide TBS with meter readings within fifteen (15) days of the date of TBS's request, then TBS may terminate this Agreement by giving Customer written notice of such termination. **Customer acknowledges that if customer does not provide meter readings that TBS will not be able to provide Customer with Consumables and the Equipment may not function or produce prints.** Customer also acknowledges that the TBS selected data collection software will send meter readings and other Equipment information to TBS from time to time.

Term and Rate – A) **The term of the Agreement shall be for the length of the lease if service is included in the lease or for a period of one year if service is not included in the lease.** B) **This agreement shall automatically be extended for successive one (1) year periods and/or conditions set forth on the front of this Agreement, unless either party gives at least ninety (90) days prior written notice of its intent to terminate.** C) TBS reserves the right to increase the contract amount of this contract. D) Periodic billing increases per Section C of Term and Rate section may reflect a change in rate and payment of invoice shall be considered acceptance of the new contract rate. E) No refunds will be given if the contract is voided due to the limitations stated below, misuse, non-use of Equipment, or non-payment. F) Payment of maintenance is due in advance of the coverage period. If customer refuses payment of contract, TBS may refuse to provide service and/or supplies. G) Maintenance contracts are subject to applicable sales tax. H) **Early Termination Fee - Early termination of this contract will result in an early termination fee equal to one quarter of the annual base contract amount.** G) **TBS reserves the right to recover all parts and/or supplies shipped to honor this contract in the event of termination.** H) **Contract can only terminated early if the account is in good standing.**

Additional Charges – Below are charges for which the Customer will be responsible: A) **If PLATINUM PROTECTION PROGRAM is declined, all Shipping and Handling charges will be billed to the Customer for all parts and/or supplies processed.** B) If at any time there is a break in coverage of over thirty (30) days, an inspection fee and service call charges, if applicable, will be charged before equipment can be re-established under an Agreement. A written estimate of the service call charges will be given to the Customer before any work is performed. C) Moving Equipment to a new location will be billed at TBS's stated service rates. D) Repairs to Equipment caused by misuse, environment issues, and electrical issues or due to non-normal usage will be billed at TBS's stated price for parts and prevailing service rates.

Limitations – this Agreement shall not apply to: 1) Servicing Equipment located in an unsafe or hazardous environment, as determined by TBS. 2) Painting or refinishing Equipment or furnishing materials for such purpose. 3) TBS shall not be responsible for parts and/or labor on Equipment, which needs overall or refurbishment, as deemed necessary by TBS. 4) TBS shall not be responsible for parts and/or labor on Equipment, which as been operated above the manufacturer's stated usage ratings for copies/prints per cycle. 5) Electrical work external to Equipment. 6) Repairs necessitated by atmospheric conditions not suitable for normal office work, repairs due to deviations in electrical power supply due to improperly grounded or improperly shielded electrical outlets, acts of God, water damage, neglect, theft, vandalism, fire or moving Equipment, unless moved by TBS personnel. 7) Repairs necessitated by the servicing of the Equipment by any person not authorized by TBS to provide service. 8) Repairs necessitated by the use of non-approved Supplies or Consumables. 9) Repairs necessitated by the improper performance of operators whether or not such operators were trained by TBS. 10) Servicing Equipment that is moved outside the geographic area covered by TBS.

Reconditioning - When in TBS's opinion a shop reconditioning is necessary because normal repairs and parts replacement cannot keep a unit in satisfactory operating condition TBS will submit a cost estimate of needed repairs which will be in addition to maintenance charges. If Customer does not authorize such work TBS may refuse to continue to service the unit under this Agreement, furnishing service only on a "per call" basis and TBS shall not be responsible for any equipment failures which are directly attributed to the need for reconditioning.

PLATINUM PROTECTION PROGRAM TERMS AND CONDITIONS

Exceptions to PLATINUM PROTECTION PROGRAM Agreement: 1) This agreements does not include coverage of errors within the operating system, third party software support/installation, data recovery, or cabling issues not listed unless mutually agreed upon in writing by Customer and TBS. 2) TBS is not responsible for any software licensing issue. 3) Performance of normal operator functions, System(s) backups, virus scans and network security are the responsibility of the customer.

Term of PLATINUM PROTECTION PROGRAM Agreement: The term, as stated on the face of this document, unless notified in writing, renews automatically for an equivalent period and may be adjusted at the discretion of TBS.

DISCLAIMER – TBS EXPRESSLY DISCLAIMS ANY DUTY AS AN INSURER OF THE EQUIPMENT AND MAKES NO WARRANTIES WHATSOEVER UNDER THIS AGREEMENT CONCERNING THE EQUIPMENT'S PERFORMANCE INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TBS WILL NOT BE LIABLE FOR MONETARY DAMAGES OF ANY KIND, DIRECT, INDIRECT OR CONSEQUENTIAL FOR ANY LOSS BY THE CUSTOMER AS A RESULT OF THE AGREEMENT, EVEN IF TBS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FOR EQUIPMENT MAINTENANCE AGREEMENT, TBS WILL BE RESPONSIBLE FOR PROVIDING ONLY THAT SERVICE WHICH IS REASONABLE, NORMAL AND PRACTICAL AND ONLY THAT SERVICE WHICH IS IN ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS AND RECOMMENDATIONS.

Assignment – The Customer without the express written consent of TBS, which will not be unreasonably withheld, may not assign this agreement. The Customer will assume full responsibility to inform any proposed assignee of the price, rates, terms and conditions of this Agreement and of the results of transfer of title, ownership, or possession of the Equipment

Entire Agreement – This Agreement contains the entire sales/service agreement between the parties and no persons are authorized to modify any of the terms and conditions contained herein. Authorized TBS personnel only, may modify this agreement in writing.

Vendor	Lease	Black	Color
Vision Office Systems	3,100.00	0.0070	0.04
Morris	2,867.13	0.0079	0.05
Technocom	2,438.00	0.0065	0.049
Hendrix	3,122.00	0.0085	0.0475

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Barry Graham

Date: April 5, 2021

Subject: Approve Contract for CLEAR Proflex Investigative Software. *(Chief Hoyle)*

EXPLAIN REQUEST:

CLEAR is a commonly used investigative tool that provides live gateways to quickly identify victims and persons of interest to assist in complex investigations using open source information, credit reporting, proprietary news sources, address and vehicle histories as well as social media information. It also speeds up the background investigation process by consolidating information into one interface. We are purchasing this software with existing budgeted funds this year but it is a month to month contract and needs board approval.

ACTION RECOMMENDED:

Approval of contract for purchase.

FINANCIAL IMPLICATIONS:

\$1,636.89 per month for unlimited access

ATTACHMENTS:

1. CLEAR Contract



THOMSON REUTERS™

Order Form**Order ID:Q-01066901**

Contact your representative matt.jillson@thomsonreuters.com with any questions.
Thank you.

Subscriber Information**Sold To Account Address**

Account #: 1005564161
HUNTERSVILLE POLICE DEPT
TEMP ACCESS CLEAR
9630 JULIAN CLARK AVE
HUNTERSVILLE NC 28078-3468 US

"Customer"

Shipping Address

Account #: 1005564161
HUNTERSVILLE POLICE DEPT
TEMP ACCESS CLEAR
9630 JULIAN CLARK AVE
HUNTERSVILLE NC 28078-3468 US

Billing Address

Account #: 1005564161
HUNTERSVILLE POLICE DEPT
TEMP ACCESS CLEAR
9630 JULIAN CLARK AVE
HUNTERSVILLE, NC 28078-3468 US

This Order Form is a legal document between West Publishing Corporation and Subscriber. West Publishing Corporation also means "West", "we" or "our" and Customer means "Subscriber", "you", "my" or "I". Subscription terms, if any, follow the ordering grids below

ProFlex Products
See Attachment for details

Material #	Product	Monthly Charges	Minimum Terms (Months)
41308780	CLEAR Proflex	\$1,686.39	36

Bridge Products

Material #	Product	Quantity	Unit	Bridge Monthly Charges	Bridge Term (Months)
41308780	CLEAR Proflex	1	Each	\$748.92	3

Bridge Terms

Bridge Monthly Charges begin on the date we process your order and will be prorated for the number of days remaining in the calendar month, if any. The Bridge Monthly charges will continue for the number of complete calendar months listed in the Bridge Term column above. At the end of the Bridge Term, your Monthly Charges and the Minimum Term will be as described in the Product grid above. All other terms and conditions of the Order Form remain unchanged.

Minimum Terms

Your subscription is effective upon the date we process your order ("Effective Date") and Monthly Charges will be prorated for the number of days remaining in that month, if any. Your subscription will continue for the number of months listed in the Minimum Term column above counting from the first day of the month following the Effective Date. Your Monthly Charges during the first twelve (12) months of the Minimum Term are as set forth above. If your Minimum Term is longer than 12 months, then your Monthly Charges for each year of the Minimum Term are displayed in the Attachment to the Order Form. You are also responsible for all Excluded Charges as defined below.

Post Minimum Terms

At the end of the Minimum Term, your Monthly Charges will increase by 7%. Thereafter, the Monthly Charges will increase 7% every 12 months unless we notify you of a different rate at least 90 days before the annual increase. You are also responsible for all Excluded Charges. Excluded Charges may change after at least 30 days written or online notice. Either of us may cancel the Post Minimum Term subscription by sending at least 60 days written notice. Send your notice of cancellation to Customer Service, 610 Opperman Drive, P.O. Box 64833, Eagan, MN 55123-1803.

Federal Government Subscribers Optional Minimum Term. Federal government subscribers that chose a multi-year Minimum Term, those additional months will be implemented at your option pursuant to federal law.

Miscellaneous

Thomson Reuters General Terms and Conditions, apply to all products ordered including ebooks, and is located at <https://static.legalsolutions.thomsonreuters.com/static/ThomsonReuters-General-Terms-Conditions.pdf>. In the event that there is a conflict of terms between the General Terms and Conditions and this Order Form, the terms of this Order Form control. This Order Form is subject to our approval.

Thomson Reuters General Terms and Conditions for Federal Subscribers is located at <https://static.legalsolutions.thomsonreuters.com/static/Federal-ThomsonReuters-General-Terms-Conditions.pdf>. In the event that there is a conflict of terms between the General Terms and Conditions and this Order Form, the terms of this Order Form control. This Order Form is subject to our approval.

Applicable Law. If you are a state or local governmental entity, your state's law will apply and any claim may be brought in the state or federal courts located in your state. If you are a non-governmental entity, this Order Form will be interpreted under Minnesota state law and any claim by

one of us may be brought in the state or federal courts in Minnesota. If you are a United States Federal Government subscriber, United States federal law will apply and any claim may be brought in any federal court.

Regulated Data. Due to the regulated or private nature of some data in our information products such as credit header data, motor vehicle data, driver license data and voter registration data, you may need to complete a credentialing process which will include certifying what your legally permissible use of the data will be. You agree to immediately notify us if any of the information you provided in your ordering document or during the credentialing process changes. You agree to and warrant that you are the end user of this data and that you will only use it for your own internal business purposes. You also warrant that you will strictly limit the access, use and distribution of this data to user permitted under applicable laws, rules and regulations and as permitted by the third party additional terms. You will keep the data confidential. You will use industry standard administrative, physical and technical safeguards to protect the data. You will not disclose it to anyone except as necessary to carry out your permissible use. You will immediately report any misuse, abuse or compromise of the data. You agree to cooperate with any resulting inquiry. If we reasonably believe that the data has been misused, abused or compromised, we may block access without additional notice. You are responsible for all damages caused by misuse, abuse or compromise of the data by you, your employees and any person or entity with whom you shared the data. We will be responsible for damages caused by us. We are not a consumer reporting agency. You may use information product data to support your own processes and decisions but you may not deny any service or access to a service to a consumer based solely upon the information product data. Examples of types of service include eligibility for credit or insurance, employment decisions and any other purpose described in the Fair Credit Reporting Act (15 U.S.C.A. 1681b). If the Financial Industry Regulatory Authority regulations apply to you, you may use our information products to verify the accuracy and completeness of information submitted to you by each applicant for registration on Form U4 or Form U5 in compliance with the requirements of FINRA Rule 3110. You may use the information products in this manner only in furtherance of written policies and procedures that are designed to achieve your compliance with FINRA Rule 3110 or as otherwise allowed by the General Terms and Conditions.

Charges, Payments & Taxes. You agree to pay all charges in full within 30 days of the date of invoice. You are responsible for any applicable sales, use, value added tax (VAT), etc. unless you are tax exempt. If you are a non-government subscriber and fail to pay your invoiced charges, you are responsible for collection costs including attorneys' fees.

Excluded Charges And Schedule A Rates. If you access products or services that are not included in your subscription you will be charged our then-current rate ("Excluded Charges"). Excluded Charges will be invoiced and due with your next payment. For your reference, the current Excluded Charges schedules are located <http://static.legalsolutions.thomsonreuters.com/static/agreement/schedule-a-clear.pdf> and Excluded Charges change from time-to-time upon 30 days written or online notice. We may, at our option, make certain products and services Excluded Charges if we are contractually bound or otherwise required to do so by a third party provider or if products or services are enhanced or if new products or services are released after the effective date of this ordering document. Modification of Excluded Charges or Schedule A rates is not a basis for termination under paragraph 10 of the General Terms and Conditions.

eBilling Contact. All invoices for this account will be emailed to your e-Billing Contact(s) unless you have notified us that you would like to be exempt from e-Billing.

Credit Verification. If you are applying for credit as an individual, we may request a consumer credit report to determine your creditworthiness. If we obtain a consumer credit report, you may request the name, address and telephone number of the agency that supplied the credit report. If you are applying for credit on behalf of a business, we may request a current business financial statement from you to consider your request.

CLEAR Fixed Rate Usage : If the transactional value of your CLEAR fixed rate usage exceeds your then-current Monthly Charges by more than 10 times in any month (or by 20 times in any month for Enterprise Law Enforcement subscribers), we may limit access to live gateways and request that the parties enter into good faith renegotiation or terminate upon 10 days written notice. Transactional value of your CLEAR usage is calculated based upon our then-current Schedule A rate. Schedule A rates may change upon at least 30 days written or online notice.

