

## MINUTES

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
WEDNESDAY, AUGUST 15, 2018**

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 9:00 a.m. in the Commissioners' Meeting Room of the Historic Courthouse on Main Street, Hendersonville.

Those present were: Chairman Mike Edney, Vice-Chairman Grady Hawkins, Commissioner Tommy Thompson, Commissioner Charlie Messer, Commissioner William Lapsley, County Manager Steve Wyatt, Assistant County Manager Amy Brantley, Clerk to the Board Teresa L. Wilson, and Attorney Russ Burrell.

Also present were: Management Assistant Megan Powell, Finance Director Samantha Reynolds, Director of Business and Community Development John Mitchell, Engineer Marcus Jones, Recreation Director Carleen Dixon, Captain Benjy Bryant, Construction Manager David Berry, Planning Director Autumn Radcliff, Facilities Project Coordinator Thad Ninnemann, Emergency Management/Rescue Coordinator Jimmy Brissie, Building Services Interim Director Crystal Lyda, Captain Neal Urch, Board of Elections Director Beverly Cunningham, IT Director Becky Snyder, Code Enforcement Director Toby Linville, EMS Director Mike Barnett, Project Engineer Natalie Berry & PIO Kathy Finotti – videotaping, and Deputy Kyle Collins as security.

### CALL TO ORDER/WELCOME

Chairman Edney called the meeting to order and welcomed all in attendance. He recognized Senator Chuck Edwards in attendance.

Senator Chuck Edwards said he was enjoying looking at a working example of how Government operates. He was glad to be here and honored to represent this district in Raleigh. Senator Edwards loves to hear first-hand issues and problem in the communities. He feels Henderson County is in great shape.

### INVOCATION

The invocation was provided by County Manager Steve Wyatt.

### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Commissioner Hawkins.

### PUBLIC HEARINGS

**Land Development Code (LDC) Text Amendments (TX-2018-04) RV Parks and Park Model Parks**  
*Chairman Edney made the motion to go into public hearing regarding Land Development Code (LDC) Text Amendments (TX-2018-04) – RV Parks and Park Model Parks. All voted in favor and the motion carried.*

Autumn Radcliff stated due to recent application for new recreational vehicle (RV) parks, the Planning Board was directed to review the current standards and provide draft recommendations to the Commissioners to address certain issues that arose during these application reviews. The Planning Board has been discussing the proposed amendments for several months. At the June 21, 2018 meeting, the Planning Board voted to send forward a favorable recommendation on the draft amendments to the existing RV Parks and proposed new language to address park model RV parks.

The proposed text amendment includes:

DATE APPROVED: September 4, 2018

- Amendments to the existing RV Park requirements such as: duration, density, buffer requirements, permanent structures such as storages buildings, porches or decks would not be permitted (covered picnic areas are allowed), requires a 50 feet setback from perennial streams, minimum road standards, and limits permanently placed park models to no more than 10% of the park. The amendment also clarifies allowed sewage disposal systems, standards for the park model spaces, and requires that RV's have a current tag, no underpinning and tires must be operational.
- The proposed park model RV park use requires similar restrictions as those found in the traditional RV Park, but includes allowances for covered porches, decks and storage buildings, a minimum of 5 contiguous acres, a separation of 20 feet for fire safety, provide 2 parking spaces, and 25% open space. The amendment also provides some density options for park model RV parks for the Boards consideration. Traditional RV's are not permitted in these parks.

**Public Notice:**

The required public notice of this hearing was published in the Hendersonville Times News on August 4, 2018 and August 11, 2018.

**Background:**

- Questions and concerns were raised with recent applications for new RV Parks
- BOC directed the Planning Board to review these issues and concerns
- Planning Board discussed the draft amendments over several meetings and recommended draft text amendments to the LDC

**What is a Tiny Home?**

- A home that is typically around 400 sq. ft.
- Tiny Homes can be:
- Stick built on a permanent foundation (meets State Building Codes)
- Modular unit
- HUD certified
- Hand Crafted by an individual (typically there are no set standards)
- Meet RVIA standards (Recreation Vehicle Industry Association)
- Tiny Homes are permitted based on the type of unit
- (Single family dwelling, manufactured home, RV or Park Model RV)

**What is an RV?**

- Meets RVIA standards
- NCDMV requires a tag and registration
- U.S. DOT categorizes RV's by class:
- Class A: Large motor homes and converted commercial passenger vehicles (bus)
- Class B: Campervans
- Class C: RV's that are attached to a truck or hauled behind
- Other RV Types: Truck campers, pop-ups, light weight travel trailers

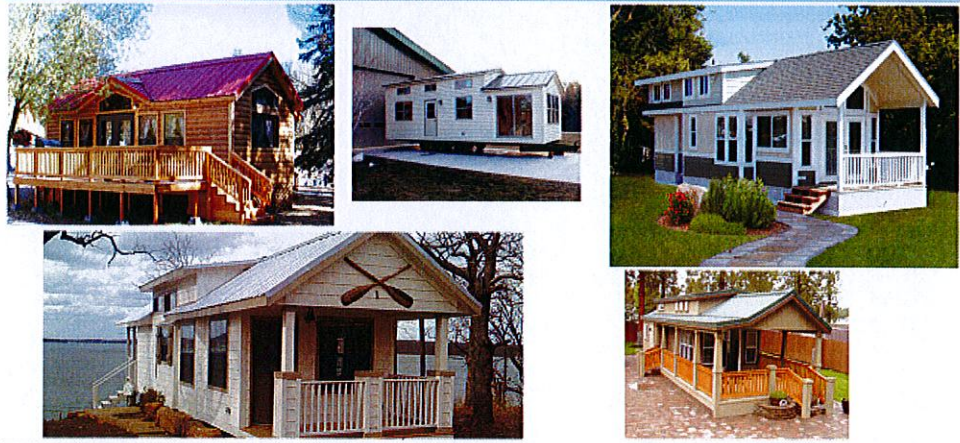
**What is a Park Model RV?**

- Meets RVIA standards (must meet or exceed ANSI Standard A119.5)
- Designed for temporary or seasonal use, not intended as a permanent residence
- Vacation type use purposes
- Not designed to be moved frequently
- Does not require a DMV tag
- Federal law requires the RV Park Model tag at door with the serial number
- Does not have a septic holding tank like a traditional RV and requires connection to a sewage disposal system

### Traditional RV Pictures



### Park Model RV Pictures



**Draft Text Amendments:**

The proposed text amendments split the uses into two types

1. Traditional Recreational Vehicle Parks (RV Parks)
2. Park Model RV Parks

Each use has specific requirements and restrictions

**LDC Text Amendment A: RV (Recreation Vehicle) Park**

**Proposed changes to the existing RV Park regulations:**

- B2 buffer required (30 ft planted buffer)
- Only 2 campsites per RV space
- No recreational vehicle permitted in the floodway
- Covered porch, deck or accessory structure is not allowed (covered picnic area and fire pit is allowed)
- RV space must be 50 feet from perennial streams
- RV's shall:
  - Not be located in the park longer than 180 consecutive days (temporary use permit may apply)
  - Have a current tag, no underpinning, and tires must be operational
- Minimum of 16 ft wide roads for 2-way streets and 12 ft wide for 1-way streets

- Provide a sewage disposal system (central holding tank, septic system, or approved public, community or municipal sewage disposal system)
- Density restrictions as follow:
  - 10 spaces per acre with a central holding tank or septic system
  - 20 spaces per acre with an approved public, community or municipal sewage disposal system
- 10% of the RV Park may contain a park model provided:
  - It is not located in the 100 yr. floodplain
  - May contain a covered porch or deck not to exceed 150 sq. Ft.
  - Have a minimum separation of 20 ft between units
  - Must be for overnight or seasonal accommodations

LDC Text Amendment B: Park Model RV Parks  
 Add Park Model RV Parks to the permitted use table.

USE TYPE	GENERAL USE DISTRICT P-Permitted; S-Special Use Permit											
	R1	R2	R2R	R3	R4	OI	MU	LC	CC	RC	I	SR
<i>Recreational Vehicle Park</i>	S	S	S	S	S		P	P	P			4.15
<i>Recreational Vehicle Park, Park Model</i>	S	S	S	S	S		S	S				4.16

**Proposed regulations for Park Model RV Parks are similar to RV Parks with the following exceptions:**

- Park must have a minimum of 5 contiguous acres
- Contain a minimum of 25% open space
- Each park model unit:
  - Shall a minimum of 2 parking spaces and be positioned in a like fashion
  - Shall clearly display the space number as shown on the approved site plan
  - May contain an open or covered porch that may be screened but not enclosed, not more than 15 ft in height or 400 sq. ft. in area
  - May provide underpinning
  - May contain an 1 accessory storage structure not to exceed 144 sq. ft. (12 x 12)

Must have a minimum separation of 20 ft. between units

- Park shall not contain other recreational vehicles other than park models

**Density allocation for park model RV parks:**

- 10 spaces per acre for parks utilizing a central holding tank or septic system
- 20 spaces per acre with an approved public, community or municipal sewage disposal system
- Option 1: The maximum density shall be 4 units per acre
- Option 2: The standard density of the zoning district shall apply

Public Input

1. William Bowers stated a tiny house is being built in his neighbor’s back yard and the neighbor is requesting an address for the tiny house. This will require ten people to change their address. He feels an A could be added to his neighbor’s address which would be easier for everyone. He was against the tiny home being built.

*Commissioner Hawkins made the motion to go out of public hearing. All voted in favor and the motion carried.*

Chairman Edney asked John Mitchell to look at the addressing issue to see if there could be resolution. The County cannot do anything about the zoning since it is inside the City of Hendersonville.

Commissioner Lapsley is concerned about the proposed waste water disposal methods being proposed. He questioned if the local Health Department was the authority.

Autumn Radcliff noted these methods were usual at Parks.

Commissioner Hawkins is a representative on the Planning Board and many meetings were held to come up with the changes. He suggested taking it back to the Planning Board for further review, and requesting that the legal department review changes.

Chairman Edney requested this item be placed on a future agenda for further review.

### **2018-93 Land Development Code (LDC) Text Amendments (TX-2018-05) – Administrative Text Amendment to Flood Requirements**

*Commissioner Thompson made the motion to go into public hearing regarding the Land Development Code (LDC) Text Amendments (TX-2018-05) – Administrative Text Amendment to flood Requirements. All voted in favor and the motion carried.*

Autumn Radcliff stated based on a recent review of the Flood requirements, Staff discovered an administrative text amendment that the Board needs to discuss per the request of the U. S. Army Corp of Engineers. This amendment is an administrative change to clarify that a floodplain development permit is required for any new development in the floodplain regardless of any other required state or federal permits.

At the June 21, 2018 meeting, the Planning Board reviewed the draft text amendment and voted to send forward a favorable recommendation.

#### **Public Notice:**

The required public notice of this hearing was published in the Hendersonville Lightning on August 2<sup>nd</sup>, 2018 and August 9<sup>th</sup>, 2018.

#### **Issue:**

U. S. Army Corp of Engineers identified a clarification needed in our ordinance. This amendment is an administrative change to clarify that a floodplain development permit is required for any new development in the floodplain regardless of any other required state or federal permits.

### **Section 42-350 Floodplain Development Permits**

Purpose. A Floodplain Development Permit shall be required for any new development in a *Special Flood Hazard Area (SFHA)*, ~~except for watercourse alteration and streambank restoration where the same is permitted by the United States Corps of Engineers and, if applicable, the State of North Carolina (for watercourse alteration and streambank restoration where a proper and appropriate permit from the United States Corps of Engineers and, if applicable, the State of North Carolina, has been granted, no further permit from Henderson County is required).~~

#### **Public Input**

There was none.

*Commissioner Hawkins made the motion to go out of public hearing. All voted in favor and the motion carried.*

*Commissioner Lapsley made the motion that the Board adopt the resolution regarding the consistency with the CCP, and further moved that the Board adopt the proposed LDC text amendment as discussed. All voted in favor and the motion carried.*

**2018-94 Continuation of Public Hearing for Proposed Right of Way Closure – off Muirfield Court**

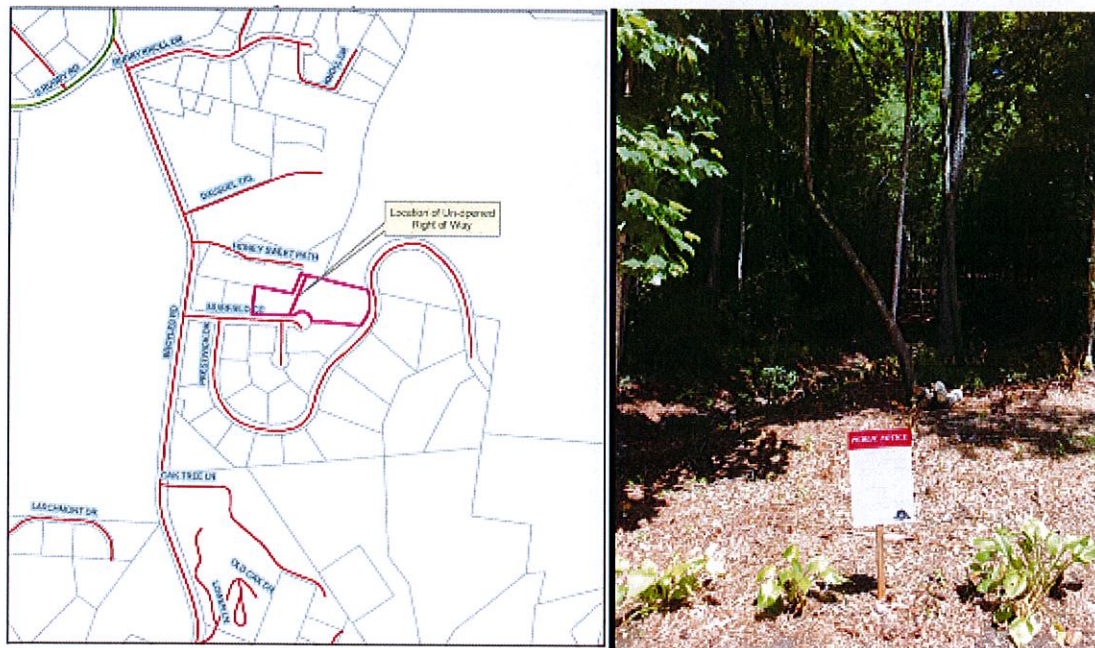
*Commissioner Thompson made the motion to go into public hearing regarding the Proposed Right of Way Closure – Off Muirfield Court. All voted in favor and the motion carried.*

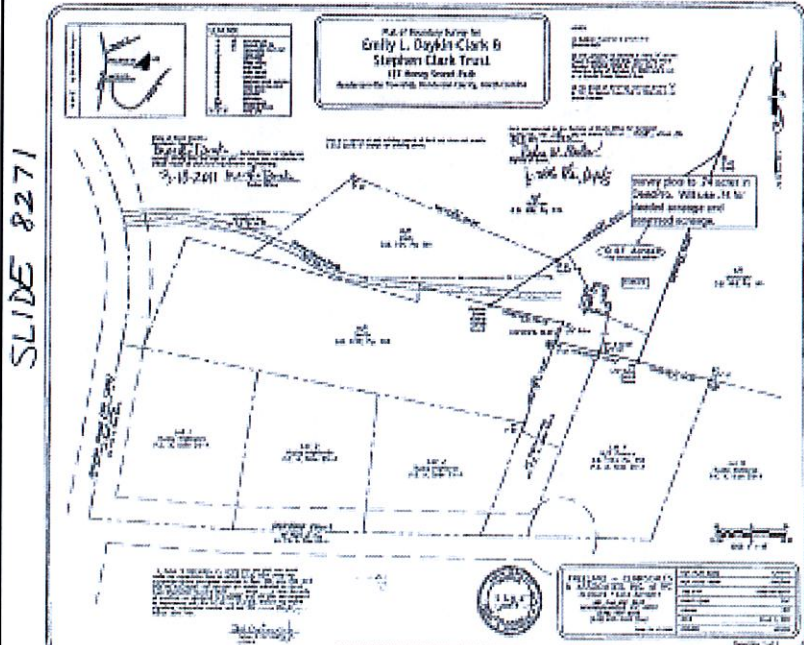
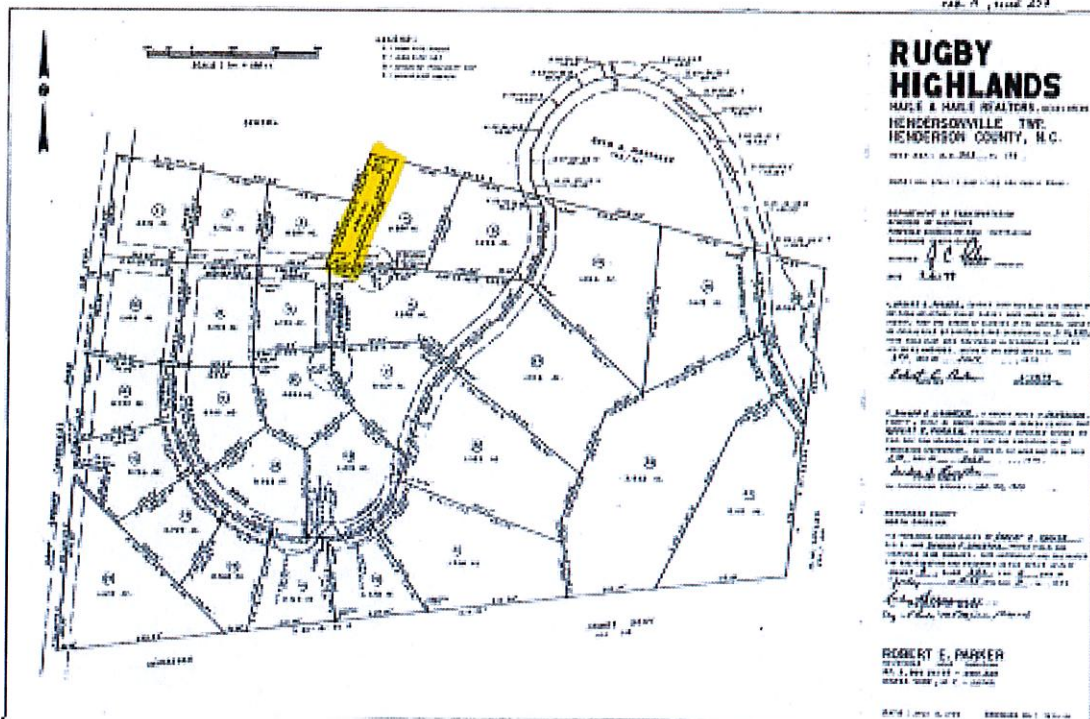
Autumn Radcliff stated staff received a petition from Mr. Thomas Plott, requesting the closure of a platted Right of Way (ROW) located off Muirfield Ct. in the Rugby Highlands Subdivision. The petitioner is requesting a 60-foot ROW shared by the petitioner and a neighbor to be closed and property resurveyed to show closure. The Board approved a Resolution of Intention to close the ROW and to hold a public hearing on this ROW closure at its May 16, 2018 meeting. On July 18, 2018 after hearing public comments, the Board voted to continue the hearing to the August 15<sup>th</sup> meeting due to concerns raised by and adjacent property owner.

