

DRAFT

MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
WEDNESDAY, OCTOBER 21, 2020**

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 9:30 a.m. in the Commissioners' Meeting Room of the Historic Courthouse on Main Street, Hendersonville, NC.

Those present were: Chairman Grady Hawkins, Commissioner Michael Edney, Commissioner Daniel Andreotta, Commissioner Rebecca McCall, County Manager Steve Wyatt, Assistant County Manager Amy Brantley, Attorney Russ Burrell and Clerk to the Board Teresa Wilson.

Also present were: Director of Business and Community Development John Mitchell, Emergency Management/Rescue Coordinator Jimmy Brissie, Engineer Marcus Jones, Finance Director Samantha Reynolds, Budget Manager Megan Powell, DSS Director Jerrie McFalls, Wellness Manager Jamie Gibbs, Assistant County Assessor Kevin Hensley, Recreation Director Carleen Dixon, Soil and Water Conservation Director Jonathan Wallin, Tax Administrator Darlene Burgess, Planning Director Autumn Radcliff, Sheriff Lowell Griffin, Budget Analyst Sonya Flynn, HR Director Karen Ensley, Project Engineer Natalie Berry & PIO Kathryn Finotti - videotaping, Deputy Mike Marsteller as security.

Absent was: Vice-Chairman William Lapsley.

CALL TO ORDER/WELCOME

Chairman Hawkins called the meeting to order and welcomed all in attendance.

INVOCATION

The invocation was provided by County Manager Steve Wyatt.

PLEDGE OF ALLEGIANCE

The pledge of allegiance was led by Commissioner Andreotta.

PRESENTATION OF NCACC RESOLUTION HONORING CHARLES D. MESSER

The Board accepted a resolution honoring Charles Messer for his dedicated service to Henderson County and the North Carolina Association of County Commissioners.

Charlie Messer's widow Sheila and daughters Shalon and Shauna, and Son-in-Law Travis Pearce were present for the presentation.

County Manager Steve Wyatt read a letter from NCACC Executive Director Kevin Leonard, and the Resolution aloud.

Dear Steve,

It was my sincere hope that I could make this presentation to you and the Henderson County Board of Commissioners in-person. Unfortunately, I am uncertain when we could make that happen. Therefore, we wanted to proceed in sending the enclosed framed resolution honoring Commissioner Charlie Messer to you in hopes that you could present and inform the Henderson County Board of its passage by the NCACC Board at their August Board meeting.

As you and I have discussed, Commissioner Messer held a special place in the hearts of many across this entire state. The service he provided and the friendships he created during his time providing leadership to our Association will have a lasting impact. On behalf of the Association and our Board of Directors,

DATE APPROVED:

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we would like to present the enclosed resolution to Henderson County to honor Commissioner Messer and demonstrate to the Henderson County citizens how beloved Commissioner Messer was by so many across North Carolina.

Resolution honoring Charles Messer for his dedicated service to Henderson County and the North Carolina Association of County Commissioners.

Whereas, Charles D. "Charlie" Messer was first elected to serve as Henderson County Commissioner in 2000, serving for five consecutive terms, until his sudden passing on July 10, 2020;

Whereas, Commissioner Messer served as Chair of the Henderson County Board of Commissioners from 2013 to 2014, and as Vice-Chair from 2005 to 2009, and 2015 to 2016;

Whereas, Commissioner Messer served as Chair of the Cane Creek Water and Sewer District and as a member of the Board of Trustees for Pardee Hospital;

Whereas, Commissioner Messer is remembered as a champion of his community, who balanced local funding needs and focused on land planning, education, and recreation;

Whereas, Commissioner Messer was a leader in the adoption of the Land Development Code in Henderson County, and credited for his role in the establishment of new elementary schools at Mills River, Hillandale and Edneyville, and the Henderson County Athletics & Activity Center;

Whereas, Commissioner Messer's efforts led to major projects in Henderson County, including the renovation of the Historic Courthouse, construction of the Detention Center, and major additions to Pardee Hospital;

Whereas, Commissioner Messer's commitment to public service extended beyond Henderson County, as reflected in various statewide leadership positions he held at the North Carolina Association of County Commissioners;

Whereas, Commissioner Messer served as a long-time member of the North Carolina Association of County Commissioners Board of Directors, including two terms as a District Director, representing Buncombe, Henderson, Madison and Transylvania Counties;

Whereas, Commissioner Messer assumed various leadership positions on key committees of the North Carolina Association of County Commissioners, serving as Chair and Co-Chair of the Agriculture Steering Committee and as a member of the Legislative Goals Committee, which oversees the Association's legislative goals process, guiding policy priorities for the organization;

Whereas, Commissioner Messer was appointed to the North Carolina Association of County Commissioners Joint Risk Management Agency Board of Trustees, which governs the risk pools that provide counties comprehensive and affordable coverages for worker's compensation and liability and property;

Whereas, Commissioner Messer participated regularly in additional North Carolina Association of County Commissioners Steering Committees, including Health and Human Services and Tax and Finance;

Now, Therefore be it Resolved the North Carolina Association of County Commissioners Board of Directors honors Charles D. "Charlie" Messer for his dedicated service to Henderson County and our Association.

Adopted the 12th day of August, 2020 by the North Carolina Association of County Commissioners.
Kevin Austin, President

Chairman Hawkins stated Charlie Messer shared his talents across the state and he will be missed.

Commissioner Edney served with Charlie Messer for 10 years and knew him long before that. Charlie put his family before everything. He was a people person and was about recreation and so much more. Henderson County is better because of his involvement.

Commissioner McCall met Charlie Messer and Sheila at his store when she was considering running for

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commissioner. Charlie ran his store while he interacted with all his customers and was a very special person. Charlie attended the Legislative Goals Conference with Commissioner McCall and showed her the ropes, and was always available if she had questions. Commissioner McCall is honored to sit in his seat and will miss him dearly.

Commissioner Andreotta stated Charlie Messer was a friend to all and genuine to everyone. He left his mark on Henderson County.

Commissioner Edney requested the Board do something special to honor Charlie Messer and made the following motion:

Commissioner Edney made the motion to name the Human Resources Building the Charlie D. Messer building. All voted in favor and the motion carried.

Chairman Hawkins noted a ceremony will be held at a later date.

PUBLIC HEARING

Public Hearing Regarding the Land Development Code (LC) Text Amendments (TX-2020-01)

(special fill permits, special requirements for multi-family developments, location of accessory structures, clarifications to conditional rezoning applications, clarifying definition of home school, and language to setbacks)

Chairman Hawkins made the motion to go into public hearing. All voted in favor and the motion carried.

Autumn Radcliff stated with the adoption of the Land Development Code (LDC) on September 19, 2007, the Board of Commissioners directed staff to prepare annual updates to the LDC to prevent it from becoming outdated. This annual review is intended to prevent the need for a large overhaul of the entire code in the future. Trends and new issues are regularly emerging that require periodic updates to LDC text.

The Planning Board has been reviewing several amendments to the Land Development Code as part of the 2020 annual review. The attached draft amendments include:

- Requiring special fill permits to be approved by the Board of Commissioners as a conditional rezoning request
- Removing permeable surface requirement for multi-family developments
- Allowing accessory structures in the front yard
- Clarify resubmittal requirements for conditional rezoning applications
- Clarify definition of a home school
- Add definition for separation setback

The Henderson County Planning Board discussed the draft text amendments on September 17, 2020 and voted to send forward a favorable recommendation on the attached draft LDC text amendments (TX-2020-01).

PUBLIC NOTICE:

The required public notice of this hearing was published in the Hendersonville Lightning on October 7th, 2020 and October 14th, 2020 (attachment 2, Certification of Notice of Public Hearing).