Batch Usage : If you have a fixed rate batch and/or batch alerts subscription and the total of your batch inputs or batch alerts exceeds your annual fixed rate batch or total batch alerts allotment, we may: 1) request the parties enter into good faith negotiations regarding a superseding agreement, 2) terminate your subscription upon 10 days written notice or 3) limit your access to your fixed rate batch subscription for the remainder of the then-current 12 month period, during which time you will continue to be billed your Monthly Charges. If your access to your fixed rate batch subscription has been limited, your access will be reinstated on the first day of the following 12 month period.

If the trial includes Batch Services, you may submit up to 1,000 input lines at no cost. We reserve the right to invoice you for input lines in excess of 1,000. You will pay our then current Schedule A rate. Schedule A rates are located at <http://legalsolutions.com/schedule-a-clear>.

Existing Vigilant Subscribers: We may terminate your License Plate Recognition (LPR) subscription if you are an existing Vigilant LEARN subscriber whose LPR pricing is based upon your existing Vigilant LEARN agreement, and you cancel your Vigilant LEARN agreement.

Enterprise Law Enforcement Subscribers: You certify that you have up to the number of Sworn Officers in your employ at this location identified in the QTY Column above. Our pricing for banded products is made in reliance upon your certification. If we learn that the actual number is greater, we reserve the right to increase your charges as applicable.

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For Law Enforcement Agencies and Correctional Facilities Only – No Inmate Westlaw or CLEAR Access (direct or indirect)

I certify, on behalf of Subscriber, that I understand and accept the security limits of Westlaw or CLEAR ; Subscriber's responsibility for controlling Westlaw, CLEAR, internet and network access; and, how Subscriber will be using Westlaw or CLEAR. I acknowledge Subscriber's responsibility for providing West with prompt written notice if Subscriber's type of use changes.

Only non-inmates/administrative staff will access Westlaw or CLEAR with no direct Westlaw research results provided to inmates (including work product created as part of inmates' legal representation). In no event shall anyone other than Subscriber's approved employees be provided access to or control of any terminal with access to Westlaw or Westlaw Data.

Functionality of Westlaw or CLEAR cannot and does not limit access to non-West internet sites. It is Subscriber's responsibility to control access to the internet.

Subscriber will provide its own firewall, proxy servers or other security technologies as well as desktop security to limit access to the Westlaw or CLEAR URL and West software (including CD-ROM orders). Subscriber will design, configure and implement its own security configuration.

Subscriber will not use any data nor distribute any data to a third party for use, in a manner contrary to or in violation of any applicable federal, state, or local law, rule or regulation or in any manner inconsistent with the General Terms and Conditions.

Subscriber will maintain the most current version of the West software to access CD-ROM Products for security purposes.

Additional Order Form Terms and Conditions

Government Non Availability of Funds for Online, Practice Solutions or Software Products

You may cancel a product or service with at least 60 days written notice if you do not receive sufficient appropriation of funds. Your notice must include an official document, (e.g., executive order, an officially printed budget or other official government communication) certifying the non-availability of funds. You will be invoiced for all charges incurred up to the effective date of the cancellation.

Signature for Order ID: Q-01066901

ACKNOWLEDGEMENT Q-01066901

I have read all pages and attachments to this Order Form and I accept the terms on behalf of Subscriber. I warrant that I am authorized to sign this Order Form on behalf of the Subscriber.

Signature of Authorized Representative for order

Title

Printed Name

Date

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This Order Form will expire and will not be accepted after 5/16/2021 CT.

"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act."

Patricia M. [Signature] 3/24/2021
Finance Officer Date



THOMSON REUTERS™

Attachment**Order ID:Q-01066901**Contact your representative matt.jillson@thomsonreuters.com with any questions. Thank you.

Order ID: Q-01066901

Payment, Shipping and Contact Information**Payment Method:**

Payment Method: Bill to Account

Account Number: 1005564161

Order Confirmation Contact (#28)

Contact Name:Graham, Barry

Email:bgraham@huntersville.org

ProFlex Multiple Location Details

Account Number	Account Name	Account Address	Action
1005564161	HUNTERSVILLE POLICE DEPT	9630 JULIAN CLARK AVE HUNTERSVILLE NC 28078-3468 US	New

ProFlex Product Details

Quantity	Unit	Service Material #	Description
1	Each	41308780	CLEAR Proflex
100	Seats	41882302	CLEAR for Law Enforcement Plus
3	Seats	41913616	CLEAR Criminal Justice Arrest Gateway PRO Add Seat
100	Seats	42124048	ENCLR PRO Gov License Plate Recognition State Add

Account Contacts

Contact Name	Email Address	Customer Type Description
Barry Graham	bgraham@huntersville.org	CLEAR PRIMARY CONT
Barry Graham	bgraham@huntersville.org	EML PSWD CONTACT

IP Address Information

From IP Address	To IP Address	From IP Address	To IP Address	From IP Address	To IP Address
1.1.1.1					

Sub Material	Quantity	Active Subscription to be Lapsed

Charges During Minimum Term

Material #	Product Name	Year 1 Charges	% incr Yr 1-2	Year 2 Charges	% incr Yr 2-3	Year 3 Charges	% incr Yr 3-4	Year 4 Charges	% incr Yr 4-5	Year 5 Charges
41308780	CLEAR Proflex	\$1686.39	5.00%	\$1770.71	5.00%	\$1859.25	N/A	N/A	N/A	N/A

Charges During Minimum Term

Pricing is displayed only for the years included in the Minimum Term. Years without pricing in above grid are not included in the Minimum Term. Refer to your Order Form for the Post Minimum Term pricing.

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Barry Graham

Date: April 5, 2021

Subject: Adopt Resolution approving renewal of Axon Body Worn Camera and Conducted Energy Weapon Contract as a sole source contract. (*Bence Hoyle*)

EXPLAIN REQUEST:

This contract renews the agreement for Body Worn Cameras, TASERS and evidence management systems.

This contract will cover all hardware, software, licensing, free replacement of damaged items, Cloud Storage of evidence, and any future hardware and software improvements. Includes the latest technology in both body worn and less lethal technology.

Axon technologies has 85% of the market share of law enforcement agencies and we are very satisfied with the results.

ACTION RECOMMENDED:

Approval of AXON Body Worn Camera and Conducted Energy Weapon contract renewal

FINANCIAL IMPLICATIONS:

\$140,881.30 annually

ATTACHMENTS:

1. Huntersville NC OSP 7 Renewal quote 10 yrs Updated Discounts 2-10-21
2. Resolution for sole source purchase Axon
3. Huntersville MSPA + NC Law Inclusions



AXON

Huntersville Police Dept. - NC

AXON SALES REPRESENTATIVE

David Gollobit
(480) 905-2060
dgollobit@axon.com

ISSUED
2/10/2021



Axon Enterprise, Inc.
17800 N 85th St.
Scottsdale, Arizona 85255
United States
Phone: (800) 978-2737

Q-282712-44237.621DG

Issued: 02/10/2021



Quote Expiration: 06/28/2021

Account Number: 109166

Payment Terms: Net 30
Delivery Method: Fedex - Ground

SALES REPRESENTATIVE

David Gollobit
Phone: (480) 905-2060
Email: dgollobit@axon.com
Fax:

PRIMARY CONTACT

Brian Vaughan
Phone: (704) 464-5382
Email: bvaughan@huntersville.org

SHIP TO

Brian Vaughan
Huntersville Police Dept. - NC
9630 Julian Clark Ave
Huntersville, NC 28078
US

BILL TO

Huntersville Police Dept. - NC
P.O. BOX 664
Huntersville, NC 28070
US

Year 1

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages						
20242	TASER CERTIFICATION PROGRAM YEAR 6-10 ACCESS	120	65	0.00	0.00	0.00
73746	PROFESSIONAL EVIDENCE.COM LICENSE	120	65	0.00	0.00	0.00
73686	EVIDENCE.COM UNLIMITED AXON DEVICE STORAGE	120	65	0.00	0.00	0.00
73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	120	650	0.00	0.00	0.00
20248	TASER 7 EVIDENCE.COM ACCESS LICENSE	120	65	0.00	0.00	0.00
73449	RESPOND DEVICE LICENSE	120	65	0.00	0.00	0.00
73638	STANDARDS ACCESS LICENSE	120	65	0.00	0.00	0.00
20246	TASER 7 DUTY CARTRIDGE REPLACEMENT ACCESS LICENSE	120	65	0.00	0.00	0.00
73687	EVIDENCE.COM VIEWER LICENSE	120	1	0.00	0.00	0.00
20248	TASER 7 EVIDENCE.COM ACCESS LICENSE	120	1	0.00	0.00	0.00
73746	PROFESSIONAL EVIDENCE.COM LICENSE	120	10	0.00	0.00	0.00
73686	EVIDENCE.COM UNLIMITED AXON DEVICE STORAGE	120	10	0.00	0.00	0.00
73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	120	40	0.00	0.00	0.00
73680	RESPOND DEVICE PLUS LICENSE	120	75	0.00	0.00	0.00

Year 1 (Continued)

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Axon Plans & Packages (Continued)						
73683	10 GB EVIDENCE.COM A-LA-CART STORAGE	120	45	0.00	0.00	0.00
73746	PROFESSIONAL EVIDENCE.COM LICENSE	120	15	0.00	0.00	0.00
Hardware						
20160	TASER 7 HOLSTER - SAFARILAND, RH+CARD CARRIER		60	0.00	0.00	0.00
75015	SIGNAL SIDEARM KIT		65	0.00	0.00	0.00
20161	TASER 7 HOLSTER - SAFARILAND, LH+CARD CARRIER		5	0.00	0.00	0.00
20050	HOOK-AND-LOOP TRAINING (HALT) SUIT		1	0.00	0.00	0.00
20008	TASER 7 HANDLE, YLW, HIGH VISIBILITY (GREEN LASER), CLASS 3R		65	0.00	0.00	0.00
20034	TASER 7 10 YEAR HANDLE WARRANTY		65	0.00	0.00	0.00
22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS		195	0.00	0.00	0.00
22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS		195	0.00	0.00	0.00
71044	BATTERY, SIGNAL SIDEARM, CR2430 SINGLE PACK		130	0.00	0.00	0.00
22179	TASER 7 INERT CARTRIDGE, STANDOFF (3.5-DEGREE) NS		30	0.00	0.00	0.00
22181	TASER 7 INERT CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS		30	0.00	0.00	0.00
22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS		130	0.00	0.00	0.00
22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS		130	0.00	0.00	0.00
22177	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, STANDOFF NS		130	0.00	0.00	0.00
22178	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, CLOSE QUART NS		130	0.00	0.00	0.00
20018	TASER 7 BATTERY PACK, TACTICAL		78	0.00	0.00	0.00
20035	TASER 7 10 YEAR BATTERY WARRANTY		78	0.00	0.00	0.00
20036	TASER 7 10 YEAR DOCK WARRANTY		1	0.00	0.00	0.00
70033	WALL MOUNT BRACKET, ASSY, EVIDENCE.COM DOCK		1	0.00	0.00	0.00
74200	TASER 7 6-BAY DOCK AND CORE		1	0.00	0.00	0.00
80090	TARGET FRAME, PROFESSIONAL, 27.5 IN. X 75 IN., TASER 7		1	0.00	0.00	0.00

Year 1 (Continued)

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Other						
73947	OFFICER SAFETY PLAN 7 10 YEAR BUNDLE HEADER	120	65	0.00	0.00	0.00
73997	OFFICER SAFETY PLAN 7 10Y PAYMENT Y1-5	12	65	1,908.00	1,908.00	124,020.00
20120	TASER 7 INSTRUCTOR COURSE VOUCHER		1	0.00	0.00	0.00
20119	TASER 7 MASTER INSTRUCTOR SCHOOL VOUCHER		1	0.00	0.00	0.00
80087	TASER 7 TARGET, CONDUCTIVE, PROFESSIONAL (RUGGEDIZED)		1	0.00	0.00	0.00
73842	UNLIMITED EVIDENCE.COM TAP BUNDLE PAYMENT	12	10	1,068.00	79.24	792.40
73666	RESPOND DEVICE PLUS PAYMENT	12	75	228.00	0.00	0.00
73837	EVIDENCE.COM PROFESSIONAL LICENSE PAYMENT	12	15	468.00	468.00	7,020.00
					Subtotal	131,832.40
					Estimated Shipping	0.00
					Estimated Tax	9,048.90
					Total	140,881.30

Year 1 - TAP Refresh

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Hardware						
74210	AXON BODY 3 - 8 BAY DOCK		9	0.00	0.00	0.00
73202	AXON BODY 3 - NA10		65	0.00	0.00	0.00
74028	WING CLIP MOUNT, AXON RAPIDLOCK		71	0.00	0.00	0.00
11534	USB-C to USB-A CABLE FOR AB3 OR FLEX 2		65	0.00	0.00	0.00
73202	AXON BODY 3 - NA10		10	0.00	0.00	0.00
74210	AXON BODY 3 - 8 BAY DOCK		1	0.00	0.00	0.00
74028	WING CLIP MOUNT, AXON RAPIDLOCK		15	0.00	0.00	0.00
11534	USB-C to USB-A CABLE FOR AB3 OR FLEX 2		10	0.00	0.00	0.00
Other						
73828	AB3 8 BAY DOCK TAP WARRANTY	60	9	0.00	0.00	0.00
73827	AB3 CAMERA TAP WARRANTY	60	65	0.00	0.00	0.00
71019	NORTH AMER POWER CORD FOR AB3 8-BAY, AB2 1-BAY / 6-BAY DOCK		9	0.00	0.00	0.00

Year 1 - TAP Refresh (Continued)

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Other (Continued)						
73827	AB3 CAMERA TAP WARRANTY	60	10	0.00	0.00	0.00
73828	AB3 8 BAY DOCK TAP WARRANTY	120	1	0.00	0.00	0.00
71019	NORTH AMER POWER CORD FOR AB3 8-BAY, AB2 1-BAY / 6-BAY DOCK		1	0.00	0.00	0.00
					Subtotal	0.00
					Estimated Tax	0.00
					Total	0.00