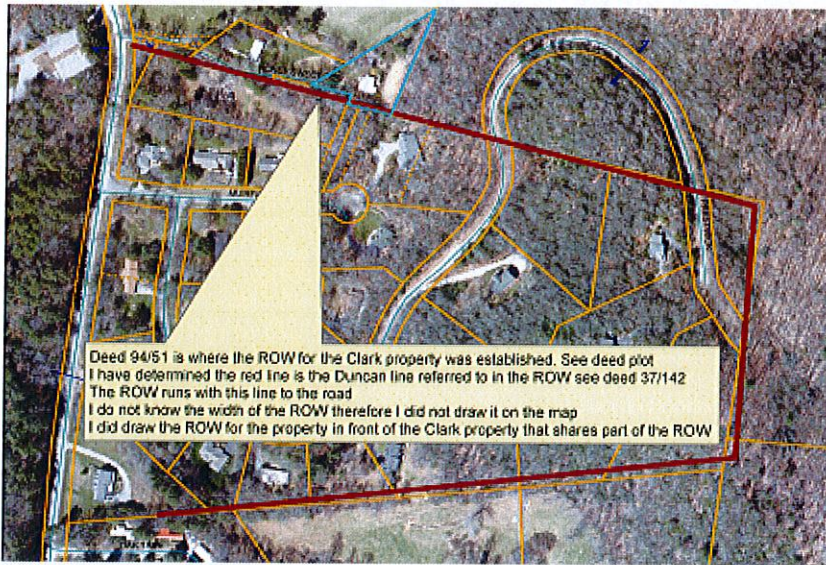
The July 18, 2018 hearing was advertised in the Times News on June 21<sup>st</sup>, 2018, June 28<sup>th</sup>, 2018 and July 5<sup>th</sup>, 2018, and the property was posted on June 26<sup>th</sup>, 2018. Notices of the hearing were sent via certified mail on June 21<sup>st</sup>, 2018 to the adjacent property owners.

**Application Summary**

- Request submitted by Mr. Thomas Plott to close an unopened ROW off Muirfield Ct. the Rugby Highlands Subdivision
- On May 16<sup>th</sup>, BOC approved resolution of intention to close ROW
- Public hearing was held on July 18<sup>th</sup> at which time the Board continued the hearing to the August 15<sup>th</sup> meeting
- July 18 hearing was properly advertised, posted and letters were sent certified mail







**Public Input**

1. Sherry Brewer, Attorney for the applicant, stated they had not heard back from the attorney of the adjoining property owner. She feels the attorney probably discovered there was no legal right to use the private road.

Attorney Russ Burrell had nothing further. He also feels it was researched and found that the road can't be used.

*Commissioner Thompson made the motion to go out of public hearing. All voted in favor and the motion carried.*

*Commissioner Thompson made the motion that the Board approves the closure of the un-opened right of way off Muirfield Ct. and authorizes the Chairman to sign the Order of Closure. All voted in favor and the motion carried.*

**INFORMAL PUBLIC COMMENTS**

1. Glen Englam lives in the ETJ of Hendersonville. There are over 1200 members of the 64W community. He asked the Board to provide any help possible to make the road project tangible and similar to the Kanuga Road project.
2. Jane Bilello spoke in opposition to Sunday early voting in Henderson County as mandated by the NC Board of Elections. She asked the Board to do whatever they could to stop Sunday early voting in Henderson County.

**DISCUSSION/ADJUSTMENT OF CONSENT AGENDA**

*Commissioner Hawkins made the motion to approve Consent Agenda with the addition of Henderson County Hospital Corporation / Pardee Ambulatory Surgery Center, LLC. All voted in favor and the motion carried.*

CONSENT AGENDA consisted of the following:

**Minutes**

Draft minutes were presented for board review and approval of the following meeting(s):

August 6, 2018 - Regularly Scheduled Meeting

Motion:

*I move the Board approves the minutes of August 6, 2018 as presented.*



**Tax Collector's Report**

Deputy Tax Collector Luke Small had presented the Tax Collector's Report to the commissioners dated August 9, 2018 for information only. No action was necessary.

**Public Records Disposal Request – EMS**

The Emergency Medical Services Department wishes to dispose of the July 1<sup>st</sup> 2006 through July 31<sup>st</sup>, 2007 Ambulance Call Reports. The eleven year period for retention as required by the North Carolina Department of Cultural Resources has expired. The Ambulance Call Reports which included minors and/or disabled patients will not be destroyed.

Motion:

*I move the Board approves the disposal of the July 1, 2006 through July 31, 2007 Ambulance Call Reports as presented in compliance with the Records Retention Schedule, and authorize the Clerk to the Board of Commissioners to sign the Public Records Disposal Request and Destruction Log.*

**2018-95 Agreement – Henderson County and Safelight**

The Sheriff's Office is requesting that the Board approve the County Manager to sign the agreement using grant funds provided by Safelight for the Victims Assistance Coordinator.

Motion:

*I move the Board of Commissioners approves the County Manager to sign the agreement between Henderson County and Safelight.*

**Vaya Health – Quarterly Fiscal Monitoring Report (FMR) for the period ended June 30, 2018**

N.C.G.S. 122C-117(c) requires the staff of the local area mental health authority to provide the County Finance Officer with the quarterly Fiscal Monitoring Report (FMR) within 30 days of the end of the quarter. The County Finance Officer is then required to provide the FMR to the Board of Commissioners at the next regularly scheduled meeting of the board. The attached FMR for Vaya Health was received by the County Finance Officer on August 1, 2018.

Motion:

*I move that the Board of Commissioners approves the Vaya Health Fiscal Monitoring Report for the quarter ended June 30, 2018.*

**Heritage Museum Request**

A request has been submitted on behalf of the Heritage Museum requesting the Board of Commissioners permission to sell refreshments inside the Courthouse during the duration of the Apple Festival. The Heritage Museum would like to sell refreshments and solicit donations as a fundraiser.

Motion:

*I move the Board permits the Heritage Museum to sell refreshments and solicit donations as a fundraiser during the duration of the Apple Festival.*

**Set Public Hearing on Cane Creek financing**

The Board is requested to set a public hearing.

The requested date and time for the public hearing is September 4, 2018, at 5:30 o'clock p.m.

Motion:

*I move that the Board set a public hearing on September 4, 2018, at 5:30 o'clock p.m. regarding Cane Creek financing for its Mud Creek Interceptor project.*

**2018-96 Henderson County Hospital Corporation / Pardee Ambulatory Surgery Center LLC**

The Hospital Corporation has set up "Pardee Ambulatory Surgery Center, LLC", as a wholly-owned subsidiary. Ambulatory surgical centers ("ASC") are in effect freestanding day surgery centers, set up away from hospital campuses. They are typically more specialized in the sorts of surgery performed in them than a normal hospital surgery center. Under the Lease Agreement and other agreements between the Hospital Corporation and the County, the Hospital Corporation has the authority to set up such subsidiaries so long as the Corporation maintains the control of the subsidiary.

The Hospital Corporation proposes to transfer to two (of ten) certificates of need for operating rooms currently held to this ASC, and to sell up to forty-nine percent (49%) of the ownership interest in the ASC to various medical providers, at fair market value. These providers will then perform procedures in the ASC.

The Hospital Corporation seeks the County's approval of this arrangement.

**Motion:**

*I move that we approve the Hospital Corporation's formation of Pardee Ambulatory Surgery Center, LLC, as a wholly owned entity of the Hospital Corporation, and that we approve in advance the transfer of certificates of need and the associated licenses for two (2) Operating Rooms from the Hospital Corporation to the Pardee Ambulatory Surgery Center, LLC. I further move that we approve the sale by Henderson County Hospital Corporation of up to a total of forty-nine percent (49%) interest in Pardee Ambulatory Surgery Center, LLC to various medical providers and/or operators so long as each sale is for fair market value and the requirements for Joint Ventures set forth in the Amended and Restated Lease between Henderson County and Henderson County Hospital Corporation dated September 4, 2013 are complied with, without any need for future approval of or consent by this Board.*

**DISCUSSION/ADJUSTMENT OF DISCUSSION AGENDA**

*Commissioner Thompson made the motion to adopt the discussion agenda as presented. All voted in favor and the motion carried.*

**EMS SYSTEM UPDATE**

Jimmy Brissie, Emergency Services Director stated recently Henderson County EMS and Pardee Hospital implemented a new data sharing system, ESO Hospital Data Exchange (HDE). Staff will provide an update of the benefits of this solution.

Mike Barnett stated EMS Staff has been evaluating call volume and projected response times in anticipation of the move to the new Emergency Services Headquarters during the fall of 2018. Staff provided the Board an overview of their findings and discuss the expected allocation of ambulances to ensure an effective response countywide.

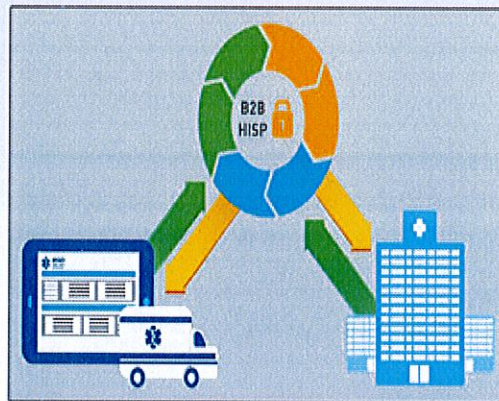
# Health Care Data Exchange

Pardee Hospital and Henderson County EMS have recently implemented a Health Care Data Exchange program.

This program delivers true bidirectional data sharing between EMS and the hospital.

Records flow directly into the hospital electronic medical record system within minutes of the EMS transport allowing multiple hospital providers to view the EMS record.

Hospital clinical outcome information and billing information is automatically transmitted back to the EMS electronic health care record.



HENDERSON COUNTY

# Health Care Data Exchange

## EMS Transmits

All EMS Data Elements

- Demographic and Billing
- Vitals and Procedures
- Assessment and Narrative
- History, Allergies, and Medications
- Incident Location Data
- Up to 585 Data Elements

PDF of Patient Encounter

PDF of Patient ECG

## Hospital Transmits

Demographic and Billing

Diagnosis and Disposition

Patient Acuity Scores

Vitals and Procedures w/Results

Lab Results and Imaging

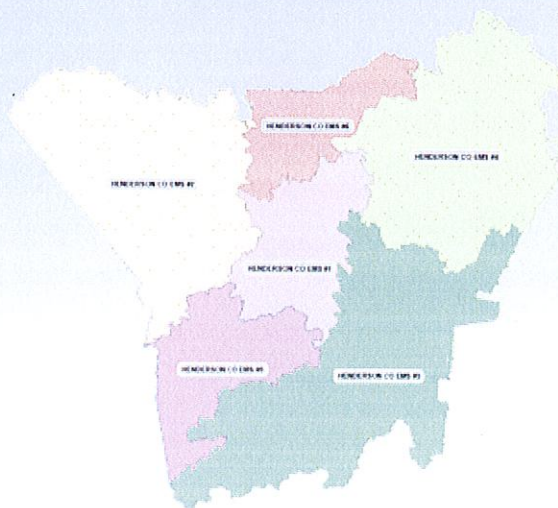
Detailed Cath Lab Results

\* Facility determines final list of data to be shared with EMS

HENDERSON COUNTY

Henderson County EMS currently operates eight ambulances within six districts, effectively answering over 15,000 calls annually with an average target response time of 9 minutes or less.

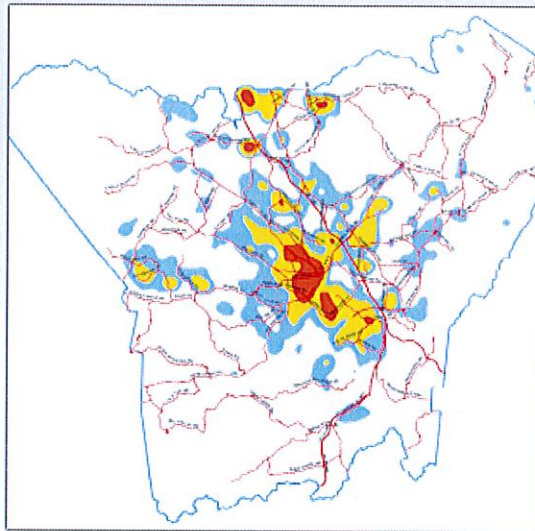
In preparation of the move to the new ESHQ staff has conducted an analysis of EMS response districts.