Public Hearing Requirements

- Planning Board reviewed and discussed these amendments during their September 17th meeting
- Planning Board voted to send forward a favorable recommendation
- Notices of the public hearing were published in the Hendersonville Lightning on October 7th and October 14th

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LDC Text Amendment A: Special Fill Permits

Summary: Amend the approval process and granting board on special fill permits. Currently, special fill permits may be granted by the Zoning Board of Adjustment. This amendment would require the Board of Commissioners approve as part of a conditional rezoning request.

Chairman Hawkins feels the Board needs further time for review.

Russ Burrell explained this should be a legislative decision. We have never had an application submitted.

LDC Text Amendment B: Permeable Surface Requirements for Multi-Family

Summary: Due to the ongoing maintenance issues, remove the permeable pavement requirement for multi-family developments.

LDC Text Amendment C: Accessory Structures in the Front Yard

Summary: The placement of accessory structures is not allowed in the front yard. This has been an issue on unusual shaped tracts and in rural parts of the County where the property owner has several acres, and the placement of the structure is in front of the principal dwelling unit. This amendment would allow for accessory structures to be placed in the front yard provided it meets the front yard setback requirements.

Commissioners feel wording needs further clarification.

LDC Text Amendment D: Clarify Resubmittal Requirements for Conditional Rezoning Applications

Summary: Conditional rezoning requests are unique site-specific applications. This amendment would clarify that conditional rezoning applications may be resubmitted and does not need to comply with the 12-month limitation following a denial as required with traditional zoning map amendments.

Chairman Hawkins would like staff to provide options.

LDC Text Amendment E: Clarify Definition of a Home School

Summary: Home schools are permitted in all districts and must be qualified in accordance with NCGS§115C, Article 39. Home schools typically occur in residential dwellings but can occur in multiple locations or structures (churches, community centers, etc.). Home schools are accessory uses within a principal use or structures. This amendment would codify this in the code.

LDC Text Amendment F: Add a Definition for Separation Setback

Summary: The supplemental requirements have separation setbacks for specific uses. The LDC has no definition for what is meant by a separation requirement or measurement for these uses. This amendment would add a definition for a separation setback.

Public Input via email:

1. Shannon Nicholson - I write to you concerning 3 items that appear in the 2020 Annual LDC Amendments #TX-2020-01, which are up for discussion and vote during your 10/21 meeting. Text Amendment D: Clarify Resubmittal Requirements for Conditional Rezoning Applications It is my opinion that conditional rezoning applications be treated no differently than any other application – especially if a resubmittal of the application is for the same use as was previously denied. The waiting period is an intentional and appropriate hurdle put in place to prevent applicants from repeatedly

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consuming the resources of the Planning Board, Commissioners, and community for land use requests otherwise precluded by existing zoning. When a community has made it abundantly clear they do not want a proposed rezoning for a high impact land use, like we saw with SE Asphalt's recent application, the county should listen to the community and ensure that conditional rezoning applicants are not given preferential treatment by eliminating the waiting periods required after rejection or withdrawal. Text Amendment E: Clarify Definition of a Home School Defining a home school in this way negates the existence of home schools as acknowledged by Henderson County LDC. After all, if the principal use of a home school isn't a residential home, under what circumstances does a home school even exist? The LDC should treat ALL state-recognized school environments equally and require the same separation setbacks for recognized home schools as would be applied to public or private school settings. Text Amendment F: Add a Definition for Separation Setback This proposed amendment would make it easier for high impact land uses, like asphalt plants, to be put next to residential homes because it reduces the amount of separation required for the special cases under which separation setbacks are established in the first place – limiting, reducing, or avoiding the impact of those uses. Because I pay property taxes on my entire property parcel, not just the land underneath the structure of my home, separation setback should be measured accordingly. Like SR 7.1 (Adult Book Stores) and SR 7.2 (Adult Live Entertainment), separation setbacks for other high impact uses should be measured from the property line of the proposed use to the property line of the district or use. With respect, I request you revisit the language used in each of these three proposed amendments and rewrite them in a way that addresses these issues.

2. Michelle Tennant Nicholson - I understand that October 21, 2020 at 9:30 am eastern you will be holding a public hearing on the proposed Land Development Code Text Amendments (TX-2020-01). I've heard you've had these changes before the board for quite some time. Regardless of the time these changes have been discussed, I urge you to protect people and property before profits. Please. As a Henderson County taxpayer, East Flat Rock precinct leader, and co-founder of FriendsOfEastFlatRock.org, I have these requests: 1) Please hold public hearings when working families are able to attend. Weekday evenings are the best for this purpose. Holding public hearings of any kind during work hours prevents working professionals from attending the meeting for proper input. This is something I've requested of Henderson County's planning department since 2017. 2) I request you not add a "conditional rezoning" clause C.(2) e. A making it easier for SE Asphalt and other applicants seeking conditional rezoning to drain community resources. The county needs to listen to the community and ensure that conditional rezoning applicants are not given preferential treatment by eliminating the waiting periods required after rejection or withdrawal. 3) Revisions to the code should seek to protect children in ALL schooling environments. I request you NOT further clarify a home school. After all, if North Carolina has on its registry a home school, as is the case with Clyde and Terrie Garren, my neighbors who live within 400 feet of the SE Asphalt targeted property in East Flat Rock, that should be recognized by Henderson County. Why have a home school registry if the counties will not honor it? Also, in a pandemic when children are virtually being schooled in many homes, all residential areas that have children in them should be protected, period. The way this clause change is Article 39 part 3 feels as though profits are being protected more than property and children's lives. I hope this is not true. Please take action consistent with protecting the people, not profits. Thank you in advance for doing what's right by people, first. 4) Residents in our community deserve to be protected. Please do not relax the requirements through a more limiting definition of how setbacks are determined; Henderson County's LDC should clarify separation setback as measured from the parcel boundary of the property being developed to the parcel boundary of the adjacent properties.

3. Teresa J. (Terrie) Garren - I am writing to you regarding the meeting you will hold on Wednesday, October 21, 2020, specifically in reference to the agenda item to clarify that home schools are not "schools" per the state/county's definition. I propose this ruling should be amended to include the protection of all children. In our rezoning efforts, I believe you can protect residential areas as you are allowing industry. But it can't be done effectively if we ignore the safety of children at home, putting them at risk. We have to purposefully and strategically place industry and all types of business as we progress, considering who lives and now schools in residential areas. As we just went through opposing

the application that Jeff Shipman made to rezone a parcel of land in order to build an asphalt plant within a heavily residential area, a main concern was for the harm this could do to the children that live close by. During our opposition, I was told by Autumn Radcliff that Henderson County follows NC statutes and does not consider our home school to be a recognized "school." She stated it would have to be the primary use as a school in order to have that classification. We operate a home school as do others nearby, also there are now virtual learners in various locations in this community. I believe this rule should be amended, especially in light of the added number of children who are studying from home. Children who study from home should also be considered when an applicant applies to construct a potentially dangerous industry within their neighborhood. I propose that Henderson County recognize the importance of protecting all our children, those in the public school system, homeschoolers and virtual learners. In a March 9, 2020 article in Parents Magazine, they cited that 43 percent of Americans now live in counties that have been exposed to unhealthy levels of air pollution. This was according to the 2019 "State of the Air" report from the American Lung Association (ALA). That is an increase from the 2018 report. This article further states that children are most vulnerable for a variety of reasons. The fragile tissues in a child's lungs are still developing after birth, and kids usually spend more time outside than adults do. And because they're generally more active outside, they inhale more polluted air. And children are physically closer to the ground, where some pollutants are at their highest concentrations. Will you, the Commissioners of Henderson County, make a motion to protect children, and recommend this classification be amended? Please don't make it easier for someone to construct hazardous industry in residential communities, leaving the weakest ones, the children, to suffer the consequences. I am hopeful that you will stand up for a change that protects all children. I ask you will reconsider this line item for the agenda on Wednesday, October 21, 2020.