Spares

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Hardware						
20008	TASER 7 HANDLE, YLW, HIGH VISIBILITY (GREEN LASER), CLASS 3R		2	0.00	0.00	0.00
73202	AXON BODY 3 - NA10		2	0.00	0.00	0.00
20034	TASER 7 10 YEAR HANDLE WARRANTY		2	0.00	0.00	0.00
74028	WING CLIP MOUNT, AXON RAPIDLOCK		2	0.00	0.00	0.00
11534	USB-C to USB-A CABLE FOR AB3 OR FLEX 2		2	0.00	0.00	0.00
Other						
73827	AB3 CAMERA TAP WARRANTY	60	2	0.00	0.00	0.00
					Subtotal	0.00
					Estimated Tax	0.00
					Total	0.00

Year 2

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Hardware						
22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS		130	0.00	0.00	0.00
22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS		130	0.00	0.00	0.00
Other						
73997	OFFICER SAFETY PLAN 7 10Y PAYMENT Y1-5	12	65	1,908.00	1,908.00	124,020.00
20120	TASER 7 INSTRUCTOR COURSE VOUCHER		1	0.00	0.00	0.00
20119	TASER 7 MASTER INSTRUCTOR SCHOOL VOUCHER		1	0.00	0.00	0.00

Year 2 (Continued)

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Other (Continued)						
73842	UNLIMITED EVIDENCE.COM TAP BUNDLE PAYMENT	12	10	1,068.00	79.24	792.40
73666	RESPOND DEVICE PLUS PAYMENT	12	75	228.00	0.00	0.00
73837	EVIDENCE.COM PROFESSIONAL LICENSE PAYMENT	12	15	468.00	468.00	7,020.00
					Subtotal	131,832.40
					Estimated Tax	9,048.90
					Total	140,881.30

Year 3

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Hardware						
22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS		130	0.00	0.00	0.00
22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS		130	0.00	0.00	0.00
22177	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, STANDOFF NS		130	0.00	0.00	0.00
22178	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, CLOSE QUART NS		130	0.00	0.00	0.00
Other						
73309	AXON CAMERA REFRESH ONE		65	0.00	0.00	0.00
73997	OFFICER SAFETY PLAN 7 10Y PAYMENT Y1-5	12	65	1,908.00	1,908.00	124,020.00
20120	TASER 7 INSTRUCTOR COURSE VOUCHER		1	0.00	0.00	0.00
20119	TASER 7 MASTER INSTRUCTOR SCHOOL VOUCHER		1	0.00	0.00	0.00
73309	AXON CAMERA REFRESH ONE		2	0.00	0.00	0.00
73689	MULTI-BAY BWC DOCK 1ST REFRESH		9	0.00	0.00	0.00
73309	AXON CAMERA REFRESH ONE		10	0.00	0.00	0.00
73842	UNLIMITED EVIDENCE.COM TAP BUNDLE PAYMENT	12	10	1,068.00	79.24	792.40
73689	MULTI-BAY BWC DOCK 1ST REFRESH		1	0.00	0.00	0.00
73666	RESPOND DEVICE PLUS PAYMENT	12	75	228.00	0.00	0.00
73837	EVIDENCE.COM PROFESSIONAL LICENSE PAYMENT	12	15	468.00	468.00	7,020.00
					Subtotal	131,832.40
					Estimated Tax	9,048.90
					Total	140,881.30

Year 4

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Hardware						
22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS		130	0.00	0.00	0.00
22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS		130	0.00	0.00	0.00
Other						
73997	OFFICER SAFETY PLAN 7 10Y PAYMENT Y1-5	12	65	1,908.00	1,908.00	124,020.00
20120	TASER 7 INSTRUCTOR COURSE VOUCHER		1	0.00	0.00	0.00
20119	TASER 7 MASTER INSTRUCTOR SCHOOL VOUCHER		1	0.00	0.00	0.00
73842	UNLIMITED EVIDENCE.COM TAP BUNDLE PAYMENT	12	10	1,068.00	79.24	792.40
73688	MULTI-BAY BWC DOCK 2ND REFRESH		1	0.00	0.00	0.00
73666	RESPOND DEVICE PLUS PAYMENT	12	75	228.00	0.00	0.00
73837	EVIDENCE.COM PROFESSIONAL LICENSE PAYMENT	12	15	468.00	468.00	7,020.00
					Subtotal	131,832.40
					Estimated Tax	9,048.90
					Total	140,881.30

Year 5

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Hardware						
22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS		130	0.00	0.00	0.00
22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS		130	0.00	0.00	0.00
Other						
73310	AXON CAMERA REFRESH TWO		65	0.00	0.00	0.00
73997	OFFICER SAFETY PLAN 7 10Y PAYMENT Y1-5	12	65	1,908.00	1,908.00	124,020.00
20120	TASER 7 INSTRUCTOR COURSE VOUCHER		1	0.00	0.00	0.00

Year 5 (Continued)

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Other (Continued)						
20119	TASER 7 MASTER INSTRUCTOR SCHOOL VOUCHER		1	0.00	0.00	0.00
73310	AXON CAMERA REFRESH TWO		2	0.00	0.00	0.00
73688	MULTI-BAY BWC DOCK 2ND REFRESH		9	0.00	0.00	0.00
73310	AXON CAMERA REFRESH TWO		10	0.00	0.00	0.00
73842	UNLIMITED EVIDENCE.COM TAP BUNDLE PAYMENT	12	10	1,068.00	79.24	792.40
73666	RESPOND DEVICE PLUS PAYMENT	12	75	228.00	0.00	0.00
73837	EVIDENCE.COM PROFESSIONAL LICENSE PAYMENT	12	15	468.00	468.00	7,020.00
					Subtotal	131,832.40
					Estimated Tax	9,048.90
					Total	140,881.30

Year 6

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Other						
73990	OFFICER SAFETY PLAN 7 PAYMENT Y6	12	65	1,965.24	1,781.97	115,828.05
73842	UNLIMITED EVIDENCE.COM TAP BUNDLE PAYMENT	12	10	1,068.00	898.46	8,984.60
73666	RESPOND DEVICE PLUS PAYMENT	12	75	228.00	0.00	0.00
73837	EVIDENCE.COM PROFESSIONAL LICENSE PAYMENT	12	15	468.00	468.00	7,020.00
					Subtotal	131,832.65
					Estimated Tax	9,048.91
					Total	140,881.56

Year 7

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Other						
73991	OFFICER SAFETY PLAN 7 PAYMENT Y7	12	65	2,024.16	1,781.97	115,828.05
73842	UNLIMITED EVIDENCE.COM TAP BUNDLE PAYMENT	12	10	1,068.00	898.46	8,984.60
73666	RESPOND DEVICE PLUS PAYMENT	12	75	228.00	0.00	0.00
73837	EVIDENCE.COM PROFESSIONAL LICENSE PAYMENT	12	15	468.00	468.00	7,020.00
					Subtotal	131,832.65
					Estimated Tax	9,048.91
					Total	140,881.56

Year 8

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Other						
73345	AXON CAMERA REFRESH THREE		65	0.00	0.00	0.00
73992	OFFICER SAFETY PLAN 7 PAYMENT Y8	12	65	2,084.88	1,781.97	115,828.05
73345	AXON CAMERA REFRESH THREE		2	0.00	0.00	0.00
73345	AXON CAMERA REFRESH THREE		10	0.00	0.00	0.00
73842	UNLIMITED EVIDENCE.COM TAP BUNDLE PAYMENT	12	10	1,068.00	898.46	8,984.60
73666	RESPOND DEVICE PLUS PAYMENT	12	75	228.00	0.00	0.00
73837	EVIDENCE.COM PROFESSIONAL LICENSE PAYMENT	12	15	468.00	468.00	7,020.00
Subtotal						131,832.65
Estimated Tax						9,048.91
Total						140,881.56

Year 9

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Other						
73993	OFFICER SAFETY PLAN 7 PAYMENT Y9	12	65	2,147.52	1,781.97	115,828.05
73842	UNLIMITED EVIDENCE.COM TAP BUNDLE PAYMENT	12	10	1,068.00	898.46	8,984.60
73666	RESPOND DEVICE PLUS PAYMENT	12	75	228.00	0.00	0.00
73837	EVIDENCE.COM PROFESSIONAL LICENSE PAYMENT	12	15	468.00	468.00	7,020.00
Subtotal						131,832.65
Estimated Tax						9,048.91
Total						140,881.56

Year 10

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Other						
73346	AXON CAMERA REFRESH FOUR		65	0.00	0.00	0.00
73994	OFFICER SAFETY PLAN 7 PAYMENT Y10	12	65	2,211.84	1,781.97	115,828.05
73346	AXON CAMERA REFRESH FOUR		2	0.00	0.00	0.00
73346	AXON CAMERA REFRESH FOUR		10	0.00	0.00	0.00

Year 10 (Continued)

Item	Description	Term (Months)	Quantity	List Unit Price	Net Unit Price	Total (USD)
Other (Continued)						
73842	UNLIMITED EVIDENCE.COM TAP BUNDLE PAYMENT	12	10	1,068.00	898.46	8,984.60
73666	RESPOND DEVICE PLUS PAYMENT	12	75	228.00	0.00	0.00
73837	EVIDENCE.COM PROFESSIONAL LICENSE PAYMENT	12	15	468.00	468.00	7,020.00
					Subtotal	131,832.65
					Estimated Tax	9,048.91
					Total	140,881.56
					Grand Total	1,408,814.30

Discounts (USD)

Quote Expiration: 06/28/2021

List Amount	1,646,286.60
Discounts	327,961.35
Total	1,318,325.25

**Total excludes applicable taxes*

Summary of Payments

Payment	Amount (USD)
Year 1	140,881.30
Year 1 - TAP Refresh	0.00
Spares	0.00
Year 2	140,881.30
Year 3	140,881.30
Year 4	140,881.30
Year 5	140,881.30
Year 6	140,881.56
Year 7	140,881.56
Year 8	140,881.56

Summary of Payments (Continued)

Payment	Amount (USD)
Year 9	140,881.56
Year 10	140,881.56
Grand Total	1,408,814.30

Notes

Axon BWC hardware contained in Y1 at zero cost is a TAP refresh of contract #00007889. The parties agree that all TAP obligations of contract #00007889 have been fulfilled.

Purchase of TASER 7 are governed by the TASER 7 Agreement located at <https://www.axon.com/legal/sales-terms-and-conditions> and not the Master Services and Purchasing Agreement referenced below.

Tax is subject to change at order processing with valid exemption.

Axon's Sales Terms and Conditions

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at www.axon.com/legal/sales-terms-and-conditions), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Signature: _____ **Date:** _____

Name (Print): _____ **Title:** _____

PO# (Or write N/A): _____

Please sign and email to David Gollobit at dgollobit@axon.com or fax to

Thank you for being a valued Axon customer. For your convenience on your next order, please check out our online store buy.axon.com

The trademarks referenced above are the property of their respective owners.

Axon Internal Use Only

		SFDC Contract #:
		Order Type:
		RMA #:
		Address Used:
		SO #:
Review 1	Review 2	
Comments:		

**Resolution Approving a Sole Source Purchase
Pursuant to N.C.G.S. § 143-129(e)(6)**

WHEREAS, the Town of Huntersville Police Department (the “Police Department”) desires to enter into a ten (10) year contract with Axon Enterprise, Inc for the purchase of goods and services for the total cost of \$1,318,325.25, as further described on Exhibit A attached hereto and incorporated herein (the “Contract”); and

WHEREAS, the Contract is providing specific goods and services not otherwise available from another source and will ensure standardization and compatibility with currently used equipment; and

WHEREAS, N.C.G.S. 143-129(e)(6) authorizes a municipality to forgo the bidding requirements under N.C.G.S. 143-129(a) 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; and

WHEREAS, the Board of Commissioners for the Town of Huntersville (the “Board”) now desires to approve the Contract described in the attached Exhibit A as a sole source purchase under N.C.G.S. § 143-129(e)(6).

NOW THEREFORE, BE IT RESOVLED AS FOLLOWS:

1. The Board hereby approves that the Contract as a sole source purchase pursuant to N.C.G.S. § 143-129(e)(6).
2. The Board does hereby authorize the Town Manager to execute the Contract pursuant to this Resolution.
3. This Resolution shall be effective as of the date of its adoption.

Adopted this the __ day of _____, 2021.

Attest:

Clerk to the Board

Mayor, Town of Huntersville

Approved as to Form:

Town Attorney

Exhibit A
(The Contract)



Master Services and Purchasing Agreement

This Master Services and Purchasing Agreement ("**Agreement**") is between Axon Enterprise, Inc., a Delaware corporation ("**Axon**"), and the agency on the Quote ("**Agency**"). This Agreement is effective as of the later of the (a) last signature date on this Agreement or (b) signature date on the Quote ("**Effective Date**"). Axon and Agency are each a "**Party**" and collectively "**Parties**". This Agreement governs Agency's purchase and use of the Axon Devices and Services detailed in the Quote Appendix ("**Quote**"). It is the intent of the Parties that this Agreement act as a master agreement governing all subsequent purchases by Agency for the same Axon products and services in the Quote, and all such subsequent quotes accepted by Agency shall be also incorporated into this Agreement by reference as a Quote. The Parties therefore agree as follows:

1 Definitions.

"**Axon Cloud Services**" means Axon's web services for Axon Evidence, Axon Records, Axon Dispatch, and interactions between Evidence.com and Axon Devices or Axon client software. Axon Cloud Service excludes third-party applications, hardware warranties, and my.evidence.com.

"**Axon Device**" means all hardware provided by Axon under this Agreement.

"**Quote**" means an offer to sell and is only valid for devices and services on the quote at the specified prices. Any terms within Agency's purchase order in response to a Quote will be void. Orders are subject to prior credit approval. Changes in the deployment estimated ship date may change charges in the Quote. Shipping dates are estimates only. Axon is not responsible for typographical errors in any offer by Axon, and Axon reserves the right to cancel any orders resulting from such errors.