HENDERSON COUNTY

Current call volume is distributed in the following manner:

Station 1 (Downtown)	53%
Station 2 (Mills River)	12%
Station 3 (Upward Rd)	19%
Station 4 (Edneyville)	8%
Station 5 (Crab Creek Rd)	2%
Station 6 (Fletcher)	6%

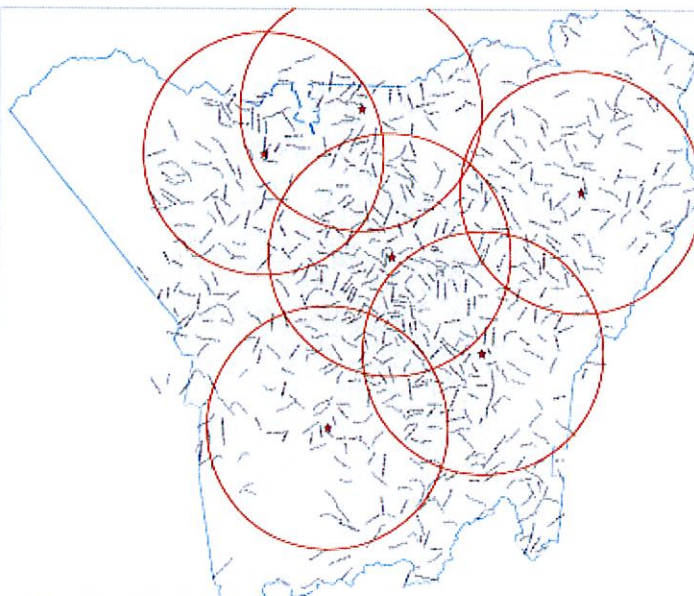


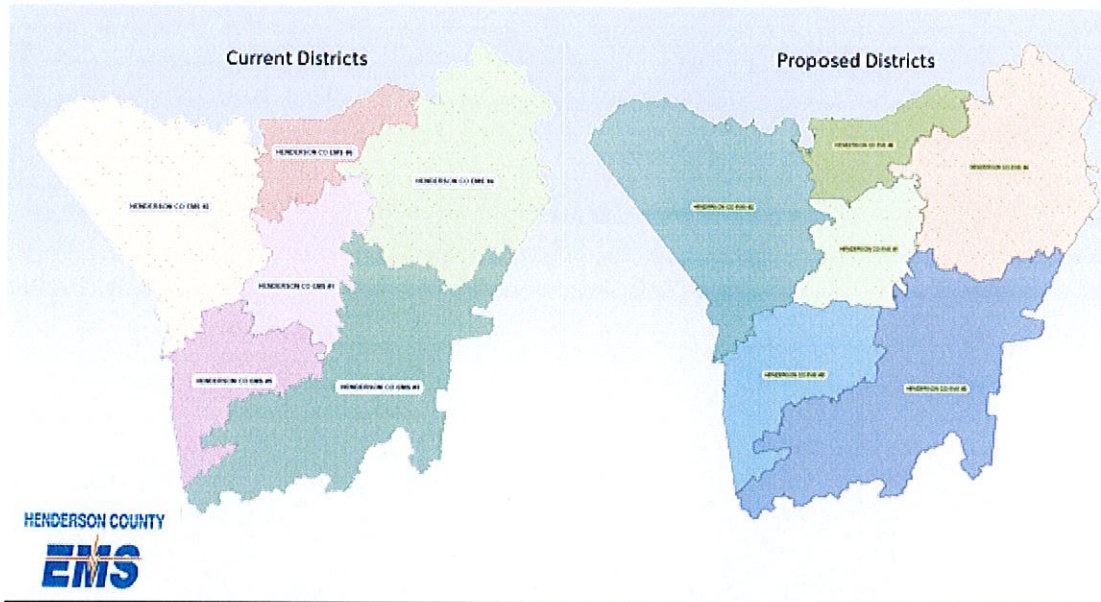
## Evaluation of Current Resource Allocation

- The new Emergency Service Headquarters is located approximately four minutes to the north of its current location. This will reduce response times to the north and increase response times to the south. Station # 1 is staffed with three ambulances 24/7.
- The highest call volume area for Station # 1 is the Four Seasons Blvd corridor. EMS response can be provided to this area from the new Balfour location within a four minute response time. This reflects an improvement over current response times in many cases.
- EMS Station # 3 (Upward Road) is the second busiest EMS station and is staffed with one ambulance 24/7. In 2017, Station # 1 ambulances responded to 756 or 23% of Station # 3's emergency calls due to Station # 3's ambulance already being committed to other emergency calls, this resulted in prolonged response times.
- Station #3 has capacity for a second ambulance during the day but cannot currently accommodate a 24 hour crew.
- EMS Station # 1 and Station # 3's peak call volume times are from 7:00 AM to 10:00 PM

A statistical analysis of call volume reflects the Station 3 district is over capacity 23% of the time.

In order to provide the greatest service to the community staff recommends moving one truck from Station 1 to Station 3 during peak times and realigning district lines.





- Strategically locating EMS resources based on historical data and predicted EMS call volumes will decrease the current response delays in Station # 3’s district, prevent the need for an additional EMS station, and enhance EMS response times county wide.
  
- EMS staff request utilizing the above solution for a trial period and analyze the response data after four months. EMS requests that the County maintain the Henderson County Rescue Squad Building as an option for a downtown substation until this data can be analyzed.

Jimmy Brissie suggested moving a truck, during peak time, to Station #3 and adjusting the district lines. Ambulances are moved from Station to Station as needed. Station #3 may need future renovations.

Steve Wyatt feels this will need to be looked at in the following year. He suggested including plans for the future in the EMS 4-year budget forecast.

**DETENTION FACILITY SPACE NEEDS ASSESSMENT**

Captain Neal Urch introduced Karen Albert of Practical Solutions for Public Safety, Inc. and Stephen Allen of Solutions for Local Government, Inc. to present the summary of their findings and conclusion of the needs assessment of the Henderson County Detention Center Jail Space Assessment & Inmate Population Study.

**Project Components:**

- Inmate population
  - *Bed needs*
  - *Projections*
- Facility Assessment
- Recommendations

- Next Steps
- Study Process
  - Time in the Facility
    - Day-to-day operations
    - Facility conditions
    - Individual Staff interviews
    - Formal meetings with
      - Administration
      - Medical
      - Classification
      - Housing Unit, Booking, Transportation Officers & Support personnel
  - Research & Data Analysis
  - Assessment & Review of Findings

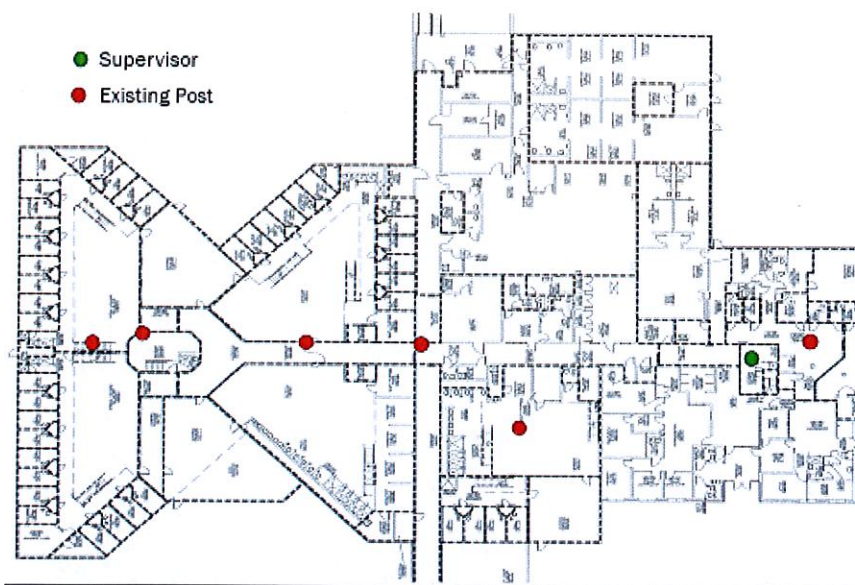
### Clarification of Status

- Security Level
- Custody Level
  - *Minimum*
  - *Medium*
  - *Maximum*
- Classification
  - *Mental Health*
  - *Medical*
  - *Behavior Management*
  - *Intake*
  - *Protective Custody*
  - *Restrictive Housing - Administrative*
  - *Work Program / Weekenders*

Population	Males	Females
Mental Health	12	6
Medical	8	4
Protective Custody	10	3
Restrictive (Admin)	6	1
BMU	12	2
Intake	2	1
Max - GP	24	2
Medium	48	5
Minimum	32	6
WR/Weekender/Work Program	12	4
SubTotal	166	34

### Bed Availability / Bed Utilization

<b>Minimum Custody</b> <ul style="list-style-type: none"> <li>• Minimum Custody</li> </ul>	<b>Medium Custody</b> <ul style="list-style-type: none"> <li>• Medium Custody</li> </ul>
<b>Special Housing</b> <ul style="list-style-type: none"> <li>• Behavior Management</li> <li>• Restrictive Housing</li> <li>• Protective Custody</li> <li>• Maximum Custody</li> </ul>	<b>Intake</b> <ul style="list-style-type: none"> <li>• Intake</li> <li>• Medical</li> <li>• Mental Health</li> <li>• Protective Custody</li> <li>• Weekenders</li> </ul>
<b>Women</b> <ul style="list-style-type: none"> <li>• Mental Health</li> <li>• Medical</li> <li>• Protective Custody</li> <li>• Restrictive Housing</li> <li>• Behavior Management</li> <li>• Intake</li> <li>• Maximum Custody</li> <li>• Medium Custody</li> <li>• Minimum Custody</li> </ul>	<b>Work Release</b> <ul style="list-style-type: none"> <li>• Not Used</li> </ul>



**PROFESSIONAL CORRECTIONAL PRACTICE – ACTIVE SUPERVISION OF INMATES**

Proposed NCJail Standard (Effective December 2018)

10A NCAC 14J .0601 Supervision

(e) When an officer is assigned to supervise inmates as required by Paragraph (a), (b), and (c) of this Rule, **a jail shall not assign the officer other tasks that would interfere with the supervision of inmates.** These other task shall include:

- (1) delivering food to inmates;
- (2) preparing inmates for and transporting inmates to court;
- (3) escorting inmates to medical appointments;
- (4) performing inmate booking and release functions;
- (5) supervising inmates working in the jail; and
- (6) exchanging inmate’s soiled clothing, bed sheets, and blankets with clean clothing, bed sheets, and blankets.

Grady Hawkins feels this needs to be incorporated into the upcoming budget.

Commissioner Messer asked how long the state gives us to comply.

Steve Allen was unsure but guessed it may be negotiable.

Captain Urch replied the State inspector will site them and give them 90 days to comply. It may include taking inmates to other facilities or shutting them down. Some action brings understanding.

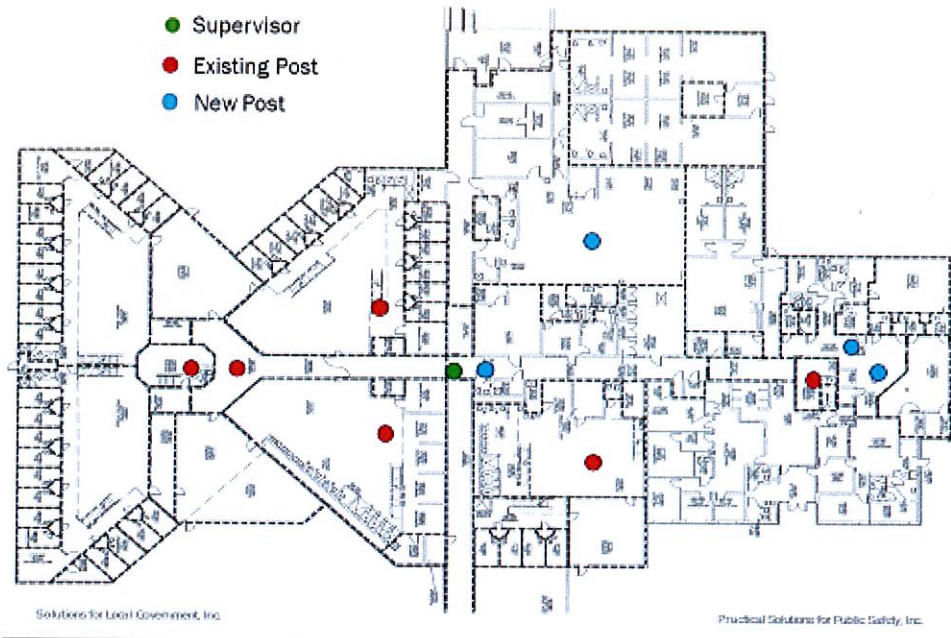
Commissioner Lapsley understands the State is not saying we must spend \$6m, but increase staffing and supervisors only.

Steve Wyatt asked what steps need to be taken to meet the state requirements.

Commissioner Thompson asked about the cost of increased staffing.

Karen Albert responded an approximate cost of \$575,000 for eleven (11) new staff to meet state requirements as of December 2018. However, security and safety are still factors.

Chairman Edney feels that our Senator needs to look at the impact on counties in North Carolina for this standard to be met.



## Projections

### Jail ADP vs. Bed Requirements

$$\text{Jail ADP} \times \text{Bed Utilization} \times \text{Classification Factor} = \text{Bed Requirements}$$

2028 Baseline Projections

$$187 \times 1.088 \times 1.157 = 235$$

### 2028 Alternative Projection Scenarios

- Population Scenario
- Admissions Scenario
- ALOS Scenario

## Projections

### Baseline Data

Year	County Population	Total Admissions	Admissions Avg./Mo.	Population Avg./Day	Length of Stay Avg. # Days
2017	116,173	4661	388	173	13.55
2016	114,385	4638	387	141	11.00
2015	112,294	4344	362	152	12.77
2014	110,924	5017	418	167	12.15
2013	109,138	5139	428	159	11.29



# Projections

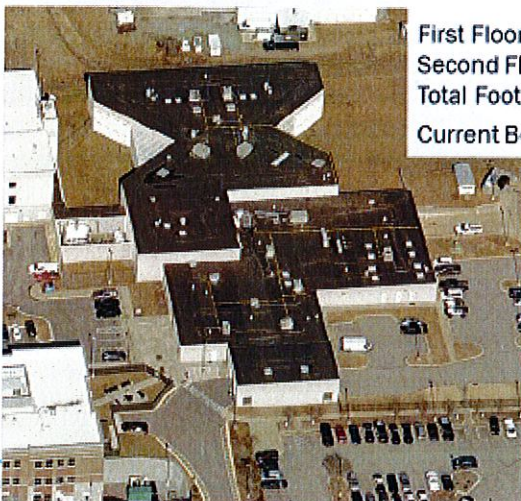
## Jail ADP vs. Bed Requirements

Jail ADP	x	Bed Utilization	x	Classification Factor	=	Bed Requirements
<u>2028 Baseline Projections</u>						
187	x	1.088	x	1.157	=	235

### 2028 Alternative Projection Scenarios

Population Scenario	255
Admissions Scenario	261
ALOS Scenario	278

# Facility Assessment



First Floor: 48,253 GSF  
 Second Floor: 12,005 GSF  
 Total Footprint: 48,870 GSF  
 Current Bed Capacity: 254

Practical Solutions for Public Safety, Inc.

11

Jail Space Assessment & Inmate Population



### Facility Assessment Summary:

- Design
- Housing vs. Support
- Distribution of Beds
- Type of Beds
- System Controls
- Mechanical Issues
- Plumbing Systems

You have housing space. But;

**It's the wrong kind of space!**



Vehicle Subport

Practical Solutions for Public Safety, Inc.

13

# Facility Assessment

2008 Facility Assessment	
<p><b>Building Use/Accessibility</b></p> <ul style="list-style-type: none"> <li>Public entrance to the main area is unobstructed &amp; provides a clear path.</li> <li>Access to/From the Central Control Room is via the Public Lobby.</li> </ul> <p><b>Intake &amp; Booking</b></p> <ul style="list-style-type: none"> <li>Intaking Office processing area is too small.</li> <li>Counter tops containing intaking area do not meet ADA requirements.</li> <li>There is no dedicated center in the Intaking Office processing area for intake into Booking Court area.</li> <li>Intaking Office staff use medical room computers to complete intake reports a mix of forms, making information inconsistent.</li> <li>There is no dedicated space for medical personnel to provide a service.</li> <li>Booking Office counter workspace is inadequate.</li> <li>There is no measure for assessing a threat within the processing area.</li> <li>Orientation of Booking Court Counter is inadequate.</li> <li>Private booking area is too small to accommodate the activities assigned to it.</li> <li>Circulation between work stations is poor, particularly regarding intaking waiting area.</li> <li>The intake process and the flow of transportation circulation is not as clear as it could be.</li> <li>Door leading for intaking waiting area should be directly visible from booking court counter work area(s).</li> <li>There is no signage area for intake, which is pending construction outside the cell, equipment, and program, another jurisdiction, etc.</li> </ul> <p><b>Medical</b></p> <ul style="list-style-type: none"> <li>The current medical office space is much too small to accommodate the current assigned and could affect the court and procedures that are currently in place.</li> <li>The existing housing unit is currently used as a central area for the criminal justice system of inmates.                     <ul style="list-style-type: none"> <li>Mental health</li> <li>Substance addiction</li> <li>Medical conditions of the disabled</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>There are no individual registration areas available for inmates with pending or diagnosed mental health issues.</li> <li>Booking courts are too close to the "hot spots" cells where inmates are held and do not have sufficient observation of inmates being processed.</li> </ul> <p><b>Housing</b></p> <ul style="list-style-type: none"> <li>The total number of beds for those assigned from the Medium and Minimum housing units are poorly located.</li> <li>There are no private living areas spaces currently in the main housing units that can accommodate an inmate's cell with their personal property or other belongings that may be necessary.</li> <li>The location of the assigned work stations in the Main Housing units is poor and does not provide the necessary level of view from the control room.</li> <li>The existing control room does not have control of the entire room, of individual housing unit information (including location of cell), and is not currently designed to meet the current facility.</li> <li>There is a lack of appropriate food and food preparation space within the facility where inmates can eat in various religious, educational and life skills programs.</li> <li>Housing units do not have current access to traps, bins, and other cleaning materials necessary for maintaining their assigned housing units.</li> <li>The minimum security control room for the units (12 total beds) have been expanded and are currently being assigned to work.</li> <li>The Cell unit's work station in the main housing unit needs to be moved to a central location of outdoor exercise area.</li> </ul> <p><b>General</b></p> <ul style="list-style-type: none"> <li>Medical problems with inmates, including unattended sliding doors are becoming more and more frequent, door may fail or be no longer in compliance.</li> <li>The facility does not have a designated Workshop, i.e. a high floor storage area.</li> <li>There is no dedicated space within the facility for assigned maintenance personnel.</li> <li>The facility does not currently have an operational, monitored Fire Alarm system.</li> <li>Handing system is not working and becoming more frequent.</li> </ul>

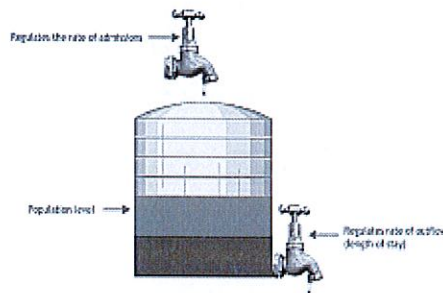
## Bed Distribution Based on Projections

Population	Males	Females
Mental Health	17	9
Medical	11	6
Protective Custody	14	4
Restrictive (Admin)	7	1
BMU	17	3
Intake	3	2
Max - GP	33	3
Medium	67	7
Minimum	44	8
WR/Weekends/Work Program	16	6
SubTotal	220	49
Total		278

18% of total inmate population: Incarcerated more than 180 days

### The Water Barrel Analogy

Average daily population is a function of admission rate and length of stay



### Sustainability

- Likely Increase in Population
- Criminal Justice Planning
- Alternatives to Incarceration

## Recommendations: Physical Plant

- Renovate Booking to improve flow & function
- Renovate Female Housing to improve visibility
- Construct Healthcare Housing
  - Accomplish w/one additional post position
- Explore options to improve availability of program space

## Projected Costs

■ **New Construction/Renovation**

Booking/Intake & Release	3,500 GSF	
Medical/Mental Health Housing Unit	16,400 GSF	

Total cost of \$5,800,000.