4. Mr. and Mrs. Kerry Joy - I would like to add my input in the Oct 21st meeting. Even though I am a pro-business conservative the group that has stood vigil for the say No to the asphalt plant is comprised of all affiliations and we are all on the same page regarding our not wanting an industrial business gaining re zoning and negatively impacting our area. I recently received a Zillow estimate that home prices in that area are projected to go up 7.1 percent in the next yr. I feel if the rules are changed to favor one person or entity it will not just hurt the local residents but the economy as a whole. People will not want to buy a home or vacation home like we did. I want to Keep America Great and Keep East Flat Rock Great! Please help us to do that.

5. Susan M. Campbell - I am writing this email to voice my concern & opposition to 3 proposed changes to the LDC of Henderson County on the agenda for the October 21, 2020 Board of Commissioners meeting. These three amendments are proposed by the Planning Department and found on pages 6-7 of the 2020 Annual LDC Text Amendments (TX-2020-01). I cannot imagine a justification for these 3 proposed changes. Resubmittal requirements should require the same amount of time for all zoning change requests - period. There should be no "unique" time allowance for Conditional Rezoning Requests whether the request was denied, withdrawn or otherwise. It simply does not ring true that there should be "special" timing rules for site specific requests. How can this be justified? Furthermore, it strikes me as cavalier to define a school as only existing in a separate building from a residence - such as a church/school or other building. If the State of North Carolina views a residential homeschool as a valid school - why in the world would Henderson County decide that this is not the case? Qualifying a homeschool as "only a residence" is a decision to literally ignore that schooling takes place in the home or that the children in these homes even exist or matter! This is beyond my ability to comprehend! I cannot imagine why the Planning Department of Henderson County would even think to write such a change. Unbelievable! Also, I view setback requirements as protection, protection of people, land, air and wildlife. I put my trust in elected officials to write language and rules that keep that protection in place. I want to know that if my home is adjacent to a piece of property that is up for development, that I will be kept safe. Separation setbacks should be from parcel boundary to parcel boundary - not from building to building. I do not just exist in my house - I sit on my deck, I play badminton in my backyard - I wave at neighbors from my front porch. I use all of my property and trust the Board of Commissioners to value my entire property and not just my house. In conclusion, it is imperative that rules are written to protect

people first. I am trying desperately to counsel my (stuck-at-home during a pandemic) 19-year-old son to not give up on the government. To have faith in the process - that people count more than money. I tell him consistently that we cannot give in to cynicism or complacency. We have to "fight the good fight" regardless of how daunting it seems at times. He, somewhat reluctantly, voted for the first time on October 15, 2020, I could not have been more proud! Please help show this young generation that these "people first" values hold true.

7. Randall B. Kroeck - Two years ago I purchased my retirement home in East Flat Rock. I found everything I could possibly want in this wonderful community. Fresh air, clean water, beautiful scenic views, mature majestic trees, wildflowers, abundant wildlife and generally wonderful and caring people. All the residents and business owners I've met in this community really are very proud of where they live and so am I. I was so happy to see that Southeast Asphalt withdraw their application seeking permission to open an asphalt plant. Now I see there is a hearing to re zone when there is already a community plan in place. I ask with a humble heart that you leave things as they are so all my new-found friends and I can still be proud of our community and our elected officials who serve this beautiful area and its residents.

8. Linda McKinnish Bridges - I write to encourage you to oppose the amendments to the land use proposal that will be presented October 21, at 9:30 am. I cannot be in attendance, but I would like my voice heard. You are our elected public officials. You hold the future of our beloved land and the health of our citizens in your hands. We depend on you and vote for you to do the right thing for our community. Please do not accept amendments that make it easier for an asphalt production plant to be built in East Flat Rock. This land is precious, and our citizens are too. I trust your response to be of the highest, most ethical nature. I trust your decision to be made for all of the people that you serve, not just the economic interests of one. I trust that your decision will include my 87-year old mother, Lois Griffin McKinnish, a cancer survivor, who lives in the house that my Dad, the Reverend Harold McKinnish, built with his own hands in 1968, now just a few yards away from this proposed site. I trust that you will make this decision with the children in mind--those who run and play in the neighborhood and study in the home school just a few yards from the site. I trust that your decision will include the elderly neighbors in Highland Hills, who have chosen to age in place on this beautiful ridge. These amendments appear to privilege only one person, Mr. Jeff Shipman. I request that you deny these amendments--for the sake of our people and our land.

9. Michelle and Sam Wilson - I understand that there is a question about changing the rezoning policy for asphalt plants. As a resident of East Flat Rock. I am very much against this change and hope you will not accept it in order to protect the citizens of this community. Thank you for all you do for Henderson County.

10. Anne Rich - As a Registered Nurse and resident of Flat Rock in Henderson County, I am vehemently against to any of the changes proposed. It is wrong to put money and profits ahead of the health and wishes of the citizens of this community. This is very obviously a ploy by an individual to push his business agenda and manipulate this board to get what he wants. When a community has made it abundantly clear they do not want a proposed rezoning for something like an asphalt plant, the county should listen to the community and ensure that conditional rezoning applicants are not given preferential treatment by eliminating the waiting periods required after rejection or withdrawal.

11. Rod Culbertson - I am writing simply to say that I oppose any proposed changes to the Henderson County Land Development Code, three of which will make it easier to build and operate a hot mix asphalt plant on land not already zoned for industrial use. I do not wish to see changes that favor asphalt plants over citizens. I have loved Flat Rock and Hendersonville since I was a small child growing up in Greenville, SC in the 1950's and now that I own a home in the Flat Rock area, I am dismayed to see the possibility of an asphalt plant entering nearby to our neighborhood. I do hope that consideration will be given to the environment, to retirees, to the residents who will live extremely close to the proposed plant, to local schools and school children, and to the impact upon the thriving tourism industry of our beautiful area.

12. Stefan Aaron - After a contentious battle during the last few months over rezoning and land use, which may still not be finished, which has only created bad feelings throughout the community, here lies

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before us several proposals which could be misused by applicants to continue making requests upon more requests until the applicant "receives" the answer they desire. I am referring to the 2020 Annual LDC Text Amendments (TX-2020-01) §42-346. Ordinance Amendments in which language will be changed to "This does not apply to conditional rezoning applications as these are site-specific request with a unique zoning district classification for a specific use." The way this stands as written is just ripe for abuse. I can see why this has been written, asking for conditional rezoning and getting denied means someone has to wait 12 months before refilling for any use. However, this point is not made clear that a new request should be for something different than the original application. This leaves this matter open to the same request being placed on a continual rotation wasting time and government funds over repeated requests. Please look into clarifying this matter so there is no ambiguity. Furthermore, another change about setbacks, and separations of certain land uses with the added "Setback, Separation - A separation setback is measured from the boundary area identified on a site-specific plan denoting where the permitted use will occur. The separation setback is not measured from the parcel boundary unless the permitted use utilizes the entire parcel. The separation setback shall apply to the use and any structures associated with the use (this shall not include parking areas)." This clause plays favoritism to certain individuals and groups. I however am responsible for my entire property including the right of way out front. The reason is clear those not held to that standard will allow the rest of their property to fall into disrepair. Furthermore, additions to the parcel can be added at any time without going through the permit process. As someone who works in a shop setting, it is amazing how the amount of related items and materials tend to accumulate beyond the walls of the associated structures. Becoming a continual battle to keep the property clean as not to become an eye sore is the responsibility of landowners and not just the building on the parcel. This cause as worded could lead to unnecessary blight throughout the community. Please consider not changing the current wording on setbacks and separations.