"**Services**" means all services provided by Axon under this Agreement, including software, Axon Cloud Services, and professional services.

2 Term. This Agreement begins on the Effective Date and continues until all subscriptions hereunder have expired or have been terminated ("**Term**").

All subscriptions including Axon Evidence, Axon Fleet, Officer Safety Plans, Technology Assurance Plans, and TASER 7 plans begin after shipment of the applicable Axon Device. If Axon ships the Axon Device in the first half of the month, the start date is the 1st of the following month. If Axon ships the Axon Device in the second half of the month, the start date is the 15th of the following month. For purchases solely of Axon Evidence subscriptions, the start date is the Effective Date. Each subscription term ends upon completion of the subscription stated in the Quote ("**Subscription Term**").

Upon completion of the Subscription Term, the Subscription Term will automatically renew for an additional 5 years ("**Renewal Term**"). For purchase of TASER 7 as a standalone, Axon may increase pricing to its then-current list pricing for any Renewal Term. For all other purchases, Axon may increase pricing on all line items in the Quote up to 3% at the beginning of each year of the Renewal Term. New devices and services may require additional terms. Axon will not authorize services until Axon receives a signed Quote or accepts a purchase order, whichever is first.

3 Payment. Axon invoices upon shipment. Payment is due net 30 days from the invoice date. Payment obligations are non-cancelable. Agency will pay invoices without setoff, deduction, or withholding. If Axon sends a past due account to collections, Agency is responsible for collection and attorneys' fees.

4 Taxes. Agency is responsible for sales and other taxes associated with the order unless Agency provides Axon a valid tax exemption certificate.

5 Shipping. Axon may make partial shipments and ship Axon Devices from multiple locations. All shipments are FOB shipping point via common carrier. Title and risk of loss pass to Agency upon Axon's delivery to the common carrier. Agency is responsible for any shipping charges in the Quote.

6 Returns. All sales are final. Axon does not allow refunds or exchanges, except warranty returns or as provided by state or federal law.

7 **Warranty.**

7.1 Hardware Limited Warranty. Axon warrants that Axon-manufactured Devices are free from defects in workmanship and materials for 1 year from the date of Agency's receipt, except Signal Sidearm, which Axon warrants for 30 months from the date of Agency's receipt. Axon warrants its Axon-manufactured accessories for 90-days from the date of Agency's receipt. Used conducted energy weapon ("CEW") cartridges are deemed to have operated properly. Extended warranties run from the expiration of the 1-year hardware warranty through the extended warranty term. Non-Axon manufactured Devices are not covered by Axon's warranty. Agency should contact the manufacturer for support of non-Axon manufactured Devices.

7.2 Claims. If Axon receives a valid warranty claim for an Axon manufactured Device during the warranty term, Axon's sole responsibility is to repair or replace the Device with the same or like Device, at Axon's option. A replacement Axon Device will be new or like new. Axon will warrant the replacement Axon Device for the longer of (a) the remaining warranty of the original Axon Device or (b) 90-days from the date of repair or replacement.

If Agency exchanges a device or part, the replacement item becomes Agency's property, and the replaced item becomes Axon's property. Before delivering a Axon Device for service, Agency must upload Axon Device data to Axon Evidence or download it and retain a copy. Axon is not responsible for any loss of software, data, or other information contained in storage media or any part of the Axon Device sent to Axon for service.

7.3 Spare Axon Devices. For qualified purchases, Axon may provide Agency a predetermined number of spare Axon Devices as detailed in the Quote ("**Spare Axon Devices**"). Spare Axon Devices are intended to replace broken or non-functioning units while Agency submits the broken or non-functioning units , through Axon's warranty return process. Axon will repair or replace the unit with a replacement Axon Device. Title and risk of loss for all Spare Axon Devices shall pass to Agency in accordance with shipping terms under Section 5. Axon assumes no liability or obligation in the event Agency does not utilize Spare Axon Devices for the intended purpose. .

7.4 Limitations. Axon's warranty excludes damage related to: (a) failure to follow Axon Device use instructions; (b) Axon Devices used with equipment not manufactured or recommended by Axon; (c) abuse, misuse, or intentional damage to Axon Device; (d) force majeure; (e) Axon Devices repaired or modified by persons other than Axon without Axon's written permission; or (f) Axon Devices with a defaced or removed serial number.

7.4.1 To the extent permitted by law, the above warranties and remedies are exclusive. Axon disclaims all other warranties, remedies, and conditions, whether oral, written, statutory, or implied. If statutory or implied warranties cannot be lawfully disclaimed, then such warranties are limited to the duration of the warranty described above and by the provisions in this Agreement.

7.4.2 Axon's cumulative liability to any Party for any loss or damage resulting from any claim, demand, or action arising out of or relating to any Axon Device or Service will not exceed the purchase price paid to Axon for the Axon Device, or if for Services, the amount paid for such Services over the 12 months preceding the claim. Neither Party will be liable for direct, special, indirect, incidental, punitive or consequential damages, however caused, whether for breach of warranty or contract, negligence, strict liability, tort or any other legal theory.

8 Statement of Work. Certain Axon Devices and Services, including Axon Interview Room, Axon Channel Services, and Axon Fleet, may require a Statement of Work that details Axon's Service deliverables ("**SOW**"). In the event Axon provides an SOW to Agency, Axon is only responsible to perform Services described in the SOW. Additional services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in fees or schedule. The SOW is incorporated into this Agreement by reference.

9 Axon Device Warnings. See www.axon.com/legal for the most current Axon Device warnings.

- 10 **Design Changes.** Axon may make design changes to any Axon Device or Service without notifying Agency or making the same change to Axon Devices and Services previously purchased by Agency.
- 11 **Bundled Offerings.** Some offerings in bundled offerings may not be generally available at the time of Agency's purchase. Axon will not provide a refund, credit, or additional discount beyond what is in the Quote due to a delay of availability or Agency's election not to utilize any portion of an Axon bundle.
- 12 **Insurance.** Axon will maintain General Liability, Workers' Compensation, and Automobile Liability insurance. Upon request, Axon will supply certificates of insurance.
- 13 **Indemnification.** Axon will indemnify Agency's officers, directors, and employees ("Agency Indemnitees") against all claims, demands, losses, and reasonable expenses arising out of a third-party claim against an Agency Indemnitee resulting from any negligent act, error or omission, or willful misconduct by Axon under this Agreement, except to the extent of Agency's negligence or willful misconduct, or claims under workers compensation.
- 14 **IP Rights.** Axon owns and reserves all right, title, and interest in Axon devices and services and suggestions to Axon, including all related intellectual property rights. Agency will not cause any Axon proprietary rights to be violated.
- 15 **IP Indemnification.** Axon will indemnify Agency Indemnitees against all claims, losses, and reasonable expenses from any third-party claim alleging that the use of Axon Devices or Services infringes or misappropriates the third-party's intellectual property rights. Agency must promptly provide Axon with written notice of such claim, tender to Axon the defense or settlement of such claim at Axon's expense and cooperate fully with Axon in the defense or settlement of such claim. Axon's IP indemnification obligations do not apply to claims based on (a) modification of Axon Devices or Services by Agency or a third-party not approved by Axon; (b) use of Axon Devices and Services in combination with hardware or services not approved by Axon; (c) use of Axon Devices and Services other than as permitted in this Agreement; or (d) use of Axon software that is not the most current release provided by Axon.
- 16 **Agency Responsibilities.** Agency is responsible for (a) Agency's use of Axon Devices; (b) breach of this Agreement or violation of applicable law by Agency or an Agency end user; and (c) a dispute between Agency and a third-party over Agency's use of Axon Devices.
- 17 **Termination.**
- 17.1 **For Breach.** A Party may terminate this Agreement for cause if it provides 30 days written notice of the breach to the other Party, and the breach remains uncured at the end of 30 days. If Agency terminates this Agreement due to Axon's uncured breach, Axon will refund prepaid amounts on a prorated basis based on the effective date of termination.
- 17.2 **By Agency.** If sufficient funds are not appropriated or otherwise legally available to pay the fees, Agency may terminate this Agreement. Agency will deliver notice of termination under this section as soon as reasonably practicable.
- 17.3 **Effect of Termination.** Upon termination of this Agreement, Agency rights immediately terminate. Agency remains responsible for all fees incurred before the effective date of termination. If Agency purchases Axon Devices for less than the manufacturer's suggested retail price ("**MSRP**") and this Agreement terminates before the end of the Term, Axon will invoice Agency the difference between the MSRP for Axon Devices received, including any Spare Axon Devices, and amounts paid towards those Axon Devices. Only if terminating for non-appropriation, Agency may return Axon Devices to Axon within 30 days of termination. MSRP is the standalone price of the individual Axon Device at the time of sale. For bundled Axon Devices, MSRP is the standalone price of all individual components.
- 18 **Confidentiality.** "**Confidential Information**" means nonpublic information designated as confidential or, given the nature of the information or circumstances surrounding disclosure, should reasonably be

understood to be confidential. Each Party will take reasonable measures to avoid disclosure, dissemination, or unauthorized use of the other Party's Confidential Information. Unless required by law, neither Party will disclose the other Party's Confidential Information during the Term and for 5-years thereafter. Axon pricing is Confidential Information and competition sensitive. If Agency is required by law to disclose Axon pricing, to the extent allowed by law, Agency will provide notice to Axon before disclosure. Axon may publicly announce information related to this Agreement.

19 General.

19.1 Force Majeure. Neither Party will be liable for any delay or failure to perform due to a cause beyond a Party's reasonable control.

19.2 Independent Contractors. The Parties are independent contractors. Neither Party has the authority to bind the other. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties.

19.3 Third-Party Beneficiaries. There are no third-party beneficiaries under this Agreement.

19.4 Non-Discrimination. Neither Party nor its employees will discriminate against any person based on race; religion; creed; color; sex; gender identity and expression; pregnancy; childbirth; breastfeeding; medical conditions related to pregnancy, childbirth, or breastfeeding; sexual orientation; marital status; age; national origin; ancestry; genetic information; disability; veteran status; or any class protected by local, state, or federal law.

19.5 Export Compliance. Each Party will comply with all import and export control laws and regulations.

19.6 Assignment. Neither Party may assign this Agreement without the other Party's prior written consent. Axon may assign this Agreement, its rights, or obligations without consent: (a) to an affiliate or subsidiary; or (b) for purposes of financing, merger, acquisition, corporate reorganization, or sale of all or substantially all its assets. This Agreement is binding upon the Parties respective successors and assigns.

19.7 Waiver. No waiver or delay by either Party in exercising any right under this Agreement constitutes a waiver of that right.

19.8 Severability. If a court of competent jurisdiction holds any portion of this Agreement invalid or unenforceable, the remaining portions of this Agreement will remain in effect.

19.9 Survival. The following sections will survive termination: Payment, Warranty, Axon Device Warnings, Indemnification, IP Rights, and Agency Responsibilities.

19.10 Governing Law. The laws of the state where Agency is physically located, without reference to conflict of law rules, govern this Agreement and any dispute arising from it. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.

19.11 Notices. All notices must be in English. Notices posted on Agency's Axon Evidence site are effective upon posting. Notices by email are effective on the sent date of the email. Notices by personal delivery are effective immediately. Contact information for notices:

Axon: Axon Enterprise, Inc.
Attn: Legal
17800 N. 85th Street
Scottsdale, Arizona 85255
legal@axon.com

Agency:
Attn:
Street Address
City, State, Zip
Email

19.12 Iran Divestment List. With the execution hereof, Axon certifies that they are not on the Iran Final Divestment List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.58, and will not

contract with anyone on such list in performance of the work hereunder.

19.13 Availability of Funds. Any and all payments to Axon are dependent upon and subject to the availability of funds to the Town for the purpose set forth in this agreement.

19.14 Companies that Boycott Israel. With the execution hereof, Axon, certifies that they are not on the Companies that Boycott Israel List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.80, and will not contract with anyone on such List in performance of the work hereunder.

19.15 Entire Agreement. This Agreement, including the Appendices and any SOW(s), represents the entire agreement between the Parties. This Agreement supersedes all prior agreements or understandings, whether written or verbal, regarding the subject matter of this Agreement. This Agreement may only be modified or amended in a writing signed by the Parties.

Each representative identified below declares they have been expressly authorized to execute this Agreement as of the date of signature.

Axon Enterprise, Inc.

Agency

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Axon Cloud Services Terms of Use Appendix

1 Definitions.

“Agency Content” is data uploaded into, ingested by, or created in Axon Cloud Services within Agency’s tenant, including media or multimedia uploaded into Axon Cloud Services by Agency. Agency Content includes Evidence but excludes Non-Content Data.

“Evidence” is media or multimedia uploaded into Axon Evidence as 'evidence' by an Agency. Evidence is a subset of Agency Content.

“Non-Content Data” is data, configuration, and usage information about Agency’s Axon Cloud Services tenant, Axon Devices and client software, and users that is transmitted or generated when using Axon Devices. Non-Content Data includes data about users captured during account management and customer support activities. Non-Content Data does not include Agency Content.

“Personal Data” means any information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

- 2 Access.** Upon Axon granting Agency a subscription to Axon Cloud Services, Agency may access and use Axon Cloud Services to store and manage Agency Content. Agency may not exceed more end users than the Quote specifies. Axon Air requires an Axon Evidence subscription for each drone operator. For Axon Evidence Lite, Agency may access and use Axon Evidence only to store and manage TASER CEW and TASER CAM data (**“TASER Data”**). Agency may not upload non-TASER Data to Axon Evidence Lite.

- 3 Agency Owns Agency Content.** Agency controls and owns all right, title, and interest in Agency Content. Except as outlined herein, Axon obtains no interest in Agency Content, and Agency Content are not business records of Axon. Agency is solely responsible for uploading, sharing, managing, and deleting Agency Content. Axon will have limited access to Agency Content solely for providing and supporting Axon Cloud Services to Agency and Agency end users.