Additional Costs TBD:

**Next Steps:**

- Fund current staffing needs
- Contract for technical assessment of building systems: mechanical, electrical, plumbing
- Contract for design services to refine & develop expansion concepts discussed
- Develop an employee recruitment plan
- Establish a Criminal Justice Coordinating Committee

**NCACC LEGISLATIVE GOALS PROCESS**

Steve Wyatt stated the NCACC is soliciting input and proposals from all counties and has invited counties to submit their legislative proposals to the Association. The submission deadline for proposals is Friday, September 21, 2018. The NCACC goal setting process is open, inclusive and deliberative and is designed to give all 100 counties a voice in developing the Association’s legislative agenda.

He asked the Board to put this on their radar and think about goals for submission in September. This is a bi-annual process.

Goals may be submitted in any of the following formats: a resolution approved by the Board of Commissioners, a letter from the Chairman of the Board on behalf of the entire board, or by letter from an affiliate organization.

Proposed goals received on or before September 21, will be referred to the appropriate steering committee for review and consideration.

**Legislative goals development timeline**

- September 21, 2018                      Goals submission deadline
- September – October                      Steering committees review goals

- November Legislative Goals Committee meets
- December Board of Directors reviews and finalizes recommendations
- January 10-11, 2019 Legislative Goals Conference, membership approval of goals

Senator Edwards explained that NCACC staff members are in his office regularly with legislative goals. He is not sure that this district is represented well by the association, and feels NCACC leans more toward the populated counties.

Commissioner Thompson would like to see lottery funds used for what they were intended. The problem of larger counties getting more attention needs addressing.

Commissioner Hawkins is on the Tax and Finance Committee where inevitably school funding and sales tax distribution come up. Much of the information they receive is incorrect.

### **ELECTIONS EQUIPMENT**

Elections Director Beverly Cunningham presented the Board with information and a request with regards to the purchase of elections equipment. The project will be approached in two phases. For the first phase, the Henderson County Board of Elections is requesting the Board of Commissioners approve the purchase of DS200s (digital scanners) used for paper ballots for election day use, as well as the other equipment needed to implement paper ballot voting, i.e.; voting booths, secure methods of transporting ballots and equipment for securing and transporting this equipment to and from the election day sites. This would allow the office to use the DS200s (digital scanners) for election day use for the 2018 General Election.

The current direct record machines (DRE's) would be retained to use for one stop early voting and election day ADA use through the 2019 elections.

For the second phase, the Board of Elections will be requesting approval to purchase "ExpressVote" equipment. This equipment is anticipated to be certified in FY20, to be used for the 2020 Presidential Elections. The Vendor is not allowed to provide a quote for this equipment as it is not fully certified. However, the cost is anticipated to be somewhere around \$250,000.00.

If approved, this purchase will be made in accordance with N.C.G.S 143-129(e)(6) which grants an exception to the procedures for letting of public contracts when: performance or price competition for a product are not available; a needed product is available from only one source of supply; or standardization or compatibility is the overriding consideration.

*Commissioner Hawkins made the motion that the Board approves both the purchase of the elections equipment as presented, and the necessary budget amendment. All voted in favor and the motion carried.*

*Commissioner Hawkins made the motion that the Board notify the State Board of Elections that Henderson County does not agree with the decision of Sunday early voting. All voted in favor and the motion carried.*

### **CAPITAL PROJECTS UPDATE**

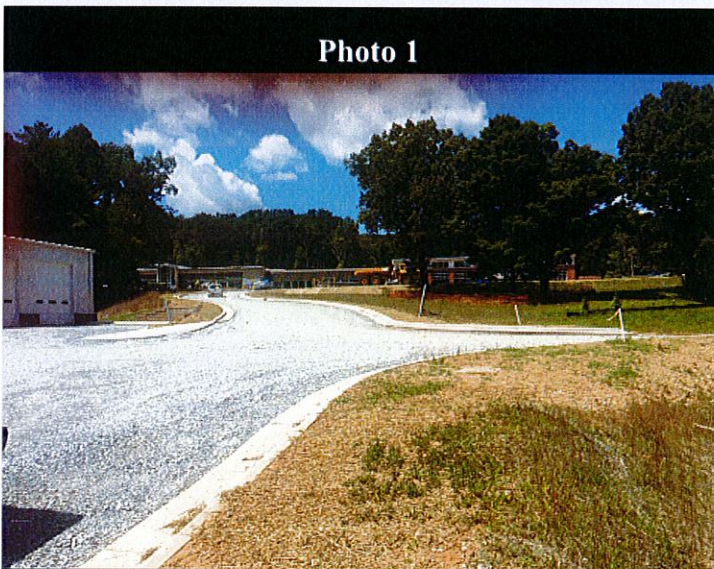
The Capital Projects Manager provided an update to the Board of Commissioners on the status of current construction projects.

## Emergency Services Head Quarters Update



The Emergency Services Head-quarters is on schedule and within budget. Cooper Construction started in September 2017 with a 14 month agreement, but are working toward a 12 month goal.

Clark Nexsen is the Architect. Jimmy Brissie, the Architect and staff have been very involved.



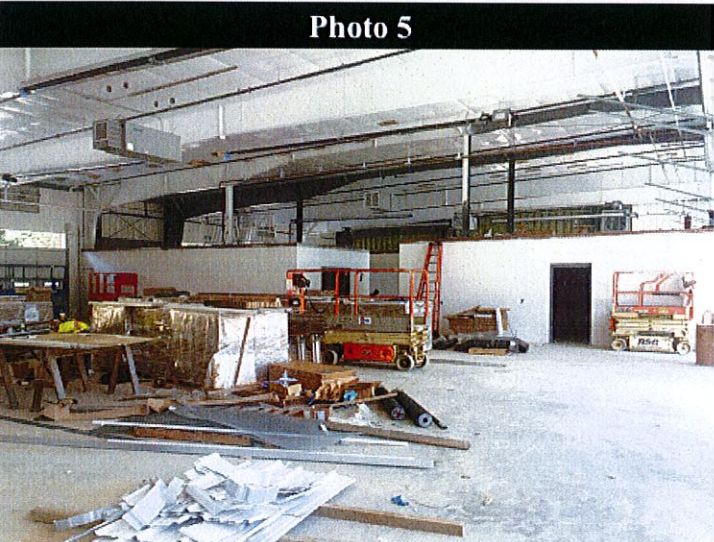
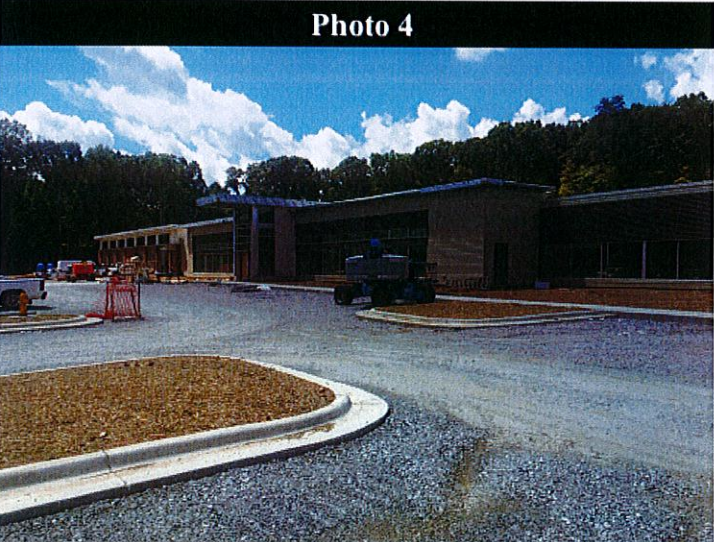
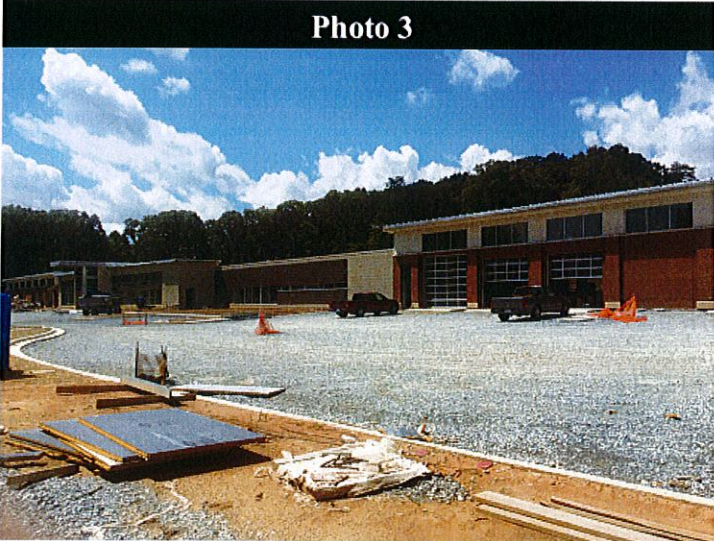
Paving will begin next week and furniture delivered October 8, 2018, with a projected ribbon cutting in October.

Commissioner Lapsley is concerned with emergency vehicle entries onto Highway 25 and feels a warning light is needed.



Jimmy Brissie stated there is an existing caution light for the entry into the school previously on the property. The cost for a caution light is \$30,000 and full signal is \$130,000. He will look into this further with the NCDOT, and the possibility of assistance with cost or discretionary funds.

Commissioner Lapsley feels this is an accident waiting to happen and something should be done prior to opening. Mr. Lapsley will talk with the Division Engineer at NCDOT.



**Photo 6**



**Photo 7**



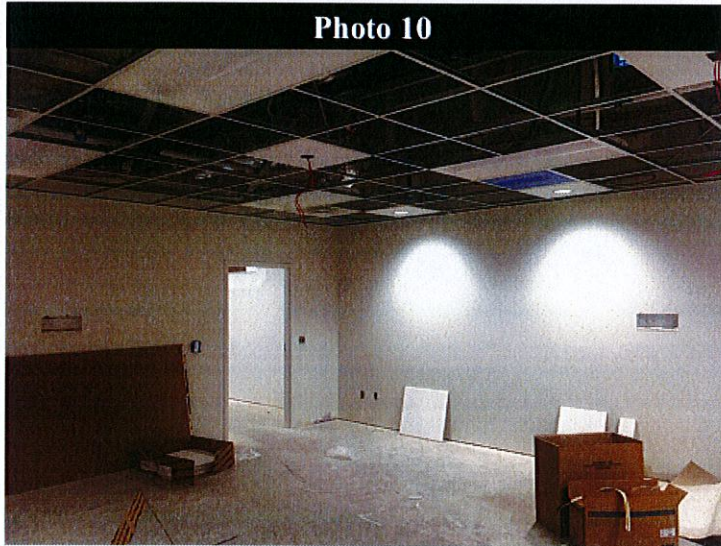
**Photo 8**



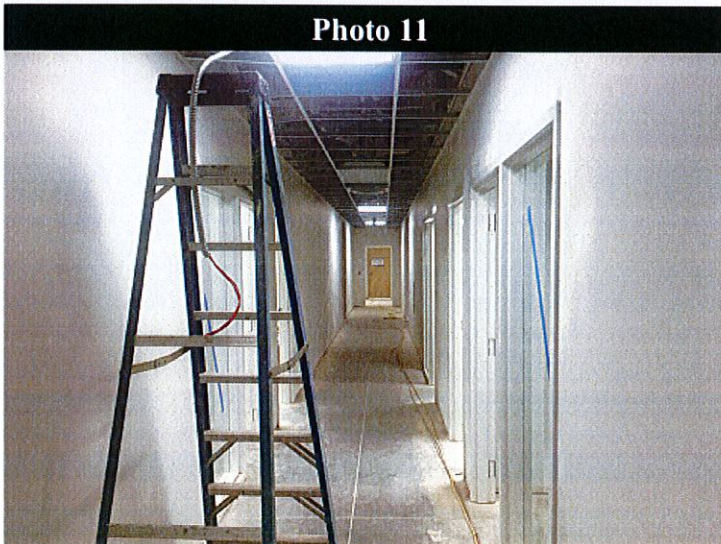
**Photo 9**



**Photo 10**



**Photo 11**





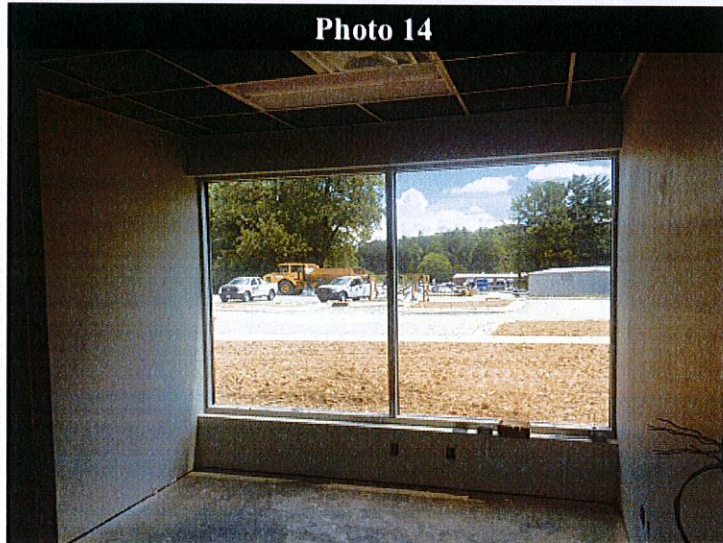
**Photo 12**

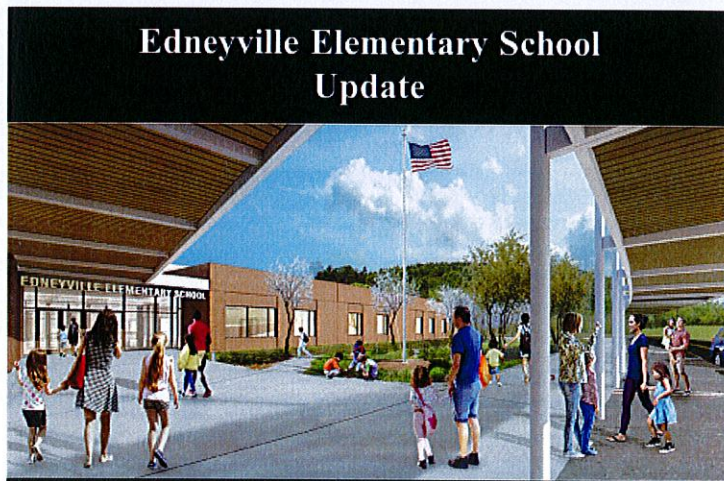
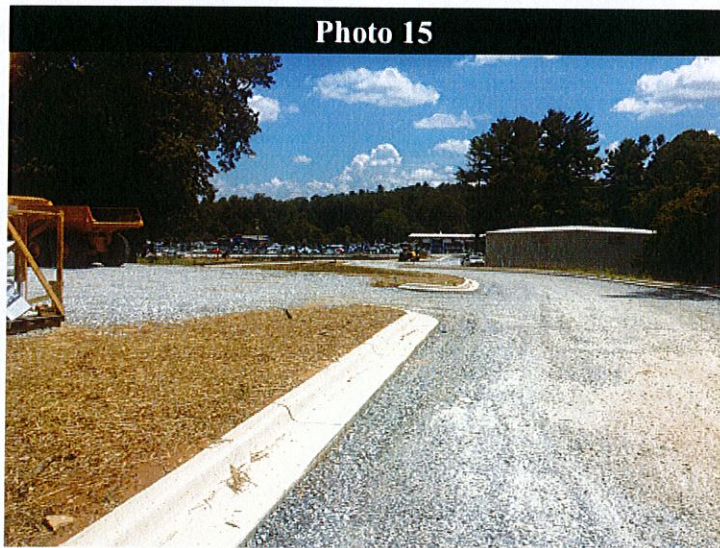


**Photo 13**



**Photo 14**





The Edneyville Elementary School project is on schedule and within budget. All safety precautions are being taken to protect the children during construction. Once the new school is complete, the old school will be torn down.