13. Beverly Stoney Johnson - With utmost respect, please strengthen zoning amendments to protect residents versus loosening zoning. The HC Commissioners should not allow a CZ request to be treated differently. Do not vote for looser changes. It will be sad if zoning changes make it easier for an applicant of a large industrial site to build in a neighborhood that already has established community guidelines. Citizens have publicly spoken against businesses that would alter quality of life. Recently the Planning Department voted not to support a proposed industrial plant to an area of East Flat Rock; I'm personally hoping each of you will endeavor to protect the county now and into the future. Currently, work is being done on a site at US 25 and US 176 ... this once lovely vista, coming and going from Saluda, Tuxedo, Zirconia, Flat Rock, I-26, Hendersonville and East Flat Rock — has already been stripped of trees in preparation for a large industrial plant. Is big money more important than the voice of thousands of East Flat Rockers? Surely, you do not want to reduce the enjoyment and quality of life for us all. Our environment is vital! It's importance is even more apparent during these anxious Covid-19 months. People have been flocking to DuPont, Lake Summit, Green River Gorge and beyond, for recreation and fresh air. What will happen to this area if visitors stop coming? Toxins and particles are released by large industrial sites which can affect air, water, plants and trees. Remember GE? Don't forget accidents happen and pollution can occur!

Air knows no borders, streams carry particles, offensive smells travel - repetitive noise from industrial plants affect livability of residents and animals, asphalt truck traffic ruins roads, causes congestion and increases fumes & noise - Don't allow a Pandora's Box! Consider the revenue stream from the thousands of visitors, campers and their families — staying in hotels, dining at restaurants, hiking, cycling or fishing. We spent summers in this area, following in the footsteps of our parents, grandparents and great-grandparents. Our son was raised to treasure this area, respect God's natural gifts, and actively help protect and preserve the environment for future generations. I'm sure you want the same for your children and/or grandchildren. Due to health concerns, we cannot accept an asphalt type plant being in close proximity. Many residents have far greater health issues that would be aggregated by toxins.

14. Shane R. Benedict - I understand that this meeting on October 21st is to clarify some Land Development Code Text Amendments (TX-2020-01). As a Henderson County Taxpayer and East Flat Rock Resident I have become very aware of how zoning impacts me with the recent attempt to

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implement an asphalt plant in the midst of our community. I urge you all to continue to protect people and communities. There are a couple requests that I would like you all to consider. 1. Please do not make it easier for SE Asphalt or any industrial entity to resubmit conditional rezoning applications. I believe the county needs to listen to the community and ensure that conditional rezoning applicants are not given preferential treatment by eliminating the waiting period required after rejection or withdrawal. 2. Please do not relax requirements for set back and minimum distances. In fact I believe that Henderson County's LDC should clarify separation setback as measured from the parcel boundary of the property being developed to the parcel boundary of the adjacent properties or at a minimum from the development to the adjacent property lines rather than the residences. We as property owners should feel as though all the property we have is available to us without impact from development in nearby parcels.

15. Andrea S. Andersen - I am writing to ask you to reject the changes being suggested to the land-use code. These changes would make it easier for conditional rezoning, and in particular, will make it easier for industry to move into residential areas. As you are well aware, part of your job is to protect the citizens of Henderson County. Please do not be swayed by big business pushing to have its way. There is no reason to make it easier for a conditional rezone -- in fact, it should be made more difficult. If an industry or business is unwilling to build in an area already appropriately zoned, it should not be rewarded by the County and essentially invited to build in an inappropriate -- usually residential -- area. Please reject these changes. The citizens of Henderson County are depending on you to do the right thing.

16. Gray Jernigan - On behalf of MountainTrue and its members in Henderson County, please accept the following comments regarding proposed Land Development Code (LDC) Text Amendments: Permeable Surface Requirements for Multi-Family - We suggest not removing the permeable pavement requirement. While long-term maintenance is required, this is an important requirement to help control stormwater impacts from larger developments, mitigate flooding, and accommodate future growth in the County while acknowledging the water quality issues caused by increased pervious groundcover. Clarify Resubmittal Requirements for Conditional Rezoning Applications - We do not think there is any reason for treating a conditional rezoning request any differently than a normal zoning change request with respect to the associated waiting period if abandoned or withdrawn by the applicant or rejected by the Planning Board or Commissioners. Clarify Definition of a Home School - We think this unreasonably narrows the definition of a Home School. The purpose of defining a home school is to protect children, and as such revisions to the LDC should seek to protect children in all schooling environments, especially since we are seeing an increase in homeschooling and remote learning pods because of the current pandemic. The LDC should treat all state-recognized school environments equally and require the same separation setbacks for recognized homeschools as would be applied to public or private school settings. Add a Definition for Separation Setback - The proposed definition should clarify that a separation setback is measured to the parcel boundary of adjacent properties. Property owners, especially residential property owners, have a legitimate expectation that they can use all of their property. This definition should reflect that the separation setback is intended to protect the entirety of a neighboring property, not just structures on that property.

17. John C Nicholson - I am opposed to the text amendments proposed by the Planning staff as there has been no public input as to these recommended changes that I am aware of. Text issues and feedback: Clarify Resubmittal Requirements for Conditional Rezoning Applications, Summary: Conditional rezoning requests are unique site-specific applications. This amendment would clarify that conditional rezoning applications may be resubmitted and do not comply the 12-month limitation as traditional zoning map amendments. §42-346. Ordinance Amendments (add the following language to C. (2) e. A.) A. Resubmittal of Any Application. The Planning Board and the Commissioners will not consider an application (by a property owner or owner's agent) when, within the previous 12 months, the map amendment request was denied by the Commissioners. This does not apply to conditional rezoning applications as these are site-specific request with a unique zoning district classification for a specific use. Feedback: There would virtually be no limit on how often an applicant could re-apply or submit a new application. This amendment will eliminate the current restriction that says an application must wait a minimum of 12 months before

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resubmitting a conditional rezoning application, making it easier for an applicant to reapply rapidly, restart the entire application process, and consume the time and financial resources of the county staff, the residents and business owners in communities opposing an application. There is no valid reason to change the text. Clarify Definition of a Home School, Summary: Home schools are permitted in all districts and must be qualified in accordance with NCGS §11SC, Article 39. Home schools typically occur in residential dwellings but can occur in multiple locations or structures (churches, community centers, etc.). Home schools are accessory uses within a principal use or structure. This amendment would codify this in the code. School (Home). A nonpublic school in which one or more children of not more than two (2) families or households receive academic instruction from parents or legal guardians or a member of either household. Such schools must be qualified in accordance with NCGS §11SC, Article 39, Part 3 (or its successor). Unless the principal use or structure is permitted as a school, for the purpose of this chapter, a home school shall be considered the same as a residential dwelling and shall meet all separation requirements as such. Feedback: The LDC should treat ALL state-recognized school environments equally and require the same separation setbacks for recognized homeschools as would be applied to public or private school settings. Currently, many of our children and grandchildren are having to home school virtually due to the pandemic. Should our children suffer or be placed at risk by changing this text? Add a Definition for Separation Setback, Summary: The supplemental requirements have separation setbacks for specific uses. The LDC has no definition for what is meant by a separation requirement or measurement for these uses. This amendment would add a definition for a separation setback. Setback, Separation. A separation setback is measured from the boundary area identified on a site-specific plan denoting where the permitted use will occur. The separation setback is not measured from the parcel boundary unless the permitted use utilizes the entire parcel. The separation setback shall apply to the use and any structures associated with the use (this shall not include parking areas). Feedback: This proposed LDC amendment would make it easier for high-impact land uses to be put next to residential homes because it reduces the amount of separation required for the special cases under which separation setbacks are established in the first place - limiting, reducing, or avoiding the impact of uses like heavy industrial plants that could be sources of noise, air, water, or land pollution on surrounding properties. Property owners, especially residential property owners, have a legitimate expectation that they can use all of their property. Definitions and interpretations of the LDC should be conservative and have respect for the existing property owners impacted by a proposed land use, especially when the proposed land use is inconsistent with the current zoning and planned land use as often found in Conditional Zone requests. Instead of relaxing the requirements through a more limiting definition of how setbacks are determined, Henderson County's LDC should clarify separation setback as measured from the parcel boundary of the property being developed to the parcel boundary of adjacent properties. Additionally, I recommend the set back be increased to 1,000 feet if the property parcel boundary is for a residential parcel. Lastly, think about these recommended changes by the Planning staff and how the recommended changes could affect you or your family in the future as a homeowner, parent or your children. Please do NOT approve of the recommended text changes.

