

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: January 19, 2005

SUBJECT: Purchase of Property from NCDOT

ATTACHMENTS: Letter from NCDOT, Map, Letter from Bat Cave Fire & Rescue, Resolution, Special Warranty Deed

SUMMARY OF REQUEST:

Bat Cave Fire and Rescue inquired with the North Carolina Department of Transportation (NCDOT) regarding the acquisition of .38 acres of property adjoining property owned by Bat Cave Fire & Rescue Inc. along Red Anderson Road near Highway 64-74 in Bat Cave, NC. NCDOT replied through a letter to the County Manager, stating department policy prohibited conveyance of NCDOT property to private non-profit agencies; however the letter further suggested the option of the county purchasing the property on behalf of the fire department. At the December 15, 2004 meeting the Board expressed intent to adopt a resolution to approve this transaction at the January 19, 2005 meeting. Notice of the Board's intent was advertised in the local newspaper on 12/31/04 and 1/8/05. Legal staff has prepared the attached resolution for the Board's consideration along with a Special Warranty Deed to convey the property to Bat Cave Fire & Rescue Inc.

County Manager's Recommendation:

The Board should consider authorizing the County Manager to purchase the property from NCDOT for \$3040.00 and subsequently approve the attached resolution conveying the property to Bat Cave Fire and Rescue Inc. for the same price.

Resolution

WHEREAS, Henderson County owns that certain real property consisting of +/- 0.38 acres located along US 74 near Bat Cave to the Bat Cave Volunteer Fire and Rescue Department, Inc. ("Fire Department"), said property consisting of two parcels being more particularly described in Deed Book 907, Page 633, and Deed Book 911, Page 014, of the Henderson County Register of Deeds Office (PID: 0500200 and 0500213); and

WHEREAS, by Notice given on 15 December 2004, the Henderson County Board of Commissioners gave notice of its intent to convey the above real property to the Bat Cave Volunteer Fire and Rescue Department, Inc., for the sum of Three Thousand Forty Dollars (\$3,040.00); and

WHEREAS, Henderson County desires to close such transaction, upon performance by the Bat Cave Volunteer Fire and Rescue Department, Inc.

NOW THEREFORE BE IT RESOLVED by the Henderson County Board of Commissioners that the Chairman, Clerk to the Board, County Manager, Finance Director, County Attorney, and Assistant County Attorney are hereby authorized to take such further steps as may be necessary for the closing to occur, including but not limited to review and modification of all closing documents consistent with the terms and intent of this Resolution and the 15 December 2004 Notice, execution of all closing documents, and paying such closing costs as for which Henderson County, in their discretion, is responsible.

THIS, the 19th day of January, 2005.

THE HENDERSON COUNTY BOARD OF COMMISSIONERS

BY:

CHAIRMAN

ATTEST:

(COUNTY SEAL)

CLERK TO THE BOARD

EXCISE TAX

Recording time, book and Page

Tax Lot No. _____ Parcel Identifier No. _____
Verified by Henderson County Assessor on the ____ day of _____, 2005
by _____

Mail after recording to _____

This instrument was prepared by the Henderson County Legal Department.

Brief description for the index:

North Carolina Special Warranty Deed

THIS DEED is made this _____ day of _____, 2004, by and between the Henderson County, a political subdivision of the State of North Carolina ("Grantor"), having offices at 100 North King Street, Hendersonville, North Carolina 28792, and the Bat Cave Volunteer Fire and Rescue Department, Inc., a North Carolina non-profit corporation ("Grantee", with offices at 267 Gerton Highway, Bat Cave, North Carolina 28710. The designations "Grantor" and "Grantee" as used herein shall include said parties, their successors and assigns.

WHEREAS, Grantor has acquired that real certain property described in Deed Book 907, Page 633, and Deed Book 911, Page 014, Henderson County Registry, which is located along U.S. Highway 74 near Bat Cave, North Carolina;

WHEREAS, Grantee is a North Carolina nonprofit corporation formed for the purpose of operating fire and rescue department organized pursuant to Article 3A of Chapter 69 of the North Carolina General Statutes to provide fire and rescue services in the Bat Cave fire district including and near Bat Cave, North Carolina;

WHEREAS, pursuant to N.C. Gen. Stat. §160-279 a county may convey property, with or without consideration, to a public or private non-profit entity carrying out a public purpose to which it could appropriate funds and, pursuant to N.C. Gen. Stat. §153A-449, a county may appropriate money to any person, association or corporation in order to carry out any public purpose in which the county is authorized by law to engage;