There will be complete new traffic patterns.

**Photo 1**



**Photo 2**



**Photo 3**



**Photo 4**



**Photo 5**



**Photo 6**





## Stillwell Update

New roof is complete.  
New chiller is complete.

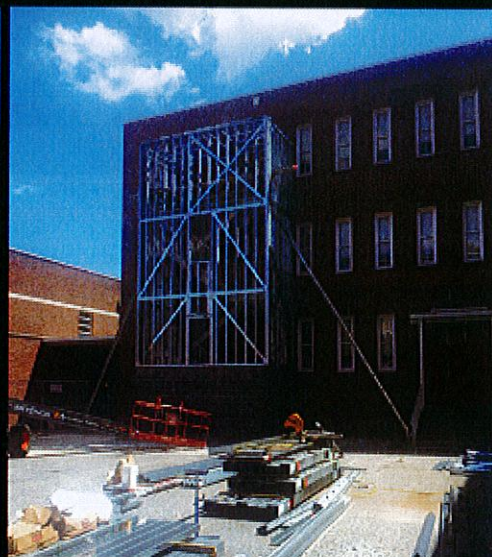
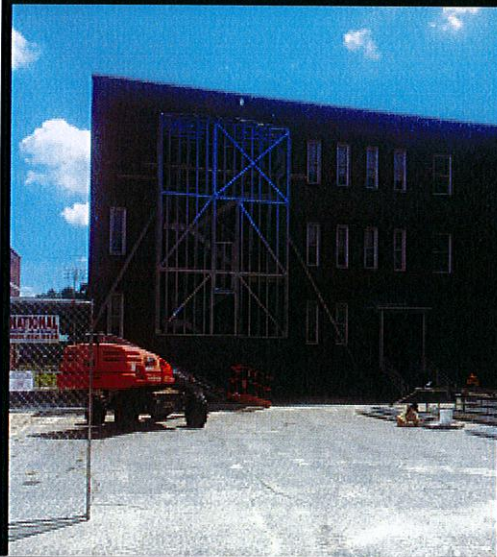
The enclosure of the fire  
towers is in progress.

The last project is  
pointing up of bricks and  
sealing.



**Photo 1**

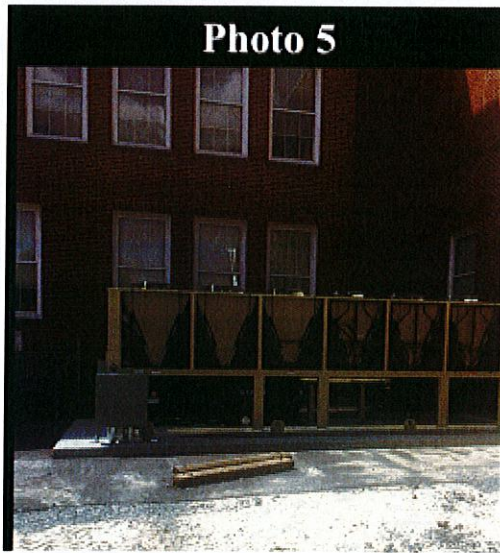
**Photo 2**



**Photo 3**

**Photo 4**





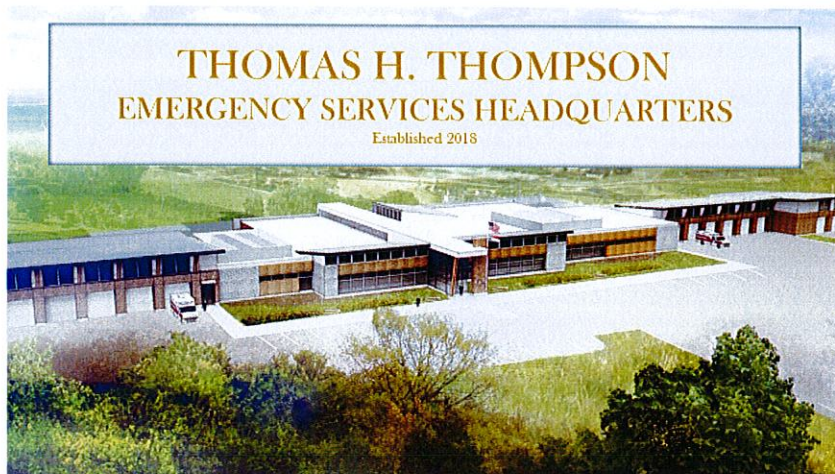
David Berry stated that interior renovations continue at the Main Library. A new roof is on the Cooperative Extension Building, and the Human Service's building has a new HVAC system.

**2018-97 NAMING OF THE EMERGENCY SERVICES HEADQUARTERS BUILDING – ADD ON**

The Board has been discussing this and came to the conclusion that they would like to name the building in honor of Commissioner Tommy Thompson. Chairman Edney stated the Emergency Services Building has been a goal of Commissioner Thompson's for a long time. He thanked Commissioner Thompson for over 40 years of service to Henderson County and stated this was the least they could do for him. Mr. Thompson received a standing ovation. Chairman Edney asked for a motion.

*Commissioner Hawkins made the motion to name the Emergency Services Headquarters in honor of Thompson H. Thompson. All voted in favor and the motion carried.*

Commissioner Thompson stated he has never been at a loss for words and emotionally thanked the Board for a wonderful ride. His wife Sherry was in the audience and he noted she had stood by him and taken a lot of the brunt during his years of service. Mr. Thompson has wanted the Emergency Services Headquarters for a long time and appreciates that it is almost complete.



**CANE CREEK WATER AND SEWER DISTRICT**

*Commissioner Hawkins made the motion for the Board to convene as Cane Creek Water & Sewer District Board. All voted in favor and the motion carried.*

Please see separate minutes for Cane Creek Water and Sewer District.

*Chairman Edney made the motion to adjourn as the Cane Creek Water & Sewer District Board and reconvene as the Board of Commissioners. All voted in favor and the motion carried.*

**ADJOURN**

*Commissioner Hawkins made the motion to adjourn at 12:40 p.m. All voted in favor and the motion carried.*

Attest:

\_\_\_\_\_  
Teresa L. Wilson, Clerk to the Board

\_\_\_\_\_  
J. Michael Edney, Chairman





**RESOLUTION OF CONSISTENCY WITH THE COUNTY COMPREHENSIVE PLAN**

**WHEREAS**, pursuant to N.C. General Statute §153, Article 18, the Henderson County Board of Commissioners exercises regulations relating to development within the County's jurisdiction; and

**WHEREAS**, the Henderson County Board of Commissioners (Board) adopted the Land Development Code (LDC) on September 19, 2007 and has amended the LDC to address new and changing issues;

**WHEREAS**, the Board desires to update and revise the regulations of the LDC; and

**WHEREAS**, the Planning Department and Planning Board provided recommendations regarding the proposed text amendments with case TX-2018-04 and TX-2018-05; and

**WHEREAS**, pursuant to N.C. General Statute §153-323, the Planning Department provided the prescribed public notice and the Board held the required public hearings on August 15, 2018; and

**WHEREAS**, N.C. General Statute §153-341 requires the Board to adopt a statement of consistency with the County Comprehensive Plan (CCP); and

**NOW THEREFORE, BE IT RESOLVED** by the Henderson County Board of Commissioners as follows:

1. That the Board reviewed the proposed LDC text amendment (TX-2018-04 and TX-2018-05) and finds that it reasonable, in the public interest and it is consistent with the principles and goals of County Comprehensive Plan and the Growth Management Strategy located therein; and
2. That the Board determines that the proposed text amendments provides for the sound administration of the LDC while balancing property rights and promoting reasonable growth within the County; and
3. That this Resolution shall be retained in the Office of the Clerk to the Board of Commissioners.

**THIS** the 15<sup>th</sup> day of August, 2018.

**HENDERSON COUNTY BOARD OF COMMISSIONERS**

BY: 

**MICHAEL EDNEY, Chairman**  
Henderson County Board of Commissioners

**ATTEST:**



**TERESA L. WILSON**

Clerk to the Board of Commissioners

[COUNTY SEAL]

IN THE MATTER OF THE APPLICATION OF THOMAS PLOTT,  
Applicant,

To the

HENDERSON COUNTY BOARD OF COMMISSIONERS,  
Deciding Authority

**ORDER GRANTING ROAD/EASEMENT CLOSURE**

\*\*\*\*\*

The HENDERSON COUNTY BOARD OF COMMISSIONERS having held a public hearing on July 18, 2018 and August 15, 2018, to consider the application submitted by Thomas Plott, to request a Road/Easement Closure, makes the following FINDINGS OF FACTS and draws the following CONCLUSIONS:

**FINDINGS OF FACT**

1. A public hearing was held by the Henderson County Board of Commissioners on the road/easement closure requested by Thomas Plott. A quorum of the members of the Board of Commissioners were present at the hearing.
2. This Order and the approval herein, was moved by Commissioner Thompson, and was unanimously approved.
3. Thomas Plott, hereinafter referred to as the "Applicant" is resides at 106 Muirfield Court, Hendersonville, NC. The Applicant is requesting the closure of an unopened portion of Muirfield Court north and just before the cul-de-sac at the termination of Muirfield Court..
4. On behalf of the Property Addressing Coordinator for Henderson County, Planning Director Autumn Radcliff presented a packet of information to the Commissioners and that information is hereby incorporated into this order by reference.
5. Notice of the public hearing, pursuant to North Carolina General Statute 153A-241 and 136-63 was duly and timely given. This notice included advertisement in the Times News on June 21st, 2018, June 28th, 2018 and July 5th, 2018, and the property was posted on June 26th, 2018. Notices of the hearing were sent via certified mail on June 21st, 2018 to the adjacent property owners.
6. The Applicant's closure request is not inconsistent with the Notice of Public Hearing produced, published, and posted for the hearing.
7. The following information was presented to the Board of Commissioners regarding this closure:
  - a. The portion of Muirfield Court sought to be closed has never been opened.
  - b. No entity has the legal right to use the portion of Muirfield Court sought to be closed other than those property owners located within the subdivision in which Muirfield Court is located whose property adjoins such portion.
  - c. If the portion of Muirfield Court sought to be closed is in fact closed, reasonable ingress and egress for property owners in the vicinity is still present.

**CONCLUSIONS**

1. All parties, and all persons entitled to notice, have been given proper notice of this hearing and afforded the right to be heard.
2. All evidence relied upon in this Order was credible and reliable and based upon information provided to the Henderson County Board of Commissioners at the public hearing.
3. North Carolina General Statutes 136-63 and 153A-241 grants the Henderson County Board of Commissioners the jurisdiction to hear and make closure decisions.

4. Based on the evidence presented at the hearing, the request does meet all the standards of the statute and the request should be GRANTED based on the reasons established below:
  - a. The closure is not contrary to the public interest.
  - b. No individual owning property in the vicinity of the road or in the subdivision in which the road is located would be deprived of reasonable means of ingress and egress to his or her property.

Based on the foregoing FINDINGS OF FACT and CONCLUSIONS drawn, and it appearing to the HENDERSON COUNTY BOARD OF COMMISSIONERS that the road/easement closure must be **GRANTED**.

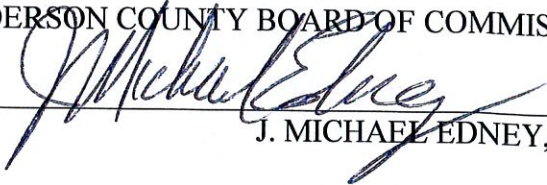
IT IS THEREFORE ORDERED by the HENDERSON COUNTY BOARD OF COMMISSIONERS as follows:

**The Applicant's Closure Request has been GRANTED.**

ORDERED this the 15<sup>th</sup> day of August 2018.


THE HENDERSON COUNTY BOARD OF COMMISSIONERS

By: \_\_\_\_\_



J. MICHAEL EDNEY, Chairman

ATTEST:

  
 \_\_\_\_\_  
 Terry L. Wilson  
 Clerk to the Board

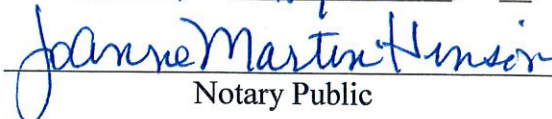
\*\*\*\*\*

STATE OF NORTH CAROLINA  
 COUNTY OF HENDERSON COUNTY

I, JoAnne Martin Hinson, a Notary Public for said County and State, do hereby certify that Terry L. Wilson personally appeared before me this day to acknowledge that she is the Clerk to the Henderson County Board of Commissioners.

Witness my hand and official seal, this the 15th of August, 2018

(Official Seal)

  
 \_\_\_\_\_  
 Notary Public

My Commission Expires May 23, 2023

JOANNE MARTIN HINSON  
 NOTARY PUBLIC  
 Henderson County  
 North Carolina  
 My Commission Expires May 23, 2023

# Office of the Henderson County Tax Collector

200 NORTH GROVE STREET, SUITE 66

HENDERSONVILLE, NC 28792

PHONE: (828) 697-5595 | FAX: (828) 698-6153

Henderson County Board of Commissioners  
 1 Historic Courthouse Square, Suite 1  
 Hendersonville, NC 28792

Thursday, August 09, 2018

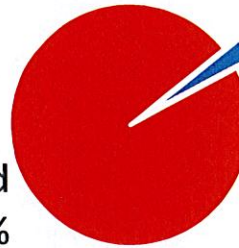
Re: Tax Collector's Report to Commissioners - Meeting Date August 15, 2018

Please find outlined below collections information through August 8, 2018 for the 2018 real and personal property bills mailed on August 1, 2018. Vehicles taxes are billed monthly by NC DMV.

## Henderson County Annual Bills (Real and Personal Property):

<b>2018 Beginning Charge:</b>	<b>\$71,312,870.03</b>
Discoveries & Imm. Irreg.:	\$263,228.98
Releases & Refunds:	<b>(\$49,549.78)</b>
<u>Net Charge:</u>	<u>\$71,526,549.23</u>
Unpaid Taxes:	\$69,410,257.79
<b>Amount Collected:</b>	<b>\$2,116,291.44</b>

**Unpaid  
97.04%**



**Paid  
2.96%**

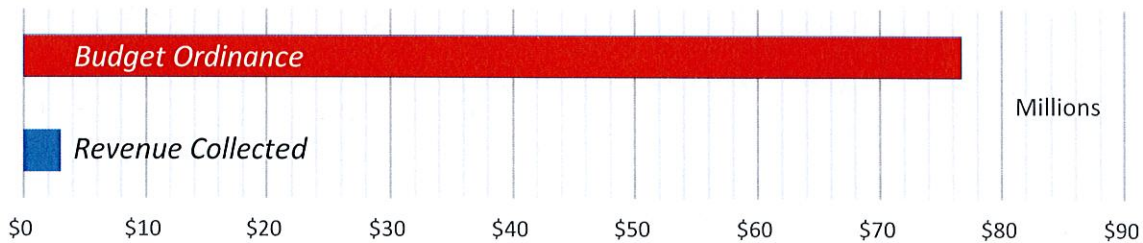
## Henderson County Registered Motor Vehicles (As Collected by NC DMV):

Net Charge:	\$688,782.93
Unpaid Taxes:	\$2,187.71
<b>Amount Collected:</b>	<b>\$686,595.22</b>

**99.68%**

## Henderson County FY19 Budget Analysis:

	<u>Budget Ordinance</u>		<u>Revenue Collected</u>
Ad Valorem:	\$75,697,389.00	Ad Valorem:	\$2,802,886.66
Prior Years:	\$1,025,000.00	Prior Years:	\$234,118.12
<b>Budget Total:</b>	<b>\$76,722,389.00</b>	<b>YTD Revenue:</b>	<b>\$3,037,004.78</b>



Respectfully Submitted,

Luke Small  
 Deputy Tax Collector

Darlene Burgess  
 Tax Administrator

# HENDERSON COUNTY

## PUBLIC RECORDS DISPOSAL REQUEST AND DESTRUCTION LOG (Revised March 13, 2002)

DEPARTMENT: EMS

RECORD TITLE & DESCRIPTION, INCLUSIVE DATES, & QUANTITY	RECORDS WILL BE		RECORDS RETENTION SECTION	IF APPROVED, DATE DESTROYED
	DESTROYED	*DUPLICATED		
Ambulance Call Reports July 1st, 2006 through July 31st, 2007	X		Emergency SVC Standard 6, Line 5	

\*If duplication is required, indicate method.