Public Input

1. Terry Bozon is concerned with the separation setbacks. He feels all schools including home schools, should be treated the same. There should not be changes to the resubmittal requirements for conditional zoning. Please protect the residents.
2. Terri Reed is opposed to an Asphalt Plan. She feels the setback separations as written could change things negatively. Home schools and public schools should be treated the same. There should not be changes to the resubmittal requirements for conditional zoning.
3. Bruce Griffith – did not speak.
4. Beverly Johnson asked the Board to not soften the zoning rules and protect the citizens.
5. Will Tucker – did not speak.

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6. Gary Steinburg requested no changes to the resubmittal requirements for conditional zoning. He feels the setback changes would have a negative impact to residents.
7. Judy Williams was not in favor of any of the amendment changes.
8. Lois McKinnish – Judy Williams spoke on behalf of Mrs. McKinnish requesting no amendment changes, and no Asphalt plants. Protect the citizens.
9. Gracie Hyde - Judy Williams spoke on behalf of Mrs. McKinnish requesting no amendment changes, and no Asphalt plants. Protect the citizens.
10. Shannon Nicholson has concerns with the last three text amendments and feels perimeters could be added if necessary. He asked the Board to be consistent.

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

Chairman Hawkins explained the LDC Text Amendments are reviewed annually, irrespective of the Asphalt Plant. The Planning Board has the tedious task of protecting the property right of homeowners. He asked staff to have the Planning Board look at the language and bring the revisions back to the Board at a later date.

Commissioner McCall feels the separation setbacks should be from boundary of land and not the dwelling. She is in agreement with the Home School changes. With conditional zoning, 12 months is necessary due to the tedious work involved. Applicants pay an exceptional cost to file for conditional rezoning. The indication of a conspiracy of the Asphalt Plant applicant and the Board is so far from the truth. Nothing being discussed today gives them an advantage. The Planning Board is a group of citizens with the best interest of the community.

Commissioner Andreotta agrees with the Home School change, it is a home, not a school. He agrees that the separation setbacks should be from the property line.

INFORMAL PUBLIC COMMENT

1. Ray Dalley is with the Four Seasons Rotary. He thanked the Board for the World Polio Day Proclamation on today's consent agenda, and invited everyone to World Polio Day, October 24th in the Historic Courthouse courtyard at 7:00 p.m. when the courthouse would glow purple.

Discussion/Adjustment of Consent Agenda

Chairman Hawkins made the motion to accept the consent agenda as presented. All voted in favor and the motion carried.

CONSENT AGENDA

Minutes – October 5, 2020 Regularly Scheduled Meeting & September 8, 2020 Revision

The Board is requested to adopt the Minutes from the October 5, 2020 meeting as presented.

The Board is also requested to adopt a proposed amendment to the September 8, 2020 minutes, which were approved on September 16, 2020, as they contain an erroneous reference, although the action noted therein as taken by the Board was correct.

The item was listed as item Q on the Board's consent agenda, and was pulled by the Board for discussion and separate action. As it appeared on the Board's agenda for the September 8, 2020, meeting, the description of the request read as follows:

The City of Hendersonville has requested that the County comment on one potential water line extension:

1. Nicholas Bowman on behalf of the property owner, Sen-Asheville I, LLC, has inquired about connection to the City of Hendersonville's water line for PIN's: 9640-21-6060,

9640-31-4154, 9640-11-6673, 9640-21-6420, 9640-30-4804, and 9640-31-1473. The City of Hendersonville has an 8" water main along Academy Road that touches PIN's 9640-21-6060 and 9640-31-4154 and only requires a tap application. A waterline extension to serve PIN 9640-11-6673, 9640-21-6420, 9640-30-4804, and 9640-31-1473 would be required.

The request should have read as follows (changed portions in **bold underlined italics**):

The City of Hendersonville has requested that the County comment on one potential water line extension:

1. Nicholas Bowman on behalf of the property owner, Sen-Asheville I, LLC, has inquired about connection to the City of Hendersonville's water line for PIN's: 9640-21-6060, 9640-31-4154, 9640-11-6673, 9640-21-6420, 9640-30-4804, and 9640-31-1473. The City of Hendersonville has a **12"** water main along **South Rugby Road** that touches PIN's 9640-21-6060 and 9640-31-4154 and only requires a tap application. A waterline extension to serve PIN 9640-11-6673, 9640-21-6420, 9640-30-4804, and 9640-31-1473 would be required.

The agenda item noted an attachment, "The Horseshoe Farm Availability Letter", which references "Horseshoe Farm" and the twelve-inch water main. Also attached to the agenda item was a map showing the Horseshoe Farm property.

The September 8, 2020, minutes cited the agenda item. The motion unanimously approved by the Board as reflected in the minutes does not reference "Academy Road" and is applicable to the corrected agenda item.


Motion:

I move the Board approves the Minutes of October 5, 2020. I further move the Board approve the proposed amendment to the Board's September 8, 2020, minutes.

Tax Collector's Report

Collections Specialist Luke Small had presented the Tax Collector's Report to the Commissioners dated October 8, 2020 for information only. No action was required.

Please find outlined below collections information through October 20, 2020 for 2020 real and personal property bills mailed on August 1, 2020. Vehicles taxes are billed monthly by NC DMV.

<u>Henderson County Annual Bills (Real and Personal Property):</u>			
2020 Beginning Charge:	\$86,002,442.01		Paid 24.95% Unpaid 75.05%
Discoveries & Imm. Irreg.:	\$180,723.73		
Releases & Refunds:	(\$194,176.70)		
<u>Net Charge:</u>	<u>\$85,988,989.04</u>		
Unpaid Taxes:	\$64,533,224.11		
Amount Collected:	\$21,455,764.93		

Henderson County Registered Motor Vehicles (As Collected by NC DMV):	
Net Charge:	\$2,087,762.08
Unpaid Taxes:	\$29,668.58
Amount Collected:	\$2,058,093.50

98.58%

Henderson County FY21 Budget Analysis:

Budget Ordinance	Revenue Collected
Ad Valorem: \$87,594,211.00	Ad Valorem: \$23,513,858.43
Prior Years: \$1,035,000.00	Prior Years: \$343,099.15
Budget Total: \$88,629,211.00	YTD Revenue: \$23,856,957.58



2020.93 Henderson County Hospital Corporation Bond Order

The Board is requested to approve the Bond Order for the Henderson County Hospital Corporation revenue bond.