- 4 Security.** Axon will implement commercially reasonable and appropriate measures to secure Agency Content against accidental or unlawful loss, access or disclosure. Axon will maintain a comprehensive information security program to protect Axon Cloud Services and Agency Content including logical, physical access, vulnerability, risk, and configuration management; incident monitoring and response; encryption of uploaded digital evidence; security education; and data protection. Axon agrees to the Federal Bureau of Investigation Criminal Justice Information Services Security Addendum.

- 5 Agency Responsibilities.** Agency is responsible for (a) ensuring Agency owns Agency Content; (b) ensuring no Agency Content or Agency end user’s use of Agency Content or Axon Cloud Services violates this Agreement or applicable laws; and (c) maintaining necessary computer equipment and Internet connections for use of Axon Cloud Services. If Agency becomes aware of any violation of this Agreement by an end user, Agency will immediately terminate that end user’s access to Axon Cloud Services.

Agency will also maintain the security of end user names and passwords and security and access by end users to Agency Content. Agency is responsible for ensuring the configuration and utilization of Axon Cloud Services meet applicable Agency regulation and standards. Agency may not sell, transfer, or sublicense access to any other entity or person. Agency shall contact Axon immediately if an unauthorized party may be using Agency’s account or Agency Content, or if account information is lost or stolen.

To the extent Agency uses the Axon Cloud Services to interact with YouTube®, such use may be governed by the YouTube Terms of Service, available at <https://www.youtube.com/static?template=terms>.

- 6 **Privacy**. Axon will not disclose Agency Content or information about Agency except as compelled by a court or administrative body or required by law or regulation. If Axon receives a disclosure request for Agency Content, Axon will give Agency notice, unless legally prohibited from doing so, to allow Agency to file an objection with the court or administrative body. Agency agrees to allow Axon access to certain information from Agency to (a) perform troubleshooting services upon request or as part of regular diagnostic screening; (b) enforce this Agreement or policies governing the use of Axon Evidence; or (c) perform analytic and diagnostic evaluations of the systems.
- 7 **Axon Body 3 Wi-Fi Positioning**. Axon Body 3 cameras offer a feature to enhance location services where GPS/GNSS signals may not be available, for instance, within buildings or underground. Agency administrators can manage their choice to use this service within the administrative features of Axon Cloud Services. If Agency chooses to use this service, Axon must also enable the usage of the feature for Agency's Axon Cloud Services tenant. Agency will not see this option with Axon Cloud Services unless Axon has enabled Wi-Fi Positioning for Agency's Axon Cloud Services tenant. When Wi-Fi Positioning is enabled by both Axon and Agency, Non-Content and Personal Data will be sent to Skyhook Holdings, Inc. ("**Skyhook**") to facilitate the Wi-Fi Positioning functionality. Data controlled by Skyhook is outside the scope of the Axon Cloud Services Privacy Policy and is subject to the Skyhook Services Privacy Policy.
- 8 **Storage**. For Axon Unlimited Device Storage subscriptions, Agency may store unlimited data in Agency's Axon Evidence account only if data originates from Axon Capture or the applicable Axon Device. Axon may charge Agency additional fees for exceeding purchased storage amounts. Axon may place Agency Content that Agency has not viewed or accessed for 6 months into archival storage. Agency Content in archival storage will not have immediate availability and may take up to 24 hours to access.
- 9 **Location of Storage**. Axon may transfer Agency Content to third-party subcontractors for storage. Axon will determine the locations of data centers for storage of Agency Content. For United States agencies, Axon will ensure all Agency Content stored in Axon Cloud Services remains within the United States. Ownership of Agency Content remains with Agency.
- 10 **Suspension**. Axon may temporarily suspend Agency's or any end user's right to access or use any portion or all of Axon Cloud Services immediately upon notice, if Agency or end user's use of or registration for Axon Cloud Services may (a) pose a security risk to Axon Cloud Services or any third-party; (b) adversely impact Axon Cloud Services, the systems, or content of any other customer; (c) subject Axon, Axon's affiliates, or any third-party to liability; or (d) be fraudulent.
- Agency remains responsible for all fees incurred through suspension. Axon will not delete Agency Content because of suspension, except as specified in this Agreement.
- 11 **Axon Cloud Services Warranty**. Axon disclaims any warranties or responsibility for data corruption or errors before Agency uploads data to Axon Cloud Services.
- 12 **Axon Records**. Axon Records is the software-as-a-service product that is generally available at the time Agency purchases an OSP 7 bundle. During Agency's Axon Records Subscription Term, Agency will be entitled to receive Axon's Update and Upgrade releases on an if-and-when available basis.

An "**Update**" is a generally available release of Axon Records that Axon makes available from time to time. An "**Upgrade**" includes (i) new versions of Axon Records that enhance features and

functionality, as solely determined by Axon; and/or (ii) new versions of Axon Records that provide additional features or perform additional functions. Upgrades exclude new products that Axon introduces and markets as distinct products or applications.

New or additional Axon products and applications, as well as any Axon professional services needed to configure Axon Records, are not included. If Agency purchases Axon Records as part of a bundled offering, the Axon Record subscription begins on the later of the (1) start date of that bundled offering, or (2) date Axon provisions Axon Records to Agency.

- 13** **Axon Cloud Services Restrictions.** Agency and Agency end users (including employees, contractors, agents, officers, volunteers, and directors), may not, or may not attempt to:
- 13.1** copy, modify, tamper with, repair, or create derivative works of any part of Axon Cloud Services;
 - 13.2** reverse engineer, disassemble, or decompile Axon Cloud Services or apply any process to derive any source code included in Axon Cloud Services, or allow others to do the same;
 - 13.3** access or use Axon Cloud Services with the intent to gain unauthorized access, avoid incurring fees or exceeding usage limits or quotas;
 - 13.4** use trade secret information contained in Axon Cloud Services, except as expressly permitted in this Agreement;
 - 13.5** access Axon Cloud Services to build a competitive device or service or copy any features, functions, or graphics of Axon Cloud Services;
 - 13.6** remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon's or Axon's licensors on or within Axon Cloud Services; or
 - 13.7** use Axon Cloud Services to store or transmit infringing, libelous, or other unlawful or tortious material; to store or transmit material in violation of third-party privacy rights; or to store or transmit malicious code.
- 14** **After Termination.** Axon will not delete Agency Content for 90-days following termination. There will be no functionality of Axon Cloud Services during these 90-days other than the ability to retrieve Agency Content. Agency will not incur additional fees if Agency downloads Agency Content from Axon Cloud Services during this time. Axon has no obligation to maintain or provide Agency Content after these 90-days and will thereafter, unless legally prohibited, delete all Agency Content. Upon request, Axon will provide written proof that Axon successfully deleted and fully removed all Agency Content from Axon Cloud Services.
- 15** **Post-Termination Assistance.** Axon will provide Agency with the same post-termination data retrieval assistance that Axon generally makes available to all customers. Requests for Axon to provide additional assistance in downloading or transferring Agency Content, including requests for Axon's data egress service, will result in additional fees and Axon will not warrant or guarantee data integrity or readability in the external system.
- 16** **U.S. Government Rights.** If Agency is a U.S. Federal department or using Axon Cloud Services on behalf of a U.S. Federal department, Axon Cloud Services is provided as a "commercial item," "commercial computer software," "commercial computer software documentation," and "technical data", as defined in the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement. If Agency is using Axon Cloud Services on behalf of the U.S. Government and these terms fail to meet the U.S. Government's needs or are inconsistent in any respect with federal law, Agency will immediately discontinue use of Axon Cloud Services.
- 17** **Survival.** Upon any termination of this Agreement, the following sections in this Appendix will survive: Agency Owns Agency Content, Storage, Axon Cloud Services Warranty, and Axon Cloud Services Restrictions.



Master Services and Purchasing Agreement

Technology Assurance Plan Appendix

If Technology Assurance Plan ("TAP") or a bundle including TAP is on the Quote, this appendix applies.

- 1 **TAP Warranty.** The TAP warranty is an extended warranty that starts at the end of the 1-year Hardware Limited Warranty.
- 2 **Officer Safety Plan.** If Agency purchases an Officer Safety Plan ("OSP"), Agency will receive the deliverables detailed in the Quote. Agency must accept delivery of the TASER CEW and accessories as soon as available from Axon.
- 3 **OSP 7 Term.** OSP 7 begins after Axon ships the Axon Body 3 or TASER 7 hardware to Agency. If Axon ships in the first half of the month, OSP 7 starts the 1st of the following month. If Axon ships in the second half of the month, OSP 7 starts the 15th of the following month ("**OSP 7 Term**").
- 4 **TAP BWC Upgrade.** If Agency has no outstanding payment obligations and purchased TAP, Axon will provide Agency a new Axon body-worn camera ("**BWC Upgrade**") as scheduled in the Quote. If Agency purchased TAP Axon will provide a BWC Upgrade that is the same or like Axon Device, at Axon's option. Axon makes no guarantee the BWC Upgrade will utilize the same accessories or Axon Dock.
- 5 **TAP Dock Upgrade.** If Agency has no outstanding payment obligations and purchased TAP, Axon will provide Agency a new Axon Dock as scheduled in the Quote ("**Dock Upgrade**"). Accessories associated with any Dock Upgrades are subject to change at Axon discretion. Dock Upgrades will only include a new Axon Dock bay configuration unless a new Axon Dock core is required for BWC compatibility. If Agency originally purchased a single-bay Axon Dock, the Dock Upgrade will be a single-bay Axon Dock model that is the same or like Axon Device, at Axon's option. If Agency originally purchased a multi-bay Axon Dock, the Dock Upgrade will be a multi-bay Axon Dock that is the same or like Axon Device, at Axon's option.
- 6 **Upgrade Delay.** Axon may ship the BWC and Dock Upgrades as scheduled in the Quote without prior confirmation from Agency unless the Parties agree in writing otherwise at least 90 days in advance. Axon may ship the final BWC and Dock Upgrade as scheduled in the Quote 60 days before the end of the Subscription Term without prior confirmation from Agency.
- 7 **Upgrade Change.** If Agency wants to change Axon Device models for the offered BWC or Dock Upgrade, Agency must pay the price difference between the MSRP for the offered BWC or Dock Upgrade and the MSRP for the model desired. If the model Agency desires has an MSRP less than the MSRP of the offered BWC Upgrade or Dock Upgrade, Axon will not provide a refund. The MSRP is the MSRP in effect at the time of the upgrade.
- 8 **Return of Original Axon Device.** Within 30 days of receiving a BWC or Dock Upgrade, Agency must return the original Axon Devices to Axon or destroy the Axon Devices and provide a certificate of destruction to Axon including serial numbers for the destroyed Axon Devices. If Agency does not return or destroy the Axon Devices, Axon will deactivate the serial numbers for the Axon Devices received by Agency.
- 9 **Termination.** If Agency's payment for TAP, OSP, or Axon Evidence is more than 30 days past due, Axon may terminate TAP or OSP. Once TAP or OSP terminates for any reason:
 - 9.1 TAP and OSP coverage terminate as of the date of termination and no refunds will be given.
 - 9.2 Axon will not and has no obligation to provide the Upgrade Models.
 - 9.3 Agency must make any missed payments due to the termination before Agency may purchase any future TAP or OSP.



Master Services and Purchasing Agreement

TASER 7 Appendix

This TASER 7 Appendix applies to Agency's TASER 7, OSP 7, or OSP 7 Plus purchase from Axon.

- 1 **Duty Cartridge Replenishment Plan.** If the Quote includes "Duty Cartridge Replenishment Plan", Agency must purchase the plan for each CEW user. A CEW user includes officers that use a CEW in the line of duty and those that only use a CEW for training. Agency may not resell cartridges received. Axon will only replace cartridges used in the line of duty.
- 2 **Training.** If the Quote includes a training voucher, Agency must use the voucher within 1 year of issuance, or the voucher will be void. Axon will issue Agency a voucher annually beginning on the start of the TASER Subscription Term. The voucher has no cash value. Agency cannot exchange it for another device or service. Unless stated in the Quote, the voucher does not include travel expenses and will be Agency's responsibility. If the Quote includes Axon Online Training or Virtual Reality Content Empathy Development for Autism/Schizophrenia (collectively, "Training Content"), Agency may access Training Content. Axon will deliver all Training Content electronically.
- 3 **Extended Warranty.** If the Quote includes an extended warranty, the extended warranty coverage period warranty will be for a 5-year term, which includes the hardware manufacturer's warranty plus the 4-year extended term.
- 4 **Trade-in.** If the Quote contains a discount on CEW-related line items, including items related to OSP, then that discount may only be applied as a trade-in credit, and Agency must return used hardware and accessories associated with the discount ("Trade-In Units") to Axon. Agency must ship batteries via ground shipping. Axon will pay shipping costs of the return. If Axon does not receive Trade-In Units within the timeframe below, Axon will invoice Agency the value of the trade-in credit. Agency may not destroy Trade-In Units and receive a trade-in credit.

Agency Size	Days to Return from Start Date of TASER 7 Subscription
Less than 100 officers	30 days
100 to 499 officers	90 days
500+ officers	180 days

- 5 **TASER 7 Subscription Term.** The TASER 7 Subscription Term for a standalone TASER 7 purchase begins on shipment of the TASER 7 hardware. The TASER 7 Subscription Term for OSP 7 begins on the OSP 7 Start date.
- 6 **Access Rights.** Upon Axon granting Agency a TASER 7 Axon Evidence subscription, Agency may access and use Axon Evidence for the storage and management of data from TASER 7 CEW devices during the TASER 7 Subscription Term. Agency may not upload any non-TASER 7 data or any other files to Axon Evidence. Agency may not exceed the number of end users than the Quote specifies.
- 7 **Privacy.** Axon will not disclose Agency Content or any information about Agency except as compelled by a court or administrative body or required by any law or regulation. Axon will give notice if any disclosure request is received for Agency Content, so Agency may file an objection with the court or administrative body. Agency acknowledges and agrees that Axon may access Agency Content to: (a) perform troubleshooting services upon request or as part of Axon's maintenance or diagnostic screenings; (b) enforce this Agreement or policies governing use of Axon Evidence; (c) generate aggregated data, excluding information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying



Master Services and Purchasing Agreement

information that is linked or linkable to a specific individual (collectively, “PII”), to improve, analyze, support, and operate Axon’s current and future devices and services.