WHEREAS, the provision of fire protection and rescue services to the general public in the Bat Cave fire district is a public purpose which the County is authorized to carry out pursuant to NCGS 153A-233 *et seq.*;

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

Those parcels as described in Deed Book 907, at Page 633, and in Deed Book 911, at Page 014, both of the Henderson County Registry, both of which are incorporated herein by reference for a greater certainty of description, and consisting, in total, of 0.38 acres, more or less, located on United States Highway 74 in or near Bat Cave, North Carolina. The parcels are Henderson County parcel identification numbers 0500200 and 0500213.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto

belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee that Grantor has nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor.

IN TESTIMONY WHEREOF, the said Grantor has caused this deed to be signed by the Chairman of the Henderson County Board of Commissioners and attested by the Clerk to the Board and sealed with its seal, on the date first above written.

HENDERSON COUNTY

By: _____
William Moyer
Chairman of Board of Commissioners

ATTESTED BY:

[SEAL]

Elizabeth W. Corn, Clerk to the Board of Commissioners

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

I, _____, Notary Public for said County and State, certify that Elizabeth W. Corn personally came before me this day and acknowledged that she is the Clerk to the Board of Commissioners of Henderson County, North Carolina, a body politic and corporate, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name by its Chairman of the Board of Commissioners, sealed with its corporate seal, and attested by herself as its Clerk.

WITNESS my hand and official seal, this the ____ day of _____, 2005.

Notary Public

My Commission Expires: _____ [NOTARIAL SEAL]

The foregoing Certificate(s) _____
is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

NEDRA W. MOLES, Register of Deeds for Henderson County

By: _____
Deputy/Assistant-Register of Deeds



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

Michael F. Easley
GOVERNOR

DIVISION OF HIGHWAYS
1594 East Main Street, Sylva, N. C. 28779
(828) 586-4040 Fax (828) 586-6253

Lyndo Tippet
Secretary

November 23, 2004

Project #: 8.1951001
WBS #: 14C.044072
County: Henderson
Description: Bridge #11

Mr. David Nicholson
County Manager
100 N. King St.
Hendersonville, N.C. 28792

**RE: REQUEST FOR DISPOSAL OF RESIDUE PROPERTY ALONG US 74 NEAR
BAT CAVE, FORMER CLAIM OF K.C. BUSBY, ET AL, JAMES M. HINDLE**

Dear Mr. Nicholson:

Our office has received a request from Bat Cave Volunteer Fire Department to sell a piece of residue property near the intersection of US 74A and SR 1611. As Bat Cave VFD is not a governmental agency, we cannot sell directly to them. We can, however, sell to Henderson County. Mr. Anderson and I have discussed a price of \$ 3,040.00. If you wish to proceed with the purchase of the aforementioned property please check below and we will proceed with approval and deed preparation.