Thereupon Chairman Hawkins introduced the following bond order, the title of which was read and copies of which had been previously distributed to the Board:

BOND ORDER AUTHORIZING THE ISSUANCE AND SALE BY THE COUNTY OF HENDERSON, NORTH CAROLINA OF NOT TO EXCEED \$15,000,000 HOSPITAL REVENUE BOND (MARGARET R. PARDEE MEMORIAL HOSPITAL PROJECT), SERIES 2020 OF THE COUNTY AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH

BE IT ORDERED by the Board of Commissioners (the "Board") of the County of Henderson, North Carolina (the "County"):

The Board does hereby find and determine as follows:

The filing of an application with the North Carolina Local Government Commission (the "Commission") requesting approval of the issuance of its \$17,000,000 County of Henderson, North Carolina Hospital Revenue Bonds (Margaret R. Pardee Memorial Hospital Project), Series 2020 (the "2020 Bonds"), in one or more series, for the purpose of providing funds relating to the financing by the Margaret R. Pardee Hospital and Henderson County Hospital Corporation of capital expenditures in connection with (1) roof replacement on the main Hospital building, (2) construction of a parking lot on property on 9th Avenue and Brown Streets, and the demolition and construction of a new parking lot on the old EMS site, (3) construction of a temporary EMS access and structural improvements to the parking garage, (4) maintenance and improvements to the boilers and steam system serving the main Hospital building, (5) maintenance and improvements to the HVAC system serving the main Hospital building, (6) maintenance and improvements to the chilled water system and plumbing serving the main Hospital building (collectively, the "Projects"), all for use by the Hospital.

The County, by resolution, also requested the Commission to sell the 2020 Bonds at private sale without advertisement.

The Commission has been requested to approve the application of the County for the issuance of the 2020 Bonds in an aggregate principal amount not to exceed \$15,000,000 in accordance with N.C.G.S. 159-86.

The County has determined to issue the 2020 Bonds in an aggregate principal amount not to exceed \$15,000,000 for the purpose of providing funds, together with other available funds, to (1) pay, and to reimburse for amounts previously paid for, the cost of capital expenditures relating to the Projects and (2) pay the costs of issuing the 2020 Bonds.

The County proposes to sell the 2020 Bonds to First Citizens Bank (the "Purchaser").

There have been presented to the County at this meeting copies of the following documents relating to the issuance and sale of the 2020 Bonds:

Master Trust Indenture dated as of September 1, 2001 (the "Master Indenture") between the County and First-Citizens Bank & Trust Company, the successor to which is U.S. Bank National Association, as trustee (the "Trustee"); and

A draft of the Seventh Supplemental Trust Indenture to be dated as of November 1, 2020 between the County and the Trustee (the "Seventh Supplemental Indenture").

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The County has determined that the issuance and sale of the 2020 Bonds in the manner provided in this Bond Order is in the best interests of the County.

Capitalized words and terms used in this Bond Order and not defined herein have the same meanings given such words and terms in the Master Indenture and the Seventh Supplemental Indenture.

Pursuant to the provisions of The State and Local Government Revenue Bond Act, as amended (the "Act"), particularly N.C.G.S. 159-88, the County hereby authorizes the issuance of the 2020 Bonds in an aggregate principal amount not to exceed \$15,000,000. The 2020 Bonds will be issued as a fixed-rate, fully registered bonds maturing in annual installments at such times and in such amounts as set forth in the Seventh Supplemental Indenture, subject to the provisions of this Bond Order and the Master Indenture.

The 2020 Bonds are subject to optional redemption at the times, on the terms and conditions, and at the prices as set forth in the Seventh Supplemental Indenture.

The proceeds of the 2020 Bonds will be applied as provided in the Seventh Supplemental Indenture.

The 2020 Bonds, together with any additional Bonds hereafter issued under the Master Indenture, are secured on a parity basis by a pledge, charge and lien on the Net Revenues of the Hospital System to the extent set forth in the Master Indenture. The 2020 Bonds are additionally secured by a pledge, charge and lien on the funds in the Bond Fund to the extent set forth in the Seventh Supplemental Indenture.

The form, terms and conditions of the Seventh Supplemental Indenture are hereby approved, and the Chairman and Vice Chairman of the Board are hereby authorized to execute and directed to deliver, or cause to be delivered, the Seventh Supplemental Indenture together with such changes, additions and deletions as the Chairman and Vice Chairman of the Board, with the advice of counsel, may deem necessary and appropriate, including, without limitation, changes, additions and deletions necessary to incorporate the final terms of the 2020 Bonds as set forth in the Seventh Supplemental Indenture, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and content thereof and the Clerk or the Deputy Clerk are hereby authorized to attest to the same.

The Chairman and Vice Chairman of the Board and the County Manager and the Finance Director of the County, or any of them or their deputies, are authorized and directed without limitation except as may be expressly set forth in this Bond Order to take such action and to execute and deliver such certificates, agreements, instruments, opinions or other documents as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by this Bond Order, the Master Indenture and the Seventh Supplemental Indenture.

The officers of the County and the agents and employees of the County are hereby authorized and directed to do all acts and things required of them by the provisions of this Bond Order, the 2020 Bonds, the Master Indenture and the Seventh Supplemental Indenture for the full, punctual and complete performance of the terms, covenants, provisions and agreements of the same.

The issuance and private sale without advertisement of the 2020 Bonds are hereby approved, subject to the terms and conditions set forth in this Bond Order.

This Bond Order is effective immediately on its passage.

Motion:

I move that the Board adopts the final Bond Order as set out in the attachment to this agenda item.

2020.94 Service Badge and Sidearm Request – Sergeant Fredrick Westphal

The Henderson County Sheriff's Office requests that the service badge and sidearm of Sergeant Fredrick Westphal be given to him in recognition of his retirement from the Henderson County Sheriff's Office.

Sergeant Frederick Westphal joined the Henderson County Sheriff's Office as an auxiliary Deputy and served between October 1996 through September 1998. Mr. Westphal began full time in September 1998 through September 2020 where he held the ranks of Detention Officer, Deputy, Master Deputy, Corporal, and Sergeant. Sergeant Westphal's service and dedication to the Henderson County Sheriff's Office and

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service, and accomplishments in the field of law enforcement during his 24 years of service are hereby recognized and commended. To honor him and show my gratitude, the Sheriff's Office intends to present his service badge and service sidearm.

Sheriff Griffin makes this request on behalf of the Henderson County Sheriff's Office pursuant to North Carolina General Statute 20-187.2(a).

Motion:

I move the Board allows Sheriff Lowell S. Griffin to present the service badge and sidearm as a token of appreciation to Sergeant Fredrick Westphal.

Coronavirus Relief Fund – Funding Interlocal Agreements

The State of North Carolina's Coronavirus Relief Fund (CRF) requires that Henderson County disburse 25% of the total funding it has received to our municipalities. The County worked with all the municipalities to ensure an equitable distribution of that 25% total fund and revised the County Plan accordingly.

Municipalities will submit their eligible expenditures to the County on a monthly basis and will be reimbursed once all documentation has been received. The interlocal agreements outline that disbursement and the reporting requirements for those funds.

Motion:

I move the Board approves the interlocal agreements and authorize the Chairman to execute the agreements as presented.

2020.95 Budget Amendment – DSS Document Management System

The Board is requested to approve a Budget Amendment, transferring \$105,631 from Capital Reserve Fund to the General Fund. These monies will be used to fund the DSS Document Management conversion project. This project was originally included in the FY2018 budget, but was deferred to ensure the document management system selected would be compatible with NCFast in the future. The approved funding was placed in the Capital Reserve Fund and designated for this specific use.