- 8** **Termination.** If payment for TASER 7 is more than 30 days past due, Axon may terminate Agency’s TASER 7 plan by notifying Agency. Upon termination for any reason, then as of the date of termination:
- 8.1** TASER 7 extended warranties and access to Training Content will terminate. No refunds will be given.
 - 8.2** Axon will invoice Agency the remaining MSRP for TASER 7 products received before termination. If terminating for non-appropriations, Axon will not invoice Agency if Agency returns the CEW, rechargeable battery, holster, dock, core, training suits, and unused cartridges to Axon within 30 days of the date of termination.
 - 8.3** Agency will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future TASER 7 plan.



Master Services and Purchasing Agreement

Axon Respond Appendix

This Axon Respond Appendix applies to both Axon Respond and Axon Respond Plus.

- 1 **Axon Respond Subscription Term.** If Agency purchases Axon Respond as part of a bundled offering, the Axon Respond subscription begins on the later of the (1) start date of that bundled offering, or (2) date Axon provisions Axon Respond to Agency.

If Agency purchases Axon Respond as a standalone, the Axon Respond subscription begins the later of the (1) date Axon provisions Axon Respond to Agency, or (2) first day of the month following the Effective Date.

The Axon Respond subscription term will end upon the completion of the Axon Evidence Subscription associated with Axon Respond.

- 2 **Scope of Axon Respond.** The scope of Axon Respond is to assist Agency with real-time situational awareness during critical incidents to improve officer safety, effectiveness, and awareness. In the event Agency uses Axon Respond outside this scope, Axon may initiate good-faith discussions with Agency on upgrading Agency's Axon Respond to better meet Agency's needs.

- 3 **Axon Body 3 LTE Requirements.** Axon Respond is only available and usable with an LTE enabled body-worn camera. Axon is not liable if Agency utilizes the LTE device outside of the coverage area or if the LTE carrier is unavailable. LTE coverage is only available in the United States, including any U.S. territories. Axon may utilize a carrier of Axon's choice to provide LTE service. Axon may change LTE carriers during the Term without Agency's consent.

- 4 **Axon Fleet 3 LTE Requirements.** Axon Respond is only available and usable with a Fleet 3 system configured with LTE modem and service. Agency is responsible for providing LTE service for the modem. Coverage and availability of LTE service is subject to Agency's LTE carrier.

- 5 **Axon Respond Service Limitations.** Agency acknowledges that LTE service is made available only within the operating range of the networks. Service may be temporarily refused, interrupted, or limited because of: (a) facilities limitations; (b) transmission limitations caused by atmospheric, terrain, other natural or artificial conditions adversely affecting transmission, weak batteries, system overcapacity, movement outside a service area or gaps in coverage in a service area and other causes reasonably outside of the carrier's control such as intentional or negligent acts of third parties that damage or impair the network or disrupt service; or (c) equipment modifications, upgrades, relocations, repairs, and other similar activities necessary for the proper or improved operation of service.

With regard to Axon Body 3, Partner networks are made available as-is and the carrier makes no warranties or representations as to the availability or quality of roaming service provided by carrier partners, and the carrier will not be liable in any capacity for any errors, outages, or failures of carrier partner networks. Agency expressly understands and agrees that it has no contractual relationship whatsoever with the underlying wireless service provider or its affiliates or contractors and Agency is not a third-party beneficiary of any agreement between Axon and the underlying carrier.

- 6 **Termination.** Upon termination of this Agreement, or if Agency stops paying for Axon Respond or bundles that include Axon Respond, Axon will end Aware services, including any Axon-provided LTE service.

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Janet Pierson, Town Clerk

Date: April 5, 2021

Subject: Adopt Resolution to approve the awarding of a service firearm to a retiring law enforcement member. (*Emily Sloop/Chief Hoyle*)

EXPLAIN REQUEST:

Consider adopting Resolution to approve the awarding of a service firearm to a retiring law enforcement member.

ACTION RECOMMENDED:

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

1. Collins Firearm Resolution



**Resolution to Approve the Awarding of a Service
Firearm to a Retiring Law-Enforcement Member**

WHEREAS, in accordance with North Carolina General Statute § 20-187.2, the Governing Board of a law enforcement agency shall award a retiring law-enforcement member his or her badge and may, in its discretion, award the member's service firearm; and

WHEREAS, Officer Mike Collins has made an official request to be awarded his service firearm upon his retirement; and

WHEREAS, The Town of Huntersville Board of Commissioners (the "Board of Commissioners") has determined that Officer Collins is not ineligible to own, possess, or receive a firearm under the provisions of State or federal law; and

WHEREAS, the Board of Commissioners desires to honor Officer Collins for his service to the Town as a law enforcement member by awarding him his service firearm, a Glock Model 22, serial number VMC725, for the price of \$1.00.

NOW THEREFORE, BE IT RESOVLED AS FOLLOWS:

1. The Board of Commissioners has determined that Officer Collins is not ineligible to own, possess, or receive a firearm under the provisions of State or federal law
2. Pursuant to G.S. § 20-187.2(a), the Board of Commissioners hereby awards Officer Collins his service firearm, a Glock Model 22, serial number VMC725, for the price of \$1.00.
3. The Town Manager and Town Attorney are hereby authorized to take necessary actions and to execute such documents as may be necessary to complete this Resolution.
4. This Resolution shall be effective as of the date of its adoption.

Adopted this the ____ day of _____ 2021.

Attest:

Clerk to the Board

Mayor, Town of Huntersville

Approved as to Form:

Town Attorney

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Kevin Fox, Director

Date: April 5, 2021

Subject: Adopt Resolution and Award Contract for the demolition of the house located at 510 Dallas Street. *(Kevin Fox)*

EXPLAIN REQUEST:

On March 10, 2021, informal bids were received for the demolition of the house located at 510 Dallas Street. The property is owned by the Town, and was acquired for right-of-way in association with the Holbrooks Street Extension project. The house was originally planned to be used as a field office for NCDOT during the US 21 and Gilead roadway project, but has become in disrepair. The delay of the NCDOT project, and the current condition of the house has created a need to demolish the structure. The lowest bidder for the project is Country Boy Landscaping, Inc. with a bid of \$13,460.

ACTION RECOMMENDED:

Adopt Resolution and award Contract to Country Boy Landscaping, Inc.

FINANCIAL IMPLICATIONS:

As provided for in the Holbrooks Street Extension project budget - 2020 Bond Issue

ATTACHMENTS:

1. Dallas St Demolition - Resolution
2. BoardPackageDemo510DallasSt.



**RESOLUTION AUTHORIZING SERVICES AGREEMENT FOR DEMOLITION ON THE
HOLBROOK STREET EXTENSION PROJECT**

Whereas, demolition services are required for the structure (previously used a single family home) located at 510 Dallas St., Huntersville, NC 28078; and

Whereas, the informal bids threshold of a contract is between \$30,000 and \$499,999 per G.S 143-131, services were put out for proposals attached herein for reference; and

Whereas the lowest price received from a qualified proposer was a proposal by Country Boy Landscaping, Inc., see Exhibit A; and

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Contract for Demolition services attached hereto as Exhibit A is approved.
2. The Board hereby authorizes the Town Manager, acting on advice of counsel, to take any actions necessary to effect the provisions of this Resolution; and
3. This Resolution shall be effective as of the date its adoption.

Adopted this 5th day of April, 2021.

ATTEST:

TOWN OF HUNTERSVILLE

Town Clerk

Town Mayor

APPROVED AS TO FORM:

Town Attorney

Town of Huntersville
510 Dallas Demolition

DESCRIPTION	Country Boy Landscaping, Inc.					WC Black and Sons, Inc.					GreenWater Development, Inc.				
	QTY	UNIT	Unit Price	TOTAL		QTY	UNIT	Unit Price	TOTAL		QTY	UNIT	Unit Price	TOTAL	
Demolition of 510 Dallas St. Residential Structure	1	LS	\$ 13,460.00	\$ 13,460.00		1	LS	\$ 14,000.00	\$ 14,000.00		1	LS	\$ 16,530.00	\$ 16,530.00	
TOTAL	\$		13,460.00			\$		14,000.00			\$		16,530.00		



REQUEST FOR PROPOSALS (RFP)

Bid Title:

Demolition Services

510 Dallas St, Huntersville, NC 28078

Parcel ID: 017-10-111

Date Issued: February 24, 2021

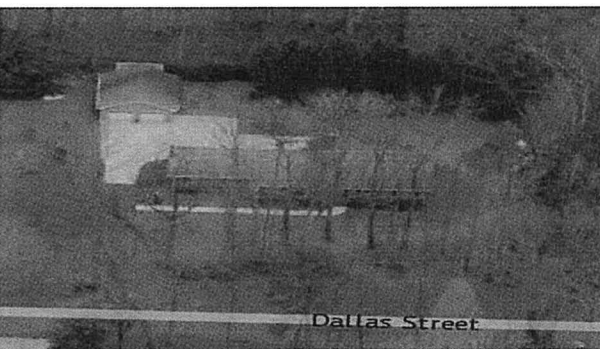
Bids Due: March 10, 2021

INVITATION TO BID

The Town of Huntersville is soliciting bids for **Demolition Services** for the structure (previously used as a single family home) located at 510 Dallas St., Huntersville, NC 28078 **until 12:00 p.m., March 10, 2021.**

The Town of Huntersville is committed to providing opportunities for small and disadvantaged businesses. The Town encourages bids from Historically Underutilized Businesses (HUB). The Town reserves the right to reject any and all bid proposals received, by the deadline stated above, and to waive minor informalities.

Contractors interested in a site assessment prior to bid may contact Kevin Garton at (704) 766-2225 to set up a visit to the location and inspection of the home.



Request for Bids for Demolition of Structure at 510 Dallas St (see description below)

(PARCEL ID: 01710111)

Parcel Details from Mecklenburg County

- Finished Area: 3,472
- Year Built: 1965
- Built Use / Style: SINGLE FAMILY RESIDENTIAL
- Story: 1 STORY
- Heat: BASEBOARD HEAT
- Fuel: ELECTRIC
- Foundation: CRAWL SPACE
- External Wall: FACE BRICK
- Fireplace(s): 1
- Full Bath(s): 2
- Half Bath(s) -
- Bedroom(s): 5
- Total (SqFt): 3,906

The Town of Huntersville is seeking a licensed contractor to demolish the home (leave the garage) at 510 Dallas St. and clear and stabilize the site upon completion. The asbestos report has already been completed for this demolition.

Additionally, the garage is to remain, the house is the only structure that is to be demolished.

The winning bidder is responsible for obtaining and providing all permits, labor, expertise, equipment, machines and tools necessary to perform the demolition services at the work site identified on the Bid Form. The Firm shall also verify the utility services have been disconnected prior to accomplishing the physical disconnections and any capping or terminations necessary to proceed with demolition. All demolition debris must be transported to an approved Construction and Demolition (C&D) Landfill. The property was inspected to determine the possible presence of asbestos, and other toxic and / or hazardous substance and abatement should be included as part of the work being quoted. The pricing for the subject work shall be inclusive.

Responding contractors proposed cost should include the cost to demolish. Proposed pricing must be valid for a minimum of 90 days.

The successful contractor will be required to enter into the Town's Standard form Agreement for Services. The Town reserves the right to negotiate with the apparent low bidder for any services that such bidder recommends after award of the contract.

Contractor will be responsible for Mecklenburg County Demolition Permit and compliance with County and State requirements for demolition.

Contact: Kevin Garton, Construction Engineer at kgarton@huntersville.org or 704-766-2225.

INSTRUCTIONS FOR BIDDERS

Bidders are required to verify compliance with the following requested items and include with the bid those items as requested or be prepared to furnish at a later date as specified. Failure to comply may result in automatic disqualification.

1. Return Town of Huntersville Bid Form
2. Signature on bid by authorized personnel
3. Minimum of three (3) references where this type of service was provided
4. Compliance with Town's Terms and Conditions as outlined in sample contract included in this package
5. Ability to produce the following if chosen as successful bidder:
 - a. Certificate of Insurance showing proof of Workers Compensation insurance
 - b. W-9

ADDITIONAL INFORMATION

Questions concerning bid documents should be directed to Construction Engineer, Kevin Garton, no later than March 9, 2021 by 12:00 p.m. (approximately 24 hours before bids are due). It is preferred that all questions be submitted in writing and emailed to: kgarton@huntersville.org.

ADDENDA

Any changes to the bid documents or information requiring clarification will be issued in the form of a written addendum and furnished to all known bidders. Verbal information will not be considered binding. Once issued, an addendum becomes a part of the bid documents.

It is the responsibility of each bidder to ensure that they have received all addenda prior to submitting a bid.

Additionally, the asbestos inspection report has been made available as a part of this bid opportunity on the Town's website.

SUBMISSION

Proposals shall be mailed, hand delivered and/or emailed to the location shown below (see next page). The envelope and/or email subject line shall bear the name Demolition Services Request for Proposal (RFP). It is the sole responsibility of the Bidder to ensure that its Proposal reaches Construction Engineer, Kevin Garton and/or the Public Works Department at Huntersville Town Hall (105 Gilead Rd, Suite 300) by the designated date and hour indicated above. This is NOT a public bid opening. Proposals submitted after this deadline will not be considered.

The Town reserves the right to reject any or all bids, waive technicalities, and to be the sole judge of suitability of the equipment or services for intended purposes as deemed to be in the best interest of the Town

Bids may be submitted via the following methods:

<u>USPS Delivery</u>	<u>FedEx or UPS Delivery</u>	<u>Hand Delivery</u>	<u>E-Mail Delivery (Preferred)</u>
Town of Huntersville Public Works Dept Attn: Kevin Garton PO Box 664 Huntersville, NC 28070	Town of Huntersville Public Works Dept Attn: Kevin Garton 105 Gilead Rd, Suite 300, Huntersville, NC 28078	Town of Huntersville Public Works Dept Attn: Kevin Garton 105 Gilead Rd, Suite 300, Huntersville, NC 28078	Kevin Garton, Construction Engineer: kgarton@huntersville.org

REFERENCES

As indicated under the Instructions for Bidders, bidders should include a minimum of three (3) references for which this type of service was provided. No bidder will use the Town of Huntersville as a reference.