Approval is requested for the records listed above to be destroyed in accordance with the provisions of G.S. 121 and 132. The period for retention of these records, as prescribed by the North Carolina Department of Cultural Resources, has expired; **OR** where the period for retention has not expired, the original records have been duplicated on microfilm, microfiche, data processing or word processing equipment, with the understanding that said duplication shall be maintained for the specified period of retention. **NONE** of the original records listed above have been scheduled for permanent preservation by the North Carolina Department of Cultural Resources.

Mike Barnett  
Department Head

07/26/2018  
Date

Submitted to the Henderson County Board of Commissioners. The Board:  
 APPROVED   
 DISAPPROVED

the destruction/duplication of the above records and such approval/disapproval has been entered into the official minutes of the Board of Commissioners meeting held on the 15<sup>th</sup> day of August, 2018.

Cherise L. Wilson  
Clerk to the Board

## AGREEMENT

THIS AGREEMENT is made between Safelight, Inc. dba Mainstay, Inc., hereinafter referred to as the "AGENCY" and Henderson County hereinafter referred to as the "CONTRACTOR";

### WITNESSETH

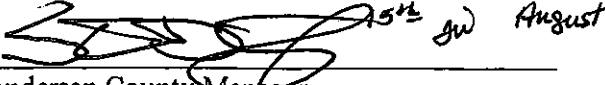
That WHEREAS, the AGENCY desires to engage the CONTRACTOR to perform the professional services hereinafter described;


Therefore, the AGENCY and the CONTRACTOR do mutually agree as follows:

1. Contractual Status. The AGENCY and CONTRACTOR agree that the CONTRACTOR shall perform the services required of the CONTRACTOR herein set forth; provided, that the CONTRACTOR is not and will not by virtue of this contract acquire the status of an employee of the AGENCY.
2. Time of Performance. The effective date of this agreement is July 1, 2018 and the termination date is September 30, 2018
3. Compensation. The AGENCY will pay CONTRACTOR at a rate of \$23.55 per hour for a total sum not to exceed \$51,563.00 (*amount stated in approved budget*) for approved services actually provided by the CONTRACTOR. While performing said services in paragraph 4 of this contract, the CONTRACTOR will receive monthly payments based on the number of hours worked.
4. Scope of Services to be rendered. The CONTRACTOR hereby agrees to perform in a manner satisfactory to the AGENCY the following services:  
  
The contracted position will provide additional legal advocacy at the Family Justice Center (FJC) including but not limited to contacting victims, scheduling hearings, communicating with their department, and accessing the online court system, overall assisting in the faster response to victim's needs.
5. Invoice. Payment under this AGREEMENT will be made upon receipt of an original invoice from CONTRACTOR documenting the services performed; hours worked providing the services, hourly rate of pay, and the amount due and payable pursuant to Paragraphs 3 and 4 of this AGREEMENT. All services must be performed to the satisfaction of the AGENCY prior to any payment being made.
6. Contract Administrator. John Lauterbach is designated as the contract administrator for this AGREEMENT. The contract administrator is responsible for monitoring the CONTRACTOR'S performance, approving payment to the CONTRACTOR and for providing evaluation of the CONTRACTOR.
7. Funding. All terms and conditions of this AGREEMENT are dependent upon and subject to the allocation of funds for the purposes set forth, and the AGREEMENT shall automatically terminate if funds cease to be available.

8. Audit of Project Records. The CONTRACTOR'S project records may be audited by the AGENCY, the Governor's Crime Commission, or duly authorized agents of either entity.
9. Taxes. The CONTRACTOR shall be considered to be an independent contractor and as such shall be responsible for all taxes. The CONTRACTOR agrees to provide the AGENCY with the CONTRACTOR'S correct taxpayer identification number upon the execution of this AGREEMENT. The CONTRACTOR agrees that failure to provide the AGENCY with a correct taxpayer number authorizes the AGENCY to withhold 20% of any amount due and payable under this AGREEMENT pursuant to the provisions of the Internal Revenue Code, Title 26, United States Code.
10. Warranty. As an independent contractor, the CONTRACTOR will hold the AGENCY harmless for any liability and personal injury that may occur from or in connection with the performance of the AGREEMENT.
11. Situs. This contract shall be governed by the laws of North Carolina.
12. Antitrust Laws. This contract is entered into in compliance with all State and Federal antitrust laws.
13. Compliance with Law. The CONTRACTOR shall remain an independent contractor and as such shall be wholly responsible for the work to be performed under the supervision of his employees. The CONTRACTOR shall be responsible for compliance with all laws, ordinances, codes, rules, regulations, licensing requirements and other regulatory matters that are applicable to the conduct of the CONTRACTOR'S business and work performance under this AGREEMENT, including those of Federal, State and local agencies having appropriate jurisdiction.
14. Certification. The CONTRACTOR certifies that they have not been debarred or suspended from receiving Federal or State funds.
15. Assignment. This AGREEMENT or any interest herein shall not be assigned or transferred by the CONTRACTOR. The CONTRACTOR shall not subcontract any work to be performed pursuant to this AGREEMENT without the written approval of the AGENCY.
16. Entire Agreement. This AGREEMENT, including any exhibits and amendments annexed hereto and any documents incorporated specifically by reference, represents the entire agreement between the parties and supersedes all prior oral and written statements or agreements. This AGREEMENT may be amended only by written amendments duly executed by the AGENCY and the CONTRACTOR.

IN WITNESS WHEREOF, the AGENCY and the CONTRACTOR have each executed the AGREEMENT, this the 24<sup>th</sup> day of July, 2018.

  
Henderson County Manager

  
Safelight, Inc. dba Mainstay, Inc.

**LINE-ITEM TRANSFER REQUEST  
HENDERSON COUNTY**



**Department:** Elections

*Please make the following line-item transfers:*

**What expense line-item is to be increased?**

<u>Account</u>	<u>Line-Item Description</u>	<u>Amount</u>
<u>115408-551000</u>	<u>Capital Outlay - Equipment</u>	<u>\$292,988</u>
<u>115408-526020</u>	<u>Dept Supplies Non-Expendable</u>	<u>\$118,110</u>
<u>115408-526000</u>	<u>Departmental Supplies</u>	<u>\$18,975</u>
<u>115408-538100</u>	<u>Professional Services</u>	<u>\$34,927</u>
<u>115422-526201</u>	<u>Non-Capital Technology</u>	<u>\$5,000</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**What expense line-item is to be decreased? Or what additional revenue is now expected?**

<u>Account</u>	<u>Line-Item Description</u>	<u>Amount</u>
<u>114990-401000</u>	<u>Fund Balance Appropriated</u>	<u>\$470,000</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Justification:** *Please provide a brief justification for this line-item transfer request.*

Appropriation of fund balance to provide funding for elections equipment. Approved by the BOC 8.15.2018.

Budget  
Authorized by Department Head

8/15/2018  
Date

\_\_\_\_\_  
Authorized by Budget Office

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized by County Manager

\_\_\_\_\_  
Date

<i>For Budget Use Only</i>	
Batch #	_____
BA #	_____
Batch Date	_____



# HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite 1  
Hendersonville, North Carolina 28792  
Phone: 828-697-4808 • Fax: 828-692-9855  
www.hendersoncountync.org

J. MICHAEL EDNEY  
Chairman  
GRADY H. HAWKINS  
Vice-Chairman

CHARLES D. MESSER  
WILLIAM G. LAPSLEY  
THOMAS H. THOMPSON

August 15, 2018

Hogan & Brewer, PLLC  
Attorney Sherri L. Brewer  
229 North Main Street  
Hendersonville, NC 28792

Re: Petition to close portion of 60 ft right of way off Muirfield Court

Dear Ms. Brewer:

At the August 14, 2018 regularly scheduled meeting of the Henderson County Board of Commissioners, the enclosed Order Granting Road/Easement Closure was unanimously approved. You may wish to record this document with the Register of Deeds.

Please let us know if we can be of further assistance.

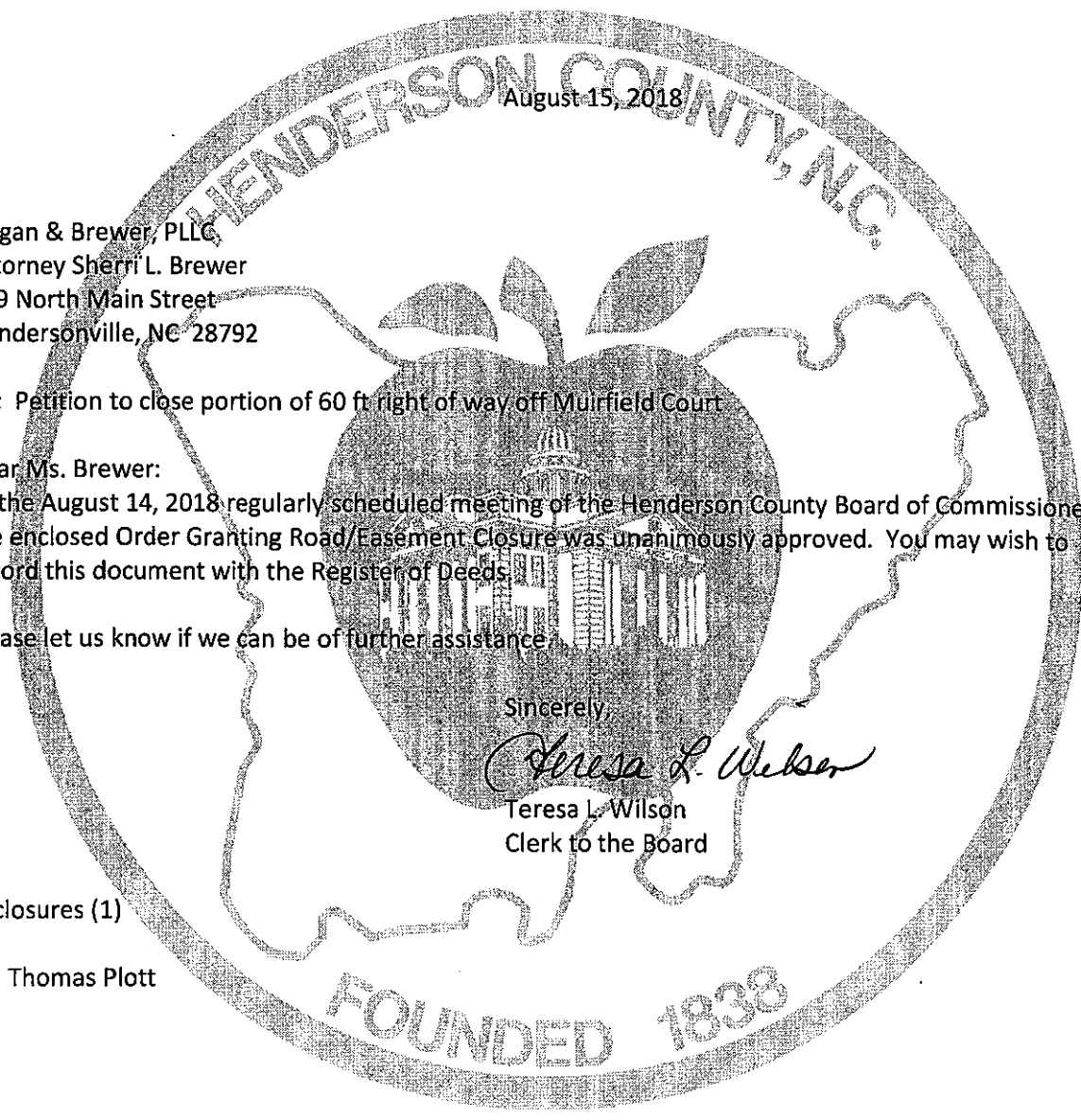
Sincerely,



Teresa L. Wilson  
Clerk to the Board

Enclosures (1)

cc: Thomas Plott



**DURING THE AUGUST 15, 2018 MEETING, THE BOARD ENACTED THE FOLLOWING:**

**2018-93** Land Development Code (LDC) Text Amendments (TX-2018-05) – Administrative Text Amendment to Flood Requirements

**2018-94** Continuation of Public Hearing for Proposed Right of Way Closure – off Muirfield Court

**2018-95** Agreement – Henderson County and Safelight

**2018-96** Henderson County Hospital Corporation / Pardee Ambulatory Surgery Center LLC

**2018-97** Naming of the Emergency Services Headquarters Building



11208 JOHN GALT BLVD  
 OMAHA, NE 68137-2364  
 (402) 593-0101

# Sales Order Agreement

Customer P.O. #: \_\_\_\_\_

1st Election Date: To be Agreed Upon by the Parties

Estimated Delivery Date: To be Agreed Upon by the Parties

Phone Number: (828) 697-4970

Fax Number: (828) 697-4590

Customer Contact, Title: Beverly Cunningham - Director

Customer Name: Henderson County, North Carolina

Type of Sale:  NEW

Type of Equip:  NEW  REFURBISHED

Bill To: \_\_\_\_\_  
Henderson County, North Carolina  
Beverly Cunningham - Director  
P.O. Box 2090  
Hendersonville, NC 28793

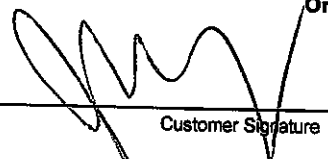
Ship To: \_\_\_\_\_  
Henderson County, North Carolina  
Beverly Cunningham - Director  
75 E. Central Street  
Hendersonville, NC 28792

Item	Description	Qty	Price	Total
1	DS200 Model DS200 Scanner with Internal Backup Battery, Plastic Ballot Box with Steel Door and e-Bin, 4GB Jump Drive, and Paper Roll	45	\$5,750.00	\$258,750.00
2	DS200 Tote Bin	45	\$225.00	\$10,125.00
3	DS200 4GB Jump Drive (Additional)	20	\$105.00	\$2,100.00
4	DS850 Model DS850 High Speed Digital Image Scanner with Steel Table, Report Printer, Audit Printer, Start-Up Kit, Dust Cover, Battery Backup, Two (2) USB Cables, and Three (3) 8GB Thumb Drives	1	\$111,500.00	\$111,500.00
5	DS850 Initial Annual License Fee	1	Included	Included
6	DS200 Equipment Installation	45	\$115.00	\$5,175.00
7	DS850 Equipment Installation / Training Fee (1st Unit)	1	\$3,575.00	\$3,575.00
8	Services Project Management Day	3	\$1,650.00	\$4,950.00
9	Services Election On-Site Support Event	1	\$4,525.00	\$4,525.00
10	Trade-In Allowance Equipment Being Traded-In by Customer Includes: 3 - Model 100 Scanner 3 - Model 100 Ballot Box 138 - iVotronic Terminal 138 - iVotronic Booth with RTAL Printer	1	(\$29,100.00)	(\$29,100.00)
11	Shipping Shipping & Handling	1	\$6,825.00	\$6,825.00

Freight Billable: yes  no

Order Subtotal	\$	378,425.00
Customer Discount		(\$48,162.05)
Order Total	\$	330,262.95