The Department of Social Services has vetted available systems, and requests that the Board approve appropriating available funds to proceed with Laserfiche.

Motion:

I move the Board approves the budget amendment as presented, transferring funds from Capital Reserve Fund to the General Fund.

Notification of Vacancies

The Notification of Vacancies is being provided for the Board's information. They will appear on the next agenda under "Nominations".

1. Nursing/Adult Care Home Community Advisory Committee – 1 vac.
Position #18

Proclamation – World Polio Day 2020

The Henderson County Board of Commissioners are requested to proclaim October 24, 2020, as World Polio Day in Henderson County and encourage all citizens to join the County, Four Seasons Rotary and Rotary International in the fight for a polio-free world.

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Motion:

I move that the Board adopts the Proclamation designating October 24, 2020, as World Polio Day in Henderson County.

Memorandum of Agreement – Soil and Water Conservation District

This Memorandum of Agreement explains the partnership between the Henderson County Soil and Water District, the Federal and State Government and Henderson County. The partnership allows the District to continue conservation work in our county.

The MOA is revised on a regular basis for clarity, and there are no major revisions in the new document.

The Henderson Soil and Water Conservation District Board would like to request approval of the updated Memorandum of Agreement between the District and its partner agencies, including Henderson County.

Motion:

I move that Board approves the Soil & Water District's Memorandum of Agreement.

CDBG Citizen Participation Plan – Update

As part of the Community Development Block Grant process, local governments must adopt citizen participation plans. The Board of Commissioners is requested to consider the approval of the attached compliance plan that must be updated prior to the upcoming application of Community Development Block Grant-CV funds. This plan is an update from past Community Development Block Grant citizen participation plans.

Motion:

I move that the board approves the Citizen Participation plan for Community Development Block Grant projects.

2020.95 Budget Amendment – Occupancy Tax Collections

Staff is requesting the Board approve the attached budget amendment for FY2021 Occupancy Tax Collections. Occupancy taxes are collected by the Henderson County Finance Department on behalf of the Henderson County Tourism Development Authority (TDA). Henderson County retains a percentage of the gross amount of occupancy tax collected, and transfers the remainder to the TDA monthly.

The budget amendment presented appropriates the occupancy tax revenue in the amount budgeted for collection in the TDA's adopted budget, as well as the expenditure for the monthly amount to be transmitted to the TDA.

Motion:

I move the Board approves the budget amendment for 2021 Occupancy Tax Collections as presented.

Sole Source of 3 Power Loads with Upgrade Kits

The Board is requested to approve the proposal and authorize staff to proceed with the procurement of 3 Stryker EMS Power-LOAD cot fasteners with upgrade kits via the sole source exception for informal bidding in accordance with N.C.G.S 143-129 (e)(6).

The sole quote was received from Stryker EMS for a total price of \$67,415.64. They are the only manufacturer of this type of lift system, which will be utilized in combination with the Stryker stretchers that Henderson County currently owns. This ensures conformity and operability of these systems as the

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County has standardized its fleet of stretchers to the Stryker Power Pro Stretcher.

All three (3) Stryker Power-LOAD cot fasteners with upgrade kits were included in the FY2021 budget in the amount of \$72,702.00

Motion:

I move the Henderson County Board of Commissioners to accept the sole proposal from Stryker EMS and authorize Henderson County staff to proceed with the purchase of 3 Stryker Power-LOAD cot fasteners with upgrade kits in the amount of \$67,415.64 using the sole source exception to informal bidding as allowed under N.C.G.S 143-129 (e)(6).

Set Public Hearing on Project Wheel, and affiliated matters regarding business location

The Board is requested to set a two-part public hearing. The hearing will concern (1) Project Wheel, a potential economic development project; and (2) an inter-local agreement with the City of Hendersonville regarding a business location, together with another agreement needed to complete the necessary arrangements for that location.

The requested date and time for the public hearing is November 18, 2020, at 9:30 a.m.

Motion:

I move that the Board sets a public hearing on November 18, 2020 at 9:30am for the purposes stated in this agenda item.

DISCUSSION/ADJUSTMENT OF DISCUSSION AGENDA

Chairman Hawkins made the motion to adopt the discussion agenda as presented. All voted in favor and the motion carried

NOMINATIONS

Asheville Regional Housing Consortium – 1 vac.

There were no nominations at this time and this item was rolled to the next meeting.

Cemetery Advisory Committee – 2 vac.

There were no nominations at this time and this item was rolled to the next meeting.

EMS Peer Review Committee – 1 vac.

Commissioner McCall nominated Jared Schoenfeld for position #11.

Chairman Hawkins made the motion to accept the appointment of Jared Schoenfeld to position #11 by acclamation. All voted in favor and the motion carried.

Henderson Tourism Development Authority – 1 vac.

There were no nominations at this time and this item was rolled to the next meeting.

Hendersonville Business Advisory Committee – 1 vac.

There were no nominations at this time and this item was rolled to the next meeting.

Juvenile Crime Prevention Council – 1 vac.

There were no nominations at this time and this item was rolled to the next meeting.

Mountain Valleys Resource Conservation and Development Program – 1 vac.

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There were no nominations at this time and this item was rolled to the next meeting.

Nursing/Adult Care Home Community Advisory Committee – 12 vac.

There were no nominations at this time and this item was rolled to the next meeting.

WCCA Board of Directors (Western Carolina Community Action) – 1 vac.

There were no nominations at this time and this item was rolled to the next meeting.

SHERIFF'S REPORT

Sheriff Lowell Griffin provided a report to the Board of Commissioners. Sheriff Griffin shared the loss of an officer in Greenville County, Master Deputy Conley Jumper, and in Myrtle Beach, South Carolina, police Officer Jacob Hancher, fatally shot in line of duty.

Sheriff Griffin stated on September 10, 2020, a life changing event for many, he received an early morning call to find EMS trying to save the life of Deputy Ryan Hendrix. Henderson County has the best EMS and paramedics. We lost Deputy Hendrix, but they were phenomenal and went above and beyond to give the family a chance to be with him moments before his death. When Sheriff Griffin arrived at Mission Hospital, he was met by Dr. Jamie Gibbs and Assistant County Manager Amy Brantley, both there in support for all involved, as well as many staff of Emergency Medical Services. An autopsy was required, and a transport was necessary to Winston-Salem. Law Enforcement personnel were accompanied through the entire transfer by our EMS, cities and other counties along the way, fire departments, police departments and many others. A tribute was paid to Deputy Hendrix with amazing support throughout the process. This is a testament to why officers do what they do each day. We are now in a healing stage.

Chairman Hawkins noted that each day Law Enforcement Officers report to work knowing of the possible sacrifice they might pay.

Commissioner Edney stated staff and the Board of Commissioners do all they can to support Law Enforcement and EMS, to hopefully prevent this from happening. We are all a part of a team.

Commissioner Andreotta thanked Sheriff Griffin and challenged citizens to continue to thank these men and women in Law Enforcement and EMS.

Commissioner McCall thanked the Sheriff and noted Henderson County is blessed with an amazing team. Because of Deputy Hendrix's sacrifice she wanted to do something in his honor.

Commissioner McCall made the motion to name the Law Enforcement Building in memory of Deputy Ryan Hendrix. All voted in favor and the motion carried.

Staff will work on proper signage and schedule a dedication service.

ELECTION POLLING SITE UPDATE

Elections Director Karen Hebb, and Elections Board Chairman Charles Medd, provided the Board of Commissioners with an update on precautions, safety and security measures at election polling sites.