BID EVALUATION

In determining the lowest responsible bidder, in addition to price, the Town will consider:

- a. The ability, capacity, and skill of the bidder to perform the services required under the contract;
- b. Whether the bidder can provide the services promptly, or within the time specified, without delay or interference;
- c. The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
- d. The quality of service and level of performance of a bidder under previous contracts, if any;
- e. Previous and existing compliance by the bidder with laws and ordinances relating to the service;

SAMPLE CONTRACT

The terms and conditions that will oversee this work are outlined in the Town's standard contract for services, which is included as part of this bid package. Any bidders must be able to meet and comply with these requirements.

BID FORM – PAGE 1

DEMOLITION SERVICES

Due Date and Time: March 10, 2021 at 12:00 pm

The undersigned, as Bidder, hereby declares that the only person, or persons, interested in this Bid as principal(s) is, or are, named herein; that no other persons have any interest in the Bid or in the Contract to be entered into; that this Bid is made without connection with any person, company, or parties making a bid; and that it is in all respects fair and in good faith without collusion or fraud.

The Bidder further declares that he/she has examined the SITE of this Work and informed himself/herself fully in regard to all conditions pertaining to the places where the work is to be done, and that he/she has examined the Specifications for the Work and the contractual documents relative thereto, and that he/she has satisfied himself as to the work to be performed.

The Bidder further proposes and agrees, if this Bid is accepted, to contract with the Town of Huntersville, in the attached form of contract, and to furnish all materials, equipment, tools, apparatus, means of transportation, insurance, permits, fees, (to include tipping fees), and labor necessary thereto, and complete the performance in full and in accordance with the Specifications and Contract Documents in the amounts listed below:

Project Name: Demolition Services at 510 Dallas St

ITEM	DESCRIPTION	QUANTITY	PRICE
1	510 Dallas St, Huntersville, NC 28078 Tax Parcel ID - 01710111	1	\$ 13,460.00
TOTAL PROJECT COST		1	<u>\$ 13,460.00</u>

The price submitted above includes the complete demolition of structures and removal of all debris for each site listed. All debris shall be disposed of in a Construction and Demolition (C&D) Landfill. Contractor is responsible for all tipping fees.

The prices submitted above consist of complete removal of structure, outbuildings, porches, foundations, footings, chimneys, parking areas, signs, landscaping, HVAC, etc. Total cost includes mobilization, demobilization, grading and seeding for each site listed.



Engineering & Public Works
105 Gilead Road, Suite 300
Huntersville, NC 28078
(704) 766-2220

CONTRACT FOR CONSTRUCTION SERVICES

CONTRACTOR: Country Boy Landscaping
PO Box 290
Hickory, NC 28634
Chris C. Cartner
Seed4u@bellsouth.net

PROJECT: Demolition Services
SITE LOCATION(S): 510 Dallas St., Huntersville, NC 28078

This Contract for Construction and Repair, and all exhibits, (collectively this "Contract") is entered into this

5 day of April, 2021 by and between the Town of Huntersville, a municipal corporation

of the State of North Carolina, (the "Town") and Country Boy Landscaping Inc. located at
PO Box 290 Harmony, NC 28634 (the "Contractor").

For and in consideration of the mutual promises set forth in this Contract, the parties do mutually agree as follows:

Scope of Services. The Contractor agrees to perform for the Town the following services according to the following requirements:

Specifications: The Services to be provided by the Contractor are governed by the construction design drawings, plans, and specifications, which is incorporated herein by reference as Exhibit B. The Contractor agrees to provide the labor, service, equipment, and materials, which shall constitute the "Work".

The Contractor warrants that the Contractor has visited the location of the project and is familiar with all field conditions bearing upon the Contractor's performance of the Work; that the materials and equipment furnished under the Contract are of good quality and new (unless otherwise permitted); that the Work meets or exceeds the standards ordinarily observed in the industry; and that the Work conforms to the requirements of the Contract and to all applicable codes, ordinances, laws, or regulations. The Contractor further warrants and promises that the Work shall be free from defects and nonconformities in materials and workmanship for a period of one year from the later of the Date of Completion or such date as the Contractor actually completes all the Work. During such period the Contractor will remedy at Contractor's expense nonconformities or defects in the Work within a reasonable time after receiving notice thereof from the Town.

Fees: Fees for work to be completed by the Contractor are specified by the Vendor Supplied Proposal which is incorporated herein by reference. A detailed fee schedule is tabulated in Exhibit C.

Change Orders. The Contractor agrees that the Town may order changes to the general scope of the Work, including additions, deletions, and similar revisions. The parties agree to adjust the Contract Price to reflect the effects of such changes. These changes shall be authorized only upon execution of a written change order.

The Town may issue written Change Orders to the Contractor directing a change in the Work. The amount of any increase or decrease in the Contract Price shall be by mutual acceptance of a total amount supported by sufficient data and information to substantiate the change. If the Town and Contractor do not mutually agree on the amount of the change in the Contract Price, the Contractor will proceed with the Work described in the Change Order and the Owner will pay the reasonable costs of any additional work, including a reasonable amount for the Contractor's overhead and profit. Any decrease in Contract Price for a decrease in the Work will be the reasonable costs of the Work deleted, including a reasonable amount for the decrease in the Contractor's overhead.

The Contractor may submit claims for an increase in the Contract Price or an extension of the Date of Completion by means of a written Change Request. The Contractor agrees to submit the Change Request within a reasonable time after the event giving rise to the requested change and before the Contractor undertakes any additional work. Upon receipt of a Change Request, the Town shall inform the Contractor whether to proceed with the additional work and shall approve any adjustment in the Contract Price or Date of Completion by issuing a Change Order as provided above. The timely submission of a written Change Request shall be a condition precedent to the issuance of a Change Order, and the Town will have no obligation to pay the Contractor for additional work performed by the Contractor without a Change Order approved in writing by the Owner.

Historically Underutilized Businesses (HUB). It is the policy of the Town of to provide minorities and women equal opportunity for participating in all aspects of the Town's contracting and procurement programs, including but not limited to employment, construction development projects, materials/services contracts and/or lease agreements, consistent with the laws of the State of North Carolina.

Personal Protective Equipment (PPE). The Contractor and his/her employees will wear the proper equipment such as, but not limited to, high visibility clothing, safety glasses, hearing protection etc. at all times when working at the Properties. Failure to be in the appropriate PPE will result in removal from the project site.

Contract Insurance. Contractor shall be required to purchase and maintain, during its performance under this Contract, insurance coverage as shown on the Insurance Requirements as stated in Exhibit A, which is incorporated herein by reference. All insurance purchased shall have a specific endorsement, copy of which shall be provided to the Town, naming the Town as an additional insured and providing that such insurance will not be cancelled without providing thirty (30) days advance written notice to the Town.

Cancellations or Termination. Upon repeated occurrences of unsatisfactory Work from the Contractor the Contract may be subjected to cancellation. The Town shall give the Contractor then (10) days' notice by registered or certified mail of the date set for cancellation.

Standard Terms and Conditions. The attached Standard Terms and Conditions shall be a part of this Contract. Such Standard Terms and Conditions are hereby incorporated by reference, and all parties agree to be bound thereby.

The Contractor agrees to fully complete the Work 60 days after issuance of Notice to Proceed (the "Date of Competition").

Payment for Services. In consideration of the above services, the Town will pay the Contractor the lump sum of \$ 13,460.00 as provided on quotation received by the Town on March 9, 2021, to be paid 30 days after receipt of undisputed invoices delivered to the Town.

In witness thereof, the contracting parties, by their authorized agents, affix their signatures and seals at Huntersville,

North Carolina, this _____ day of _____, 20_____.

Contractor

Town of Huntersville

Name: _____
Name of Contractor (type or print)

Town Manager

By: _____
(Signature)

Attest: _____
Town Clerk

Title: _____

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

Attest: _____
(Secretary, if a corporation)

Finance Director

STANDARD TERMS & CONDITIONS

1. **Acceptance.** Contractor's acknowledgment of the terms of this Contract constitutes an agreement to (i) all terms and conditions set forth or referenced herein, (ii) on any attachments hereto, (iii) any applicable solicitation documentation related to this Contract (including without limitation any request for proposals or invitation for bids or Contractor's response thereto) that deal with the same subject matter as this Contract, and (iv) any other terms and conditions of a written agreement signed by Contractor and the Town that deals with the same subject matter as this Contract (collectively, the "Contract Documents"). The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Contractor and the Town with respect to the purchase by the Town of the (i) goods ("Goods") and/or (ii) services provided or work performed ("Services") as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." In the event of any conflict between any terms and conditions of the Contract Documents, the terms and conditions most favorable to the Town shall control. No additional or supplemental provision or provisions in variance herewith that may appear in Contractor's quotation, acknowledgment, invoice or in any other communication from Contractor to the Town shall be deemed accepted by or binding on the Town. The Town hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until the Town's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by the Town are subject to correction.
2. **Entire Agreement.** These terms and conditions and any other specifications contained in any other documents referenced shall constitute and represent the complete and entire agreement between the Town and Contractor and supersede all previous communications, either written or verbal with respect to the subject matter of this Contract.
3. **Changes, Additions, Deletions.** No changes, additions, deletions or substitutions of scope of work, specifications, terms and conditions, quantity, unit of issue, delivery date, delivery charges or price will be permitted without the prior written approval from the Town.
4. **Relationship of the Parties.** The Contractor is an independent contractor and not an employee of the Town. The conduct and control of the work will lie solely with the Contractor. The Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between the Contractor and the Town. Employees of the Contractor shall remain subject to the exclusive control and supervision of the Contractor, which is solely responsible for their compensation.
5. **Prices.** If Contractor's price or the regular market price of any of the Goods or Services covered hereunder is lower than the price stated in the Contract Documents on the date of shipment of such Goods or performance of such Services, Contractor agrees to give the Town the benefit of such lower price on any such Goods or Services. In no event shall Contractor's price be higher than the price last quoted or last charged to the Town unless otherwise agreed in writing. No charges for transportation, boxing, crating, etc. are allowable unless such charges are included in the Contract Documents.
6. **Taxes.** Any applicable taxes shall be invoiced as a separate item.
7. **Substitutions.** No substitutions or cancellations shall be permitted without prior written approval from the Town.
8. **Indemnification.** To the greatest extent allowed by the law the Contractor shall indemnify and hold harmless the Town, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees ("Claims"), but only to the extent the fault of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim. In the event that any portion of the Work performed under the Contract shall be defective in any respect whatsoever, the Firm shall indemnify and save harmless the Town, its officers, agents, employees and assigns from all loss or the payment of all sums of money, but only to the extent the fault of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim.
9. **Invoices and Payment Terms.** It is understood and agreed that orders will be shipped at the established Contract prices in effect on dates orders are placed. Invoicing at variance with this provision will subject the Contract to cancellation. Upon satisfactory delivery of the Goods or satisfactory completion of the Services, all invoices and statements shall reference the Contract number and be submitted to: Town of Huntersville, Accounts Payable, PO Box 664, Huntersville, North Carolina, 28070. Payment terms are Net 30 days after receipt of correct, undisputed invoice or acceptance of Goods or Services, whichever is later.

10. **Anti-Discrimination.** During the performance of the Contract, Contractor shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.
11. **Insurance.** Whenever any work or services are provided, either in or on Town owned property, the following shall apply: the Town shall specify the insurance coverage required including, but not limited to, minimum acceptable coverage and limits, as well as a minimum acceptable insurance rating for an insurance provider. The Contractor shall provide the Town with a North Carolina Certificate of Insurance PRIOR to the commencement of any work under the Contract and agrees to maintain such insurance until the completion of the Contract. Such certificates of insurance shall be considered part of the Contract.
12. **Ethics in Public Contracting.** By submitting their prices and acceptance of this Contract, all Contractors certify that their bids are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other supplier, manufacturer or subcontractor in connection with their offer, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
13. **Applicable Laws and Courts.** All Town Contracts for Services shall be governed in all respects by the laws of the State of North Carolina. All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of the Contract, shall be governed in all respects by the laws of the State of North Carolina and venue shall be proper only in a court of competent jurisdiction located in Mecklenburg County, North Carolina. The Contractor represents and warrants that it shall comply with all applicable federal, state and local laws, regulations and orders.
14. **Strict Compliance.** The Town may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
15. **Assignment.** Contractor may not assign, pledge, or in any manner encumber Contractor's rights under this Contract, or delegate the performance of any of its obligations hereunder, without Buyer's prior, express written consent.
16. **General Provisions.** The Town's remedies as set forth herein are not exclusive. Any delay or omission by the Town in exercising any right hereunder, or any waiver by the Town of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default.
17. **Warranties.** The Contractor warrants it shall adhere to all laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Mecklenburg, and the Town of Huntersville in the performance of the Services outlined in this Contract and any attached specifications. Contractor warrants that any finished work completed hereunder shall also adhere to all laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Mecklenburg, and the Town of Huntersville. Contractor warrants that all Services delivered hereunder will be free from defects in materials and workmanship and will conform strictly to the specifications, drawings, or samples specified or furnished. This warranty shall survive any inspection, delivery, acceptance or payment by the Town of the Services and shall run to the Town and any user of the Services. Contractor warrants that all Services will be performed in a professional and workman like manner in accordance with best industry practices. This express warranty is in addition to Contractor's implied warranties of merchantability and fitness for a particular purpose which shall not be disclaimed. In addition to any other rights available at law or in equity, the Town shall be entitled to consequential and incidental damages.
18. **Quality and Workmanship.** All work shall be performed to the satisfaction of the Town. The work shall not be considered complete nor applicable payments rendered until the Town is satisfied with the Services provided.
19. **Default.** The Town may terminate the Contract, in whole or in part, immediately and without prior notice upon breach of the Contract by the Contractor. In addition to any other remedies available to the Town in law or equity, the Town may procure upon such terms as the Town shall deem appropriate, Services substantially similar to those so terminated, in which case the Contractor shall be liable to the Town for any excess costs for such similar supplies or services and any expenses incurred in connection therewith.
20. **Termination for Convenience.** The Town shall have the right, without assigning any reason therefore, to terminate any work under the Contract, in whole or in part, at any time at its complete discretion by providing 10 days' notice in writing from the Town to Contractor. If the Contract is terminated by the Town in accordance with this paragraph, the Contractor will be paid in an amount which bears the same ratio to the total compensation as does the Services actually delivered or performed to the total originally contemplated in the Contract. The Town

will not be liable to the Contractor for any costs for materials acquired or contracted for, if such costs were incurred prior to the date of this Contract.