Mac Beeson  
 Regional Sales Manager

  
 \_\_\_\_\_  
 Customer Signature 8/15/18  
Date

Chairman, J. Michael Edney

## GENERAL TERMS

1. **Purchase/License Terms.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell and/or license, and Customer agrees to purchase and/or license, the ES&S Equipment, ES&S Software and ES&S Firmware described on the front side of this Agreement. The ES&S Firmware and ES&S Software are collectively referred to hereinafter as the "ES&S Software." The payment terms for the ES&S Equipment and ES&S Software are set forth on the front side of this Agreement. Title to the ES&S Equipment shall pass to Customer when Customer has paid ES&S the total amount set forth on the front side of this Agreement for the ES&S Equipment. The consideration for ES&S' grant of the license during the Initial Term for the ES&S Firmware is included in the cost of the ES&S Equipment.
2. **Grant of Licenses.** Subject to the terms and conditions of this Agreement, ES&S hereby grants to Customer nonexclusive, nontransferable licenses for its bona fide full time, part time or temporary employees to use the ES&S Software and related Documentation in the Jurisdiction while Customer is using the ES&S Equipment and timely pays the applicable annual ES&S Software License, Maintenance and Support Fees set forth on Schedule A1. The licenses allow such bona fide employees to use and copy the ES&S Software (in object code only) and the Documentation, in the course of operating the ES&S Equipment and solely for the purposes of defining and conducting elections and tabulating and reporting election results in the Jurisdiction.
3. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:
  - a. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software;
  - b. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party without ES&S' prior written consent; or
  - c. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent; or
  - d. Allow a third party to cause or permit any copying, reproduction or printing of any output generated by the ES&S Software (except finished ballots by ballot printers selected by Customer) in which ES&S owns or claims any proprietary intellectual property rights (e.g., copyright, trademark, patent pending or patent), including, but not limited to, any ballot shells or ballot code stock.
4. **Term of Licenses.** The licenses granted in Section 2 shall commence upon the delivery of the ES&S Software described in Section 2 and shall continue for a one (1) year period (the "Initial License Term"). Upon expiration of the Initial License Term, the licenses shall automatically renew for an unlimited number of successive one-year periods (each a "License Renewal Term") upon the payment by Customer of the annual software license and software maintenance and support fee as set forth on the front side of this Agreement. ES&S may terminate either license if Customer fails to pay the consideration due for, or breaches Sections 2, 3, or 9 with respect to, such license. Upon the termination of either of the licenses granted in Section 2 for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.
5. **Updates.** During the Initial License Term or any License Renewal Term, ES&S may provide new releases, upgrades or maintenance patches to the ES&S Software, together with appropriate Documentation ("Updates"), on a schedule defined by ES&S. Customer is responsible for obtaining any upgrades or purchases of Third Party Items required to operate the Updates as well as the cost of any replacements, retrofits or modifications to the ES&S Equipment which may be necessary in order to operate the Updates. All Updates shall be deemed to be ES&S Software for purposes of this Agreement upon delivery. Customer may install the Updates in accordance with ES&S' recommended instructions or may request that ES&S install the Updates. ES&S may charge Customer at its then-current rates to (i) install the Updates; (ii) train Customer on Updates, if such training is requested by Customer or (iii) provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Customer shall be responsible for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by Customer's failure to install and use the most recent Update provided to it by ES&S. If Customer proposes changes in the ES&S Software to ES&S, such proposals will become ES&S' property. ES&S may, in its sole discretion, elect to make or not to make such changes without reference or compensation to Customer or any third party. ES&S represents to Customer that the Updates will comply with all applicable state law requirements at the time of delivery. Customer shall be responsible to ensure that it has installed and is using only certified versions of ES&S Software in accordance with applicable law. In the event that any Updates are required due to changes in state law, ES&S reserves the right to charge Customer for the following:
  - (i) the total cost of any third party items that are required in order to operate the Updates;
  - (ii) the total cost of any replacements, retrofits or modifications to the ES&S Equipment contracted for herein that may be developed and offered by ES&S in order for such ES&S Equipment to remain compliant with applicable laws and regulations; and
  - (iii) Customer's pro-rata share of the costs of designing, developing and/or certification by applicable federal and state authorities of such state mandated Updates.Customer's pro-rata share of the costs included under subsection (iii) above shall be determined at the time by dividing the number of registered voters in Customer's jurisdiction by the total number of registered voters in all counties in Customer's state to which ES&S has sold and/or licensed the Equipment and/or Licensed Software purchased and licensed by Customer under this Agreement. Customer shall pay ES&S the entire costs incurred for design, development and certification of any Update which is required due to a change in local law or is otherwise requested or required by Customer.
6. **Delivery; Risk of Loss.** The Estimated Delivery Dates and First Election Use (if any) set forth on the front side of this Agreement are estimates and may only be established or revised, as applicable, by the parties, in a written amendment to this Agreement, because of delays in executing this Agreement, changes requested by Customer, product availability and other events. ES&S will notify Customer of such revisions as soon as ES&S becomes aware of such revisions. Risk of loss for the ES&S Equipment and ES&S Software shall pass to Customer when such items are delivered to Customer's designated location. Upon transfer of risk of loss to Customer, Customer shall be responsible for obtaining and maintaining sufficient casualty insurance on the ES&S Equipment and ES&S Software and shall name ES&S as an additional Insured thereunder and, at ES&S' request, shall deliver written evidence thereof to ES&S until all amounts payable to ES&S under this Agreement have been paid by Customer.
7. **Warranty.**
  - a. **ES&S Equipment/ES&S Software.** ES&S warrants that for a one (1) year period (the "Warranty Period"), it will repair or replace any component of the ES&S Equipment or ES&S Software which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty Period will commence upon delivery. The Warranty shall not include the repair or replacement of any ES&S Equipment components that are consumed in the normal course of operating the ES&S Equipment, including printer ribbons, printer cartridges, paper rolls, batteries, removable media storage devices, PDMCIA cards or marking devices. Any repaired or replaced item of ES&S Equipment or ES&S Software shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the ES&S Equipment or ES&S Software will become the property of ES&S. This warranty is effective provided that (i) Customer notifies ES&S within three (3) business days of the discovery of the failure of performance or defect and is otherwise in compliance with its obligations hereunder, (ii) the ES&S Equipment or ES&S Software to be repaired or replaced has not been repaired, changed, modified or altered except as authorized or approved by ES&S, (iii) the ES&S Equipment or ES&S Software to be repaired or replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, use which is not in accordance with instructions or specifications furnished by ES&S or causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, and (iv) Customer has installed and is using the most recent update provided to it by ES&S. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product. The terms of post-warranty license, maintenance and support are set forth on Exhibit A.
  - b. **Exclusive Remedies/Disclaimer, IN THE EVENT OF A BREACH OF SUBSECTION 7(a), ES&S' OBLIGATIONS, AS DESCRIBED IN SUCH SUBSECTION, ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. ES&S EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. FURTHER, IN THE EVENT CUSTOMER DECLINES ES&S' INSTALLATION AND ACCEPTANCE TESTING SERVICES OR IN ANY WAY AT ANY TIME ALTERS, MODIFIES OR CHANGES ANY EQUIPMENT, SOFTWARE, THIRD PARTY ITEMS AND/OR NETWORK (COLLECTIVELY "SYSTEM") CONFIGURATIONS WHICH HAVE BEEN PREVIOUSLY INSTALLED BY ES&S OR WHICH ARE OTHERWISE REQUIRED IN ACCORDANCE WITH THE CERTIFIED VOTING SYSTEM CONFIGURATION, ALL WARRANTIES OTHERWISE PROVIDED HEREUNDER WITH RESPECT TO THE SYSTEM PURCHASED, LEASED, RENTED AND/OR LICENSED UNDER THIS AGREEMENT SHALL BE VOID AND OF NO FURTHER FORCE AND EFFECT.**
8. **Limitation Of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. ES&S' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. By entering into this Agreement, Customer agrees to accept responsibility for (a) the selection of, use of and results obtained from any equipment, software or services not provided by ES&S and used with the ES&S Equipment or ES&S Software; or (b) user errors, voter errors or problems encountered by any individual in voting that are not otherwise a result of the failure of ES&S to perform. ES&S shall not be liable under this Agreement for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee that is caused by (y) Customer's failure to timely or properly install and use the most recent update provided to it by ES&S or (z) Customer's election not to receive, or to terminate, the Hardware Maintenance Services or the ES&S Software Maintenance and Support.
9. **Proprietary Rights.** Customer acknowledges and agrees as follows:

ES&S owns the ES&S Software, all Documentation and training materials provided by ES&S, the design and configuration of the ES&S Equipment and the format, layout, measurements, design and all other technical information associated with the ballots to be used with the ES&S Equipment. Customer has the right to use the aforementioned items to the extent specified in this Agreement. ES&S also owns all patents, trademarks, copyrights, trade names and other proprietary or intellectual property in, or used in connection with, the aforementioned items. The aforementioned items also contain confidential and proprietary trade secrets of ES&S that are protected by law and are of substantial value to ES&S. Customer shall keep the ES&S Software and related Documentation free and clear of all claims, liens and encumbrances and shall maintain all copyright, trademark, patent or other intellectual or proprietary rights notices that are set forth on the ES&S Equipment, the ES&S Software, the Documentation, training materials and ballots that are provided, and all permitted copies of the foregoing.
10. **Termination.** This Agreement may be terminated, in writing, at any time by either party if the other party breaches any material provision hereof and does not cure such breach within 30 days after it receives written notification thereof from the non-breaching party.
11. **Disputes.**
  - a. **Payment of Undisputed Amounts.** In the event of a dispute between the parties regarding (1) a product or service for which payment has not yet been made to ES&S, (2) the amount due ES&S for any product or service, or (3) the due date of any payment, Customer shall nevertheless pay to ES&S when due all undisputed amounts. Such payment shall not constitute a waiver by Customer or ES&S of any of its rights and remedies against the other party.
  - b. **Remedies for Past Due Undisputed Payments.** If any undisputed payment to ES&S is past due more than 30 days, ES&S may suspend performance under this Agreement until such amount is paid. Any disputed or undisputed payment not paid by Customer to ES&S when due shall bear interest from the due date at a rate equal to the lesser of one and one-half percent per month or the maximum amount permitted by applicable law for each month or portion thereof during which it remains unpaid.
12. **Assignment.** Except in the case of a reorganization of the assets or operations of ES&S with one or more affiliates of ES&S or the sale, transfer or assignment of all or substantially all of the assets of ES&S to a successor who has asserted its intent to continue the business of ES&S, neither party may assign or transfer this Agreement or assign, subcontract or delegate any of its rights, duties or obligations hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed.
13. **Compliance with Laws.** ES&S warrants to Customer that, at the time of delivery, the ES&S Equipment and ES&S Software sold and licensed under this Agreement will comply with all applicable

# Sales Order Agreement

V.P. of Finance

Date

Title

## Trade-in Equipment:

ES&S will coordinate and pay for the pickup and transportation of the trade-in equipment from Customer's site on a date to be mutually agreed upon by the parties. ES&S is responsible for preparing, packaging and palletizing the trade-in equipment for shipment.

## Special Notes:

## Payment Terms

100% of Order Total due Thirty (30) Calendar Days after the later of (a) Equipment Delivery, or (b) Receipt of Corresponding ES&S Invoice.

Note 1: Any applicable state and local taxes are not included, and are the responsibility of the Customer.

Note 2: In no event shall Customer's payment obligations hereunder, or the due dates for such payments, be contingent or conditional upon Customer's receipt of federal and/or state funds.

## Warranty Period (Years):

One (1) Year From Equipment Delivery

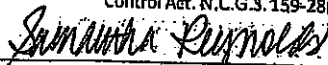
## Hardware Maintenance and Software License, Maintenance and Support Services (Post-Warranty Period)

The terms, conditions, and pricing for the Hardware Maintenance and Software License, Maintenance and Support Services (Post-Warranty Period) are set forth in Exhibit A attached hereto.

SEE GENERAL TERMS AND CONDITIONS

### PREAUDIT CERTIFICATE

This instrument has been preaudited in the manner required by the Local Government Budget & Fiscal Control Act, N.C.G.S. 159-28(a)



Henderson County Finance Director

requirements of federal and state election laws and regulations that are mandatory and effective as of the Effective Date and will have been certified by the appropriate state authorities for use in Customer's state. In addition, ES&S shall comply with the requirements set forth in the Election Systems Certification Program issued by the North Carolina State Board of Elections which are mandatory and effective as of the Effective Date and which are incorporated herein by this reference. The ES&S Equipment and ES&S Software, including all components will be provided to Customer with a hardened network for the election management software ("EMS"), in accordance with the guidelines of the United States Election Assistance Commission. During the Term of this Agreement, in the event Customer fails to maintain EMS in the hardened network or allows any internal or external access to the hardened network, Customer agrees to indemnify and hold harmless ES&S from and against any and all claims, damages, losses, liens, obligations, liabilities, judgments, assessed damages, costs, expenses (including reasonable attorney's fees) and the like arising out of or related to the Customer's breach of its obligations hereunder.

14. **Voting System Reviews.** In the event that the Jurisdiction or the State require any future reviews or examinations ("Reviews") of current or previous versions of state-certified ES&S voting systems or components thereof that are not otherwise required as a result of any changes or modifications voluntarily made by ES&S to the ES&S Software and/or ES&S Equipment licensed and sold hereunder, Customer shall be responsible for:

(i) Customer's pro-rata share of such Review costs;

(ii) Customer's pro-rata share of the costs of designing, developing, manufacturing and/or certification by applicable federal and state authorities of any mandated modifications to the ES&S Equipment and/or ES&S Software that may result from such Reviews; and

(iii) the total cost of any third party items that are required in order for the ES&S Equipment and/or ES&S Software to satisfy any new requirements resulting from such Reviews in order to remain certified;

Customer's pro-rata share of the costs included under subsections 14(ii) and 14(iii) above shall be determined at the time by dividing the number of registered voters in Customer's jurisdiction by the total number of registered voters in all counties in Customer's state to which ES&S has sold and/or licensed the ES&S Equipment and/or ES&S Software purchased and licensed by Customer under this Agreement.

15. **Entire Agreement.** This Agreement, including all exhibits hereto, shall be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns. This Agreement, including all Exhibits hereto, contains the entire agreement of the parties with respect to the subject matter hereof and shall supersede and replace any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties, whether written or oral, regarding the subject matter hereof. Any provision of any purchase order, form or other agreement which conflicts with or is in addition to the provisions of this Agreement shall be of no force or effect. In the event of any conflict between a provision contained in an Exhibit to this Agreement and these General Terms, the provision contained in the Exhibit shall control. No waiver, amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver, amendment or modification is sought to be enforced. No consent by either party to, or waiver of, a breach by either party shall constitute a consent to or waiver of any other different or subsequent breach by either party. This Agreement shall be governed by and construed in accordance with the laws of the State in which the Customer resides, without regard to its conflicts of laws principles. The parties agree that venue for any dispute or cause of action arising out of or related to this Agreement shall be in the state and federal courts of the United States located in the State in which the Customer resides. ES&S is providing equipment, software and services to Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. ES&S may engage subcontractors to provide certain of the equipment, software or services, but shall remain fully responsible for such performance. The provisions of Sections 1-5, 7(b), 8, 9, 11(b), 12-15 these General Terms shall survive the termination of this Agreement, to the extent applicable.

**EXHIBIT A**  
**HARDWARE MAINTENANCE AND SOFTWARE LICENSE, MAINTENANCE AND SUPPORT**  
**SERVICES**  
**(POST-WARRANTY PERIOD)**

**ARTICLE I**  
**GENERAL**

1. **Term: Termination.** This Exhibit A for Hardware Maintenance and Software License, Maintenance and Support Services shall be in effect for the coverage period as described in Schedule A1 (the "Initial Term"). Upon expiration of the Initial Term, this Exhibit A shall automatically renew for an unlimited number of successive **One-Year Periods** (each a "Renewal Period") until this Exhibit A is terminated by the first to occur of (a) either party's written election not to renew, which shall be delivered to the other party at least thirty (30) days prior to the end of the Initial Term or any Renewal Period, as applicable, (b) the date which is thirty (30) days after either party notifies the other that it has materially breached this Exhibit A, if the breaching party fails to cure such breach (except for a breach pursuant to subsection (e), which will require no notice), (c) the date which is thirty (30) days after ES&S notifies Customer that it is no longer able to procure replacement parts that may be needed in order to perform the Hardware Maintenance Services contemplated hereunder, (d) the date on which the Equipment or firmware installed thereon is no longer certified by federal and/or state authorities for use in Customer's jurisdiction, or (e) the date which is thirty (30) days after Customer fails to pay any amount due to ES&S under this Exhibit A. The termination of this Exhibit A shall not relieve Customer of its liability to pay any amounts due to ES&S hereunder and shall only entitle Customer to a prorated refund of any fees already paid to ES&S in the event that this is Exhibit A is terminated pursuant to subsection 1(c) or 1(d) above.

2. **Fees.** In consideration for ES&S' agreement to provide Hardware Maintenance and Software License, Maintenance and Support Services under this Exhibit A, Customer shall pay to ES&S the Hardware Maintenance and Software License, Maintenance and Support Fees set forth on Schedule A1 for the Initial Term. The Hardware Maintenance and Software License, Maintenance and Support Fees for the Initial Term are due as set forth on Schedule A1. ES&S may increase the Hardware Maintenance and Software License, Maintenance and Support Fees for a Renewal Period by not more than 5% of the amount of the most recent Fees paid by Customer. All fees for any Renewal Period shall be due and payable no later than thirty (30) days prior to the beginning of such Renewal Period. The Software License, Maintenance and Support Fee shall be comprised of (i) a fee for the Software License, Maintenance and Support provided for the ES&S Firmware, and (ii) a fee for the Software License, Maintenance and Support provided for all other ES&S Software, and shall be in addition to any fees or charges separately referred to in any Section of this Exhibit A. If Customer elects to receive Software License, Maintenance and Support for an Add-On or New Product during the Initial Term or any Renewal Period thereof, ES&S will charge an incremental Software License, Maintenance and Support Fee for such services.