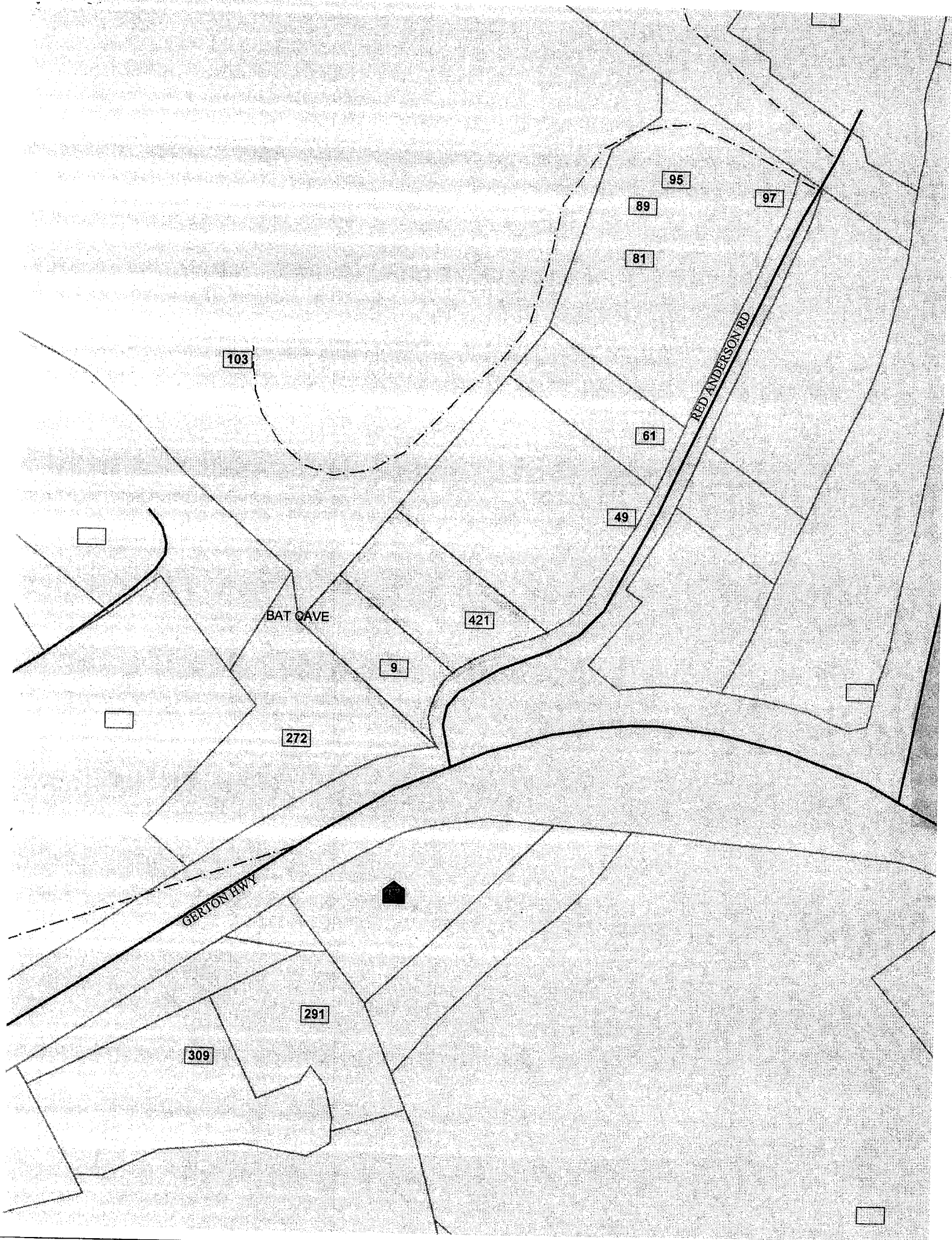
☐ The County of Henderson wishes to purchase the .38 acres previously described and will provide a cashiers check for \$ 3,040.00 upon delivery of the deed.

Sincerely,

Jeff R. Riddle
Senior Right of Way Agent

JRR:lg

cc: David Anderson
PO Box 113
Bat Cave, N.C. 28710



Bat Cave Volunteer Fire & Rescue Department
267 Gerton Hwy, PO Box 11, Bat Cave, NC
828-625-9313

November 30, 2004

Richard Barnwell
Chief

Mr. David E. Nicholson
Henderson County Manager
100 North King Street
Hendersonville, NC 28792

RE: Request to purchase property owned by NCDOT on behalf of Bat Cave Fire & Rescue.

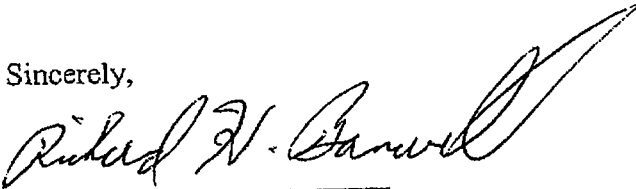
Dear Mr. Nicholson:

Bat Cave Fire & Rescue recently inquired of the North Carolina Department of Transportation regarding two parcels of property located on Red Anderson Drive adjacent to Fire Department property. We were advised that NCDOT cannot convey property directly to a private non-profit corporation; however they can sell property to a governmental agency which brings us to the purpose of this letter.

The members of Bat Cave Fire & Rescue respectfully request the Henderson County Board of Commissioners purchase two parcels of land from the North Carolina Department of Transportation (Parcel Identification Numbers 0500200 and 0500213), approximately .38 acres on Red Anderson Road for a total purchase price of \$3040.00; and to convey said property to Bat Cave Volunteer Fire Department & Rescue Inc. for the sum of \$3040.00 or as a donation if you are so inclined.

We greatly appreciate your assistance in this matter.

Sincerely,



Richard Barnwell, Chief