21. **No Third Party Beneficiaries.** There shall be no intended nor incidental third party beneficiaries of this Contract. Contractor shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third party beneficiaries.
22. **Valid Contract for Services.** In order for a Contract for Services of the Town to be valid, it must be executed by the Town Manager or his or her authorized designee, and must be pre-audited in that manner required by the Local Government Budget and Fiscal Control Act, as the same may be amended.
23. **Verification of Work Authorization.** Contractor shall comply with, and require all contractors and subcontractors to comply with, the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, "Verification of Work Authorization," sometimes known as E-verify for all contractors and subcontractors.
24. **Iran Divestment List.** With the execution hereof, Contractor, certifies that they are not on the Iran Final Divestment List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.58, and will not contract with anyone on such List in performance of the work hereunder.
25. **Buyer.** All references to Buyer or Town, throughout these terms and conditions, shall refer to the Town of Huntersville, North Carolina.
26. **Contractor.** All references to Seller or Contractor throughout these terms and conditions shall refer to the contractor identified on page 1 of this Contract for Services.
27. **Severability.** If any provision of this Contract is found to be invalid or unlawful, then remainder of this Contract shall not be affected thereby, and each remaining provision shall be valid and enforced to the fullest extent permitted by law.
28. **Companies that Boycott Israel.** With the execution hereof, Firm, certifies that they are not on the Companies that Boycott Israel list created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.80, and will not contract with anyone on such List in performance of the work hereunder.

EXHIBIT A

MINIMUM INSURANCE REQUIREMENTS

The Work under this Contract shall not commence until the Firm has obtained all required insurance and verifying certificates of insurance have been approved in writing by the Town. The Town shall be named as additional insured on all policies. These certificates shall document that coverages afforded under the policies will not be cancelled, reduced in amount or coverages eliminated until at least thirty (30) days after mailing written notice, by certified mail, return receipt requested, to the insured and the Town of such alteration or cancellation. If endorsements are needed to comply with the notification or other requirements of this article copies of the endorsements shall be submitted with the certificates.

a. Worker's Compensation and Employer's Liability

The Firm shall provide and maintain, until final acceptance, workmen's compensation insurance, as required by law, as well as employer's liability coverage with minimum limits of \$100,000.

b. Public Liability and Property Damage

The Firm shall provide and maintain, until final acceptance, comprehensive general liability insurance, including coverage for premises operations, independent contractors, completed operations, products and contractual exposures, as shall protect such contractors from claims arising out of any bodily injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operations be by the Firm or by any subcontractor, or by anyone directly or indirectly employed by either of them and the minimum limits of such insurance shall be as follows:

Bodily Injury:	\$1,000,000 per occurrence/\$2,000,000 aggregate
Property Damage:	\$100,000 per occurrence / \$300,000 aggregate

Such coverage for completed operations must be maintained for at least two (2) years following final acceptance of the Work performed under the contract.

c. Deductible

Any deductible, if applicable to loss covered by insurance provided, is to be borne by the Firm.

d. Other Insurance

The Firm shall obtain such additional insurance as may be required by the Town or by the General Statutes of North Carolina including motor vehicle insurance, in amounts not less than the statutory limits.

e. Proof of Carriage

The Firm shall furnish the Town with satisfactory proof of carriage of the insurance required before written approval is granted by the Town.

EXHIBIT B – PLANS AND SPECIFICATIONS

(insert plans and specs)

EXHIBIT C – FEE SCHEDULE

<u>Service</u>	<u>Unit Cost</u>	<u>Quantity</u>	<u>Total</u>
Demo Services @			
510 Dallas St.			
Total Cost =			\$13,460.00

Country Boy Landscaping, Inc. 3/9/21

Company Name

Date

Chris C. Cartner

President

Print Name

Title



Signature

**Town of Huntersville
Town Board
April 5, 2021**

To: Town Board

From: Kevin Fox, Director

Date: April 5, 2021

Subject: Accept streets in the Mirabella Subdivision for Town maintenance. *(Kevin Fox)*

EXPLAIN REQUEST:

It is recommended that the Town of Huntersville accept the streets listed below for maintenance, which are located in the Mirabella Subdivision.

Street Name	From	To	Approx. Length
Loch Raven Rd	Huntersville-Concord Rd	Monocacy Blvd	2085 feet
Guthrie Dr	Loch Raven Rd	Crystal Springs Dr	2180 feet
Crystal Springs Dr	Loch Raven Rd	Guthrie Dr	1600 feet
Hunt Valley Dr	Crystal Springs Rd	Loch Raven Rd	905 feet
Lawther Rd	Hunt Valley Dr	200' N of Loch Raven Rd	870 feet
Vermillion Crossing	140' W of Guthrie Dr	Guthrie Dr	140 feet
Providence Hall Dr	Lawther Rd	Hunt Valley Dr	240 feet
Nicodemus Ln	Hunt Valley Dr	Monocacy Blvd	390 feet
Monocacy Blvd	Nicodemus Ln	Monocacy Blvd	1605 feet
Monocacy Blvd	Nicodemus Ln	Roosevelt Grove Dr	1305 feet
Roosevelt Grove Dr	Monocacy Blvd	215' NE of Monocacy Blvd	215 feet

ACTION RECOMMENDED:

Acceptance of streets for Town Maintenance

FINANCIAL IMPLICATIONS:

Powell Bill

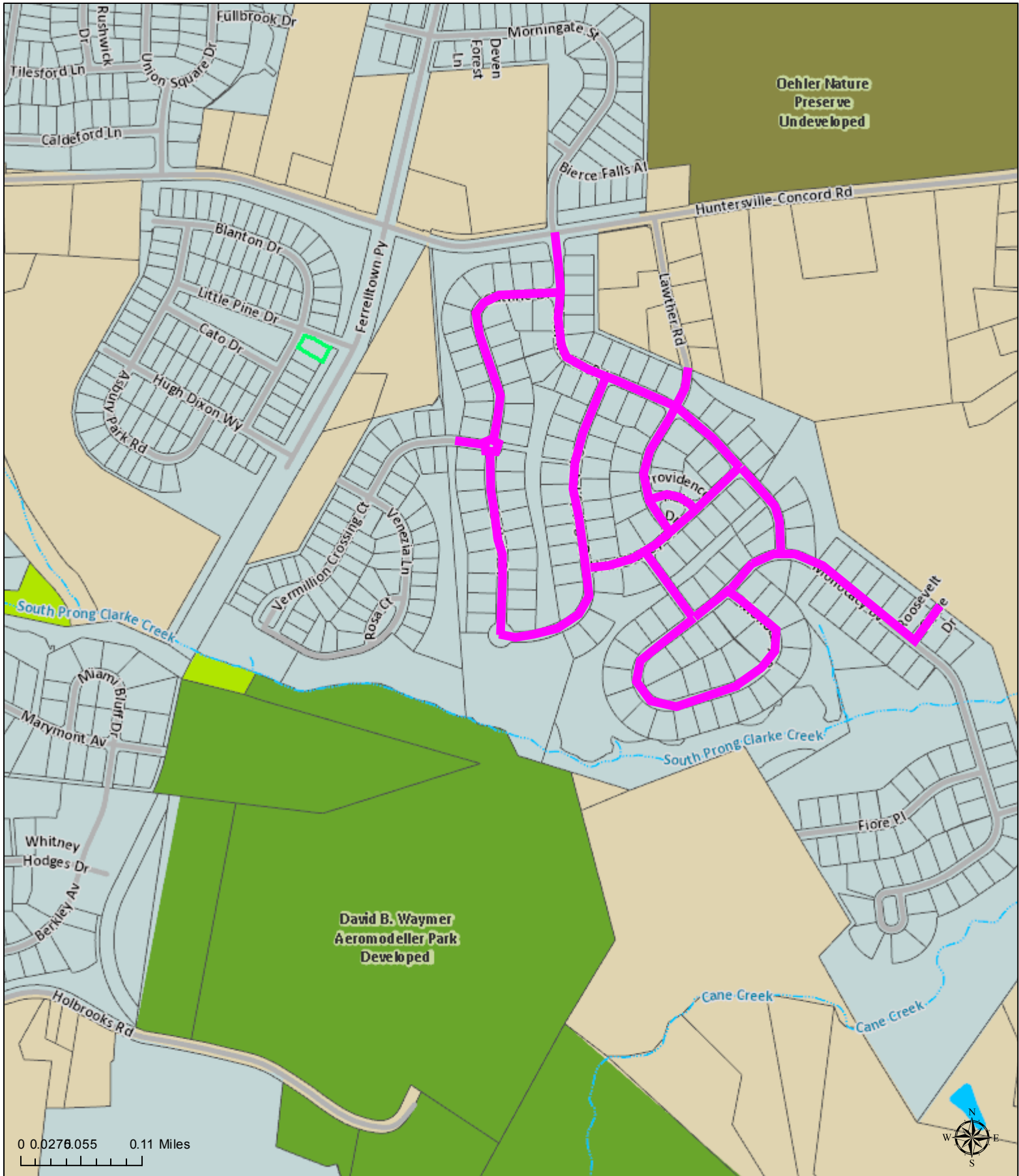
ATTACHMENTS:

1. Mirabella
2. Mirabella Aerial

Polaris 3G Map – Mecklenburg County, North Carolina

Mirabella Ph 1 Map 1

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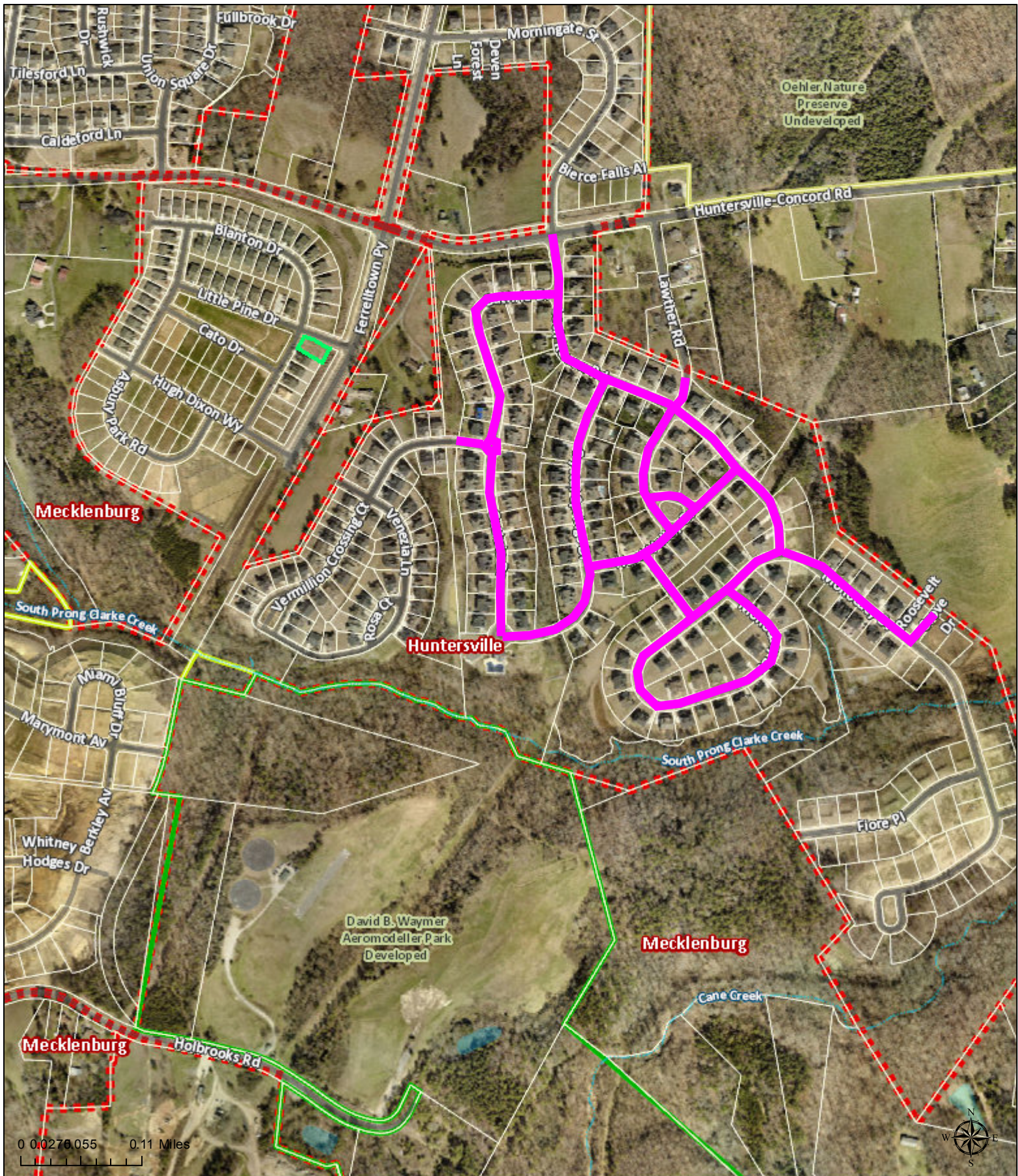


This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.

Polaris 3G Map – Mecklenburg County, North Carolina

Mirabella Ph 1 Map 1

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