**ARTICLE II**  
**HARDWARE**

1. **Maintenance Services.** The Hardware Maintenance Services to be provided to Customer under this Agreement for the ES&S equipment set forth on Schedule A1 (the "Products") shall be subject to the following terms and conditions:

a. **Routine Maintenance Services.** An ES&S Representative shall provide such services as may be necessary to keep the Products working in accordance with their Documentation, normal wear and tear excepted ("Normal Working Condition"). The services provided by ES&S pursuant to this Subsection 1(a) are referred to herein as "Routine Maintenance Services. Routine Maintenance Services shall be provided once each **Twelve (12) Months** during the Initial Term or any Renewal Period thereof. Generally, Routine Maintenance Services shall include cleaning, lubrication, diagnostic check, and calibration

services. The Routine Maintenance Services shall not include the repair or replacement of any ES&S Equipment components that are consumed in the normal course of operating the Equipment, including, but not limited to, printer ribbons, printer cartridges, paper rolls, batteries, removable media storage devices, PCMCIA cards or marking devices. Customer may request that Routine Maintenance Services be performed more than once during the Initial Term or any Renewal Period. Any such request shall be made at least sixty (60) days before the Routine Maintenance Services are desired. The per-unit fee for such additional Routine Maintenance Services is set forth on Schedule A1 and shall be due within thirty (30) days after invoice date. ES&S will schedule the Routine Maintenance Services with Customer. The Routine Maintenance Services will be provided at Customer's Designated Location. Customer's "Designated Location" shall mean Customer's owned or leased facility at which Customer desires ES&S to perform the Hardware Maintenance Services.

b. **Repair Services.**

i. **Defects Under Normal Use and Service.** If a defect or malfunction occurs in any Product while it is under normal use and service, Customer shall promptly notify ES&S, and ES&S shall use reasonable efforts to restore the item to Normal Working Condition as soon as practicable. The services provided by ES&S pursuant to this Subsection 1(b)(i) are referred to herein as "Repair Services". ES&S will perform Repair Services in conjunction with a Routine Maintenance Service event at the Customer's Designated Location.

ii. **Defects Due to Customer Actions or Omissions.** If a defect or malfunction occurs in any Product as a result of (1) repairs, changes, modifications or alterations not authorized or approved by ES&S, (2) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S or (3) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, flooding, riots, acts of war, terrorism or insurrection, labor disputes, transportation delays, governmental regulations, and utility or communication interruptions, rodent infestation, or if Customer does not notify ES&S within 72 hours after it knows of the defect or malfunction, Customer shall pay ES&S for the Repair Services at ES&S' then-current rates, as well as for the cost of all parts used in connection with such Repair Services.

iii. **Timing.** The date(s) on which any Repair Services shall be provided shall be mutually agreed upon by ES&S and Customer. If Customer requires ES&S to provide "emergency" Repair Services (which shall be defined as Repair Services that are provided by ES&S within 48 hours after Customer notifies ES&S of the need therefore), and such emergency Repair Services are not needed as a result of an action, error or omission by ES&S, Customer shall pay a surcharge, as set forth on Schedule A1.

iv. **Loaner Unit.** At Customer's request and if such product is available, ES&S shall use reasonable efforts to promptly make available to Customer a product that is the same as, or substantially similar to, the Product for which Repair Services are being performed (a "Loaner Unit"). If the Repair Services are being performed pursuant to Subsection 1(b)(ii) above, Customer shall pay ES&S for the use of the Loaner Unit at ES&S' then-current rates including the cost of shipping.

c. **Exclusions.** ES&S has no obligation under this Agreement to (i) assume the obligations under any existing or expired warranty for a Third Party Item; (ii) repair or replace Product components that are consumed in the normal course of operating the Product, including, but not limited to, printer ribbons, printer cartridges, paper rolls, batteries, removable media storage devices, PCMCIA cards or marking devices, or (iii) repair any Product from which the serial number has been removed or altered. In addition, ES&S may, at any time in



its discretion, determine that any Product is no longer fit for Hardware Maintenance Services because it is in such poor condition that it cannot practically be restored to Normal Working Condition, or cannot be restored to Normal Working Condition at an expense that is less than the then-current value of the Product. If such a determination is made, ES&S shall no longer be required to provide Hardware Maintenance Services for such Product. ES&S shall also refund to Customer an amount equal to (1) that portion of the most recent fee paid for Hardware Maintenance Services that is attributable to such Product, multiplied by (2) a fraction, the numerator of which is the remaining number of days in the respective period within the Initial Term or Renewal Period for which such fee was paid and the denominator of which is the total number of days in the respective period within such Initial Term or Renewal Period.

d. **Sole Provider: Access.** Customer shall not permit any individual other than an ES&S Representative to provide maintenance or repairs with respect to the Products for so long as the Initial Term or any Renewal Period is in effect. Customer shall provide ES&S Representatives with all information necessary to enable them to provide Hardware Maintenance Services. Customer shall likewise provide full access to the Products and adequate working space for all Hardware Maintenance Services performed at its Designated Location, including sufficient heat, lights, ventilation, electric current and outlets.

e. **Environmental Conditions.** Products should be stored in a clean, dry and secure environment. During the storage and operation of the Products, the temperature and moisture ranges should be maintained in accordance with the Products' Documentation.

f. **Reinstatement of Hardware Maintenance Services; Inspection.** If the Initial Term or any Renewal Period thereof expires without being renewed, Customer may thereafter resume receiving Hardware Maintenance Services upon (a) notification to ES&S and (b) the granting to ES&S of access to the Products. ES&S requires Customer to allow it to inspect such Products before it provides any Hardware Maintenance Services. The purpose of such inspection shall be to determine whether or not the Products are in Normal Working Condition. The cost of such inspection will be at ES&S' then current rates and shall be due from Customer within thirty (30) days of its receipt of ES&S' invoice therefore. If any of the Products is not in Normal Working Condition, ES&S, at the option of Customer, (i) shall provide such repairs and replacements as it deems reasonable and necessary to restore such item to Normal Working Condition, at Customer's expense with respect to the cost of any labor (charged at ES&S' then current rates) and parts used in such repairs or replacements, or (ii) shall not provide any Hardware Maintenance Services with respect to such Product(s).

### ARTICLE III

#### **SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES**

1. **License and Services Provided.** ES&S shall provide license, maintenance and support services ("Software License, Maintenance and Support") for the ES&S Software and ES&S Firmware (collectively, "ES&S Software"), to allow Customer to continue to license and use the software in accordance with the license terms set forth in Sections 2-4 of the General Terms as well as to enable it to perform in accordance with its Documentation in all material respects, and to cure any defect in material or workmanship. The specific Software License, Maintenance and Support services provided by ES&S and each party's obligations with respect to such services are set forth on Schedule A1.

2. **Updates.** During the Initial Term and any Renewal Period thereof, ES&S may continue to provide Updates in accordance with the terms of Section 5 of the General Terms.

3. **Conditions.** ES&S shall not provide Software License, Maintenance and Support for any item of ES&S Software if such item requires such services as a result of (a) repairs, changes, modifications or alterations not authorized or approved by ES&S, (b) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S, (c) causes

beyond the reasonable control of ES&S or Customer, including acts of God, fire, flooding, riots, acts of war, terrorism or insurrection, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, (d) Customer's failure to timely and properly install and use the most recent update provided to it by ES&S, or (e) Customer's failure to notify ES&S within three (3) business days after Customer knows of the need for such services. Any such Software License, Maintenance and Support shall be provided at the fees to be agreed upon by the parties if and when the need for such Software License, Maintenance and Support arises. Replacement versions of Software requested by Customer as a result of items set forth in this Section 3 or as a result of Customer's actions or inactions shall be billable to Customer at ES&S' then current rates.

4. **Proprietary Rights.** ES&S shall own the entire right, title and interest in and to all corrections, programs, information and work product conceived, created or developed, alone or with Customer or others, as a result of or related to the performance of this Exhibit A, including all proprietary rights therein or based thereon. Subject to the payment of all Software License, Maintenance and Support Fees, ES&S hereby grants to Customer a non-exclusive license to use that portion of such corrections, programs, information and work product that ES&S actually delivers to Customer pursuant to this Exhibit A. All licensed items shall be deemed to be ES&S Software for purposes of this Exhibit A. Except and to the extent expressly provided herein, ES&S does not grant to Customer any right, license, or other proprietary right, express or implied, in or to any corrections, programs, information, or work product covered by this Exhibit A.

5. **Reinstatement of Software License, Maintenance and Support.** If the Initial Term or any Renewal Period thereof expires without being renewed, Customer may thereafter receive a Software License and resume receiving Software Maintenance and Support upon (a) notification to ES&S, (b) payment of all fees, which would have been due to ES&S had the Initial Term or any Renewal Period not expired, and (c) the granting to ES&S of access to the ES&S Software, so that ES&S may analyze it and perform such maintenance as may be necessary before resuming the Software License, Maintenance and Support services.

**Schedule A1  
Pricing Summary**

<b>Summary:</b>		
<b>Description</b>	<b>Refer To</b>	<b>Amount</b>
ES&S Hardware Maintenance Fees	ES&S Hardware Maintenance Description and Fees Below	\$12,320.00
ES&S Firmware License, Maintenance and Support Fees	ES&S Firmware License, Maintenance and Support Description and Fees Below	\$5,175.00
<b>Total Maintenance Fees for the Initial Term:</b>		<b>\$17,495.00</b>
<b>Payment Terms:</b> ES&S shall invoice Customer annually for each year of the Initial Term. Payment is due before the start of each period within the Initial Term.		
<b>Terms &amp; Conditions:</b>		
<b>Note 1:</b> Any applicable state and local taxes are not included and are the responsibility of Customer.		
<b>Note 2:</b> In the event the Customer subsequently acquires any ES&S Equipment and or ES&S Software, the post warranty maintenance and support periods will be adjusted to synchronize the dates in order to conform with the current term.		

**ES&S HARDWARE MAINTENANCE DESCRIPTION AND FEES**

Initial Term: Expiration of the Warranty Period through the first anniversary thereof

Qty	Description	Coverage Period	Annual Maintenance Fee Per Unit	Maintenance Fee In Total
45	Model DS200 Scanner	Year 1	\$185.00	\$8,325.00
1	Model DS850 Scanner	Year 1	\$3,995.00	\$3,995.00
<b>Total Hardware Maintenance Fees for the Initial Term</b>				<b>\$12,320.00</b>

**Note 1: The Per-Unit Fees if Customer requests more than one Routine Maintenance visit in a 12-month period shall be 55% of the then current maintenance fee per unit.**

**Note 2: Surcharge for Emergency Repair Services shall be the daily maintenance service rate in effect at the time such service is requested.**

**Note 3: Customer's Designated Location: Henderson County, North Carolina**

**Note 4: The Per Unit Surcharge for performance of Routine Maintenance visit at more than one Customer Designated Location shall be \$25.00 per unit for all units located at second or more locations.**

**Hardware Maintenance Services Provided by ES&S Under this Schedule A1**

1. Telephone Support.
2. Issue Resolution.
3. Technical Bulletins will be available through Customer's ES&S Web-based portal.
4. Routine Maintenance Services.
  - Onsite scheduled maintenance inspection per Article II, Section 1(a). The Inspection includes:
    - Service performed by an ES&S trained and certified technician.
    - Performance of factory approved diagnostics on the unit, identifying and making adjustments where necessary as indicated by the testing.
    - Replacement of worn or defective parts with new or remanufactured federally and state certified parts.
    - Conducting a final test to verify that the unit is working according to manufacturer's specifications.
    - Use of a checklist tailored for each piece of ES&S Equipment.
5. Repair Services.
  - Customer will receive coverage for interim repair calls.

- Interim repair calls may be provided during a scheduled Routine Maintenance Services event or scheduled in conjunction with other service work being performed in close proximity to Customer's location if such repairs are not election critical.
- A Product may be sent to ES&S' Depot location for repairs at a time to be mutually agreed upon by ES&S and Customer.

**6. Priority Services.**

- Customer has access to the ES&S Help Desk for assistance.
- The customer receives priority on service calls.
- The customer receives priority on response time.
- The customer receives priority on certified ES&S parts inventory.

**Note:** Except for those Hardware Maintenance Services specifically set forth herein, ES&S is under no obligation and shall not provide other Hardware Maintenance Services to the Customer unless previously agreed upon in writing by the parties.

**ES&S SOFTWARE LICENSE, MAINTENANCE AND SUPPORT DESCRIPTION AND FEES  
FIRMWARE**

Initial Term: Expiration of the Warranty Period through the first anniversary thereof

Listed below are the Hardware Products and Fees for which Firmware License, Maintenance and Support will be provided:

<b>Qty</b>	<b>Description</b>	<b>Coverage Period</b>	<b>Annual Firmware License, Maintenance and Support Fee Per Unit</b>	<b>Firmware License, Maintenance and Support Fee In Total</b>
45	Model DS200 Scanner	Year 1	\$80.00	\$3,600.00
1	Model DS850 Scanner	Year 1	\$1,575.00	\$1,575.00
<b>Total Firmware License, Maintenance and Support Fees for the Initial Term</b>				<b>\$5,175.00</b>

**Software License, Maintenance and Support Services Provided by ES&S under the Agreement**

1. Telephone Support.
2. Issue Resolution.
3. Technical Bulletins will be available through Customer's ES&S Web-based portal.

**Note:** Except for those Software License, Maintenance and Support services specifically set forth herein, ES&S is under no obligation and shall not provide other Software License, Maintenance and Support services to the Customer unless previously agreed upon by the parties.

**Software License, Maintenance and Support and Hardware Maintenance and Support Services – Customer Responsibilities**

1. Customer shall have completed a full software training session for each product selected.
  - Customer shall have completed training at a proficiency level to successfully use the hardware (firmware) and software products.
  - Customer shall have the ability to install firmware and application software and make changes to date and time settings.
  - Customer shall have the ability to change consumable items. Any other changes made by the customer must be pre-approved in writing by ES&S.
2. Customer shall have reviewed a complete set of User Manuals.
3. Customer shall be responsible for the installation and integration of any third-party hardware or software application or system purchased by the Customer, unless otherwise agreed upon, in writing, by the parties.
4. Customer shall be responsible for data extraction from Customer voter registration system.
5. Customer shall be responsible for implementation of any security protocols physical, network or otherwise which are necessary for the proper operation of the ES&S Equipment and ES&S Software.

6. Customer shall be responsible for the acceptance of the Equipment and Software, unless otherwise agreed upon, in writing, by the parties.
7. Customer shall be responsible for the design, layout, set up, administration, maintenance or connectivity of the Customer's network.
8. Customer shall be responsible for the resolution of any errors associated with the Customer's network or other hardware and software not purchased or recommended by ES&S and not otherwise identified in the User Guides as part of ES&S' Equipment and Software.
9. Customer shall be responsible for all costs associated with diagnosing ballot printing problems resulting from the use of non-ES&S Ballot Partner Printers ballots.
10. Customer shall be responsible for the payment of additional or replacement Software CDs or DVDs requested by Customer. The price for such additional or replacement Software CDs or DVDs shall be at ES&S' then current rates.



# QUOTATION

PO Box 13216 · New Bern, NC 28561  
 800.682.4500 (Toll Free) · 252.637.9320 (Fax)  
 www.printelect.com

DATE: 7/16/2018

**CUSTOMER INFORMATION:**

**ELECTION AUTHORITY** Henderson County Board of Elections  
**CONTACT** Beverly Cunningham, Director  
**ADDRESS**  
**CITY** Hendersonville  
**STATE** NC  
**ZIP**  
**EMAIL ADDRESS** bcunning@hendersoncountync.org

**QUOTED BY**  
**EMAIL**  
**Salesperson:**  
**Michelle**  
**Mrozkowski**

Qty	Item #	Name	Price	Total
90	2250-01	Voter's Choice X4 Voting Booth	\$679.00	\$61,110.00
40		Voter's Choice EZ Cart 3000 (Red)	\$1,425.00	\$57,000.00
45	1588-01	Voter's Choice Roll-A-Vote (Red)	\$149.99	\$6,749.55
				\$0.00
				\$0.00
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				\$0.00
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				\$0.00
<b>Sub Total</b>				\$124,859.55
<b>Shipping &amp; Handling</b>				TBD
<b>Taxes</b>			\$0.00	
<b>TOTAL</b>				\$124,859.55

Comments: Quote valid for 30 days.



*Thank you for the opportunity to work with you!*



# HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite 1  
Hendersonville, North Carolina 28792  
Phone: 828-697-4808 • Fax: 828-692-9855  
www.hendersoncountync.org

J. MICHAEL EDNEY  
Chairman  
GRADY H. HAWKINS  
Vice-Chairman

CHARLES D. MESSER  
WILLIAM G. LAPSLEY  
THOMAS H. THOMPSON

August 16, 2018

North Carolina Board of Elections  
430 N. Salisbury St.  
Raleigh, NC 27603

Dear Board of Elections:

The Board of Commissioners of Henderson County strongly oppose the imposition of Sunday "One-Stop" voting by the North Carolina State Board of Elections and Ethics Enforcement.

The mandate, not required by any statute or other law, and unaccompanied by any state funding to defray the extra cost of the same, requires a substantial and wasteful County expenditure to "solve" a problem that does not exist.

This action, which overrules the majority vote of the Henderson County Board of Elections, has not been shown by experience to be needed for Henderson County elections. Local Board of Elections actions have insured more than adequate facilities and times have been available to insure that all Henderson County voters have convenient access to voting. This state intrusion sets a bad precedent for the future, at high cost, but with not benefit, to the citizens of Henderson County.

Sincerely,

  
J. Michael Edney, Chairman  
Henderson County Board of Commissioners