Ms. Hebb thanked the Board for the purchase of equipment. They have received several calls regarding security at polling sites. She has spoken with the Sheriff's Office PIO Frank Stout and extra coverage will be made available at the One Stops and all 13 precincts. A deputy will be stationed at their office on election day, and coverage will not be visible to voters. They have more workers on hand, and should anyone show up acting inappropriately, they will be warned once, then asked to leave if it persists. So

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far, they have not had any inappropriate actions.

Chairman Hawkins noted calls regarding problems with equipment at the Town of Flat Rock.

Ms. Hebb responded that election equipment responds to environmental change. The air conditioning was not on the first day and when the tabulator heated up, it would not accept tabs. An emergency bin was used and audited thoroughly. Each party was required to enter votes into the tabulator, and it balanced perfectly. Small fans were purchased to run behind the tabulators which helped the situation. On the first day they received 2040 voters, a record.

Commissioner Edney is concerned about voting at HHS during construction, and unsure people knew where to go.

Ms. Hebb responded notices are published everywhere that voting is in the auditorium.

CONSTRUCTION PROJECTS UPDATE

David Berry provided the Board of Commissioners with an update on the following construction projects around Henderson County. This monthly report is a review of the scope and statuses of assigned construction management responsibilities and includes specific updates in regard to County funded construction activities. A video was shared of work in progress at Hendersonville High School.

Hendersonville High School

Concrete, block masonry, concrete slab work, and metal stud work are all continuing in various scheduled areas, as well as electrical, HVA ductwork, and fire sprinkler work that has been ongoing in the now enclosed building areas. Renovation work to the Gym continues and additional steel erection has now begun in areas south of the newly constructed building portions already standing.

At the previous September 16th meeting, Commissioner Edney inquired about charging carts versus 110 Volt receptacles with integral USB charging ports. The question was if we were using, or the project scope included 110 Volt receptacles with integral USB charging ports for cell phones. Mr. Berry's response at that time was that in fact the project scope did not include these type receptacles, in that HCPS, after much discussion, had opted not to utilize these type receptacles. Instead they had requested Charging Stations for their Chrome Books, and the cost of which is included and encumbered within the FF&E budget. This option was selected in that it provides multiple charging ports for the mandated Chrome Books at controlled locations. Mr. Berry stated he spoke incorrectly, and the Charging Stations do not include USB ports. The only USB ports scheduled to be included in the school design are those that were requested and will be located inside casework in specific classrooms, and for teachers use only. The charging stations for the Chrome Books are scheduled to be parked at specific locations selected by HCPS, and powered by specifically dedicated electrical power outlets.

If the receptacles with USB ports were added later, they are simply a receptacle swap, thereby not hesitating any major work. The additional cost for a total of approximately 767 receptacles (classroom, offices, corridors, cafeteria, etc.) at a \$10 to \$12 upcharge would be approximately \$8,000. The USB ported receptacles being discussed may be out of date by the time this school is completed. The basic ones are already out of date in that the newest versions include USC-C ports. It would be anyone's guess as to what cell phones and devices may require in the future.

Dr. John Bryant stated HCPS does not want, nor have they requested USB charging ports installation for cell phones. The school policy is "cell phones, beepers, smart watches, headphones, or other such devices may not be seen or heard during school hours. They will be confiscated and may be picked up at the main office after school."

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Blue Ridge Community College

Staff continues to work with the Architect, Clark Nexsen, and BRCC staff on all Furniture, Fixtures, and Equipment components for the projects including but not limited to the furniture requirements, building security components, data cabling & technology needs, AV equipment, Intercom and Phone systems. The FF&E components, though not a part of the construction budget, are a part and included in the overall project budget. The FF&E component of the overall \$23,400,000 budget is \$1,100,000. Staff continues to work with the contractor Vannoy in the planning and estimating portions for the project, and still plan for a bid date around late November or early December with a GMP by January 1, 2021. The project is scheduled to have an estimate construction duration of approximately 16 months beginning February 2021 through June 2022.

The overall budget approved for this project is \$23,400,000 for the 51,065 sq. ft. new facility and 28,933 sq. ft. Patton building renovations (approximately \$20,110,400 of that is for the construction). In addition, \$1,000,000 (\$867,000 construction cost) was approved for the separate POPAT 6,500 sq. ft. building which is to be constructed simultaneously. The POPAT building plans have been reviewed and final bid document plans are expected to be completed within the next few weeks. Once completed staff recommends and plans to separately hard bid the POPAT building. The advantages to the CMR approach are typically not realized in smaller projects and better pricing can be realized through competitive bidding of smaller contractors.

Flat Rock and Rugby HVAC upgrades

The final stages of the project are still ongoing with all remaining work being coordinated with HCPS, with most work being done after hours.

Edneyville Library

Clark Nexsen's proposal has been accepted and staff is moving forward with plans, bidding, approval and construction.

Animal Shelter Roof

REI's proposal was accepted to design the roof replacements. They are in the process of completing the designs. Once complete, we will bid the roof project work. The project has a budgeted amount of \$83,000.

Overflow Human Services Parking Lot

A mandatory pre-bid was held for this project on October 9, 2020 and bids are to be received October 23, 2020. The estimated cost of the project is \$89,500.

Commissioner Edney questioned when projects placed on hold made be reviewed to start back up.

County Manager Steve Wyatt stated staff and the Board will review Sales Tax over the next three months and review those projects during budget workshops in January.

MERITOR TAX APPEAL

Russ Burrell stated Taxpayer Meritor seeks a refund of \$274,890 in taxes it claims it paid erroneously, pursuant to N.C. Gen. Stat. §105-381. To succeed, it must show a valid defense under that statute.

Timeline:

1/31/2019	Meritor timely filed its business personal property listing
2/15/2019	Assessor's Office processes the listing and accepts values as filed, showing an increase in taxable value from \$87,219,703 in 2018 to \$127,771,821 in 2019

October 21, 2020

8/01/2019	Tax Office sends tax bill based on assessed values (\$127,771,821)
8/31/2019	Meritor's last day to file appeal on incorrect tax assessed
11/18/2019	Meritor pays tax bill in full
1/09/2020	Meritor files appeal of 2019 tax assessment; informed by staff that only avenue of appeal is §105-381.

Pursuant to §105-381, an appeal for refund can be granted only if (1) the tax is imposed through a clerical error, (2) the tax is an illegal tax, or (3) the tax is levied for an illegal purpose. "Clerical error" must be "apparent on the face of the record and capable of being corrected by reference to the record only."ⁱ Further, "[t]axes paid voluntarily and without objection or compulsion cannot be recovered, even though the tax be levied unlawfully."ⁱⁱ

Adjudication of Meritor's appeal. If the Board takes no action, this would be considered a ruling against Meritor under §105-381(c).

Meritor's representative Spencer Hutchins and PWC's representative Jason Hoot provided a brief background of the company.

Jason Hoot stated what should have been entered on the filing report was \$5.4m, and because of a misplacement of a decimal, it was reported as \$54m. It was a clerical error on Meritor's part. They feel GS 105-274 covers this error because of Illegal Tax for \$48m of property that did not exist in North Carolina.

Steve Wyatt asked Attorney Russ Burrell to address the term "Illegal Tax" used.

Russ Burrell stated there was no way the tax office could have known of their clerical error. It is not an illegal tax. Unlike any other, with tax refunds, if we the County make the mistake, we are liable. In this case Henderson County did not make the mistake, and Meritor did not inform us until after a year, and the bill had already been paid.

COUNTY MANAGER'S REPORT

Steve Wyatt stated in regard to Sheriff Griffin's report, it is about our citizens. Respect and support of our Law Enforcement and elected officials is the same. Citizens must remain vigilant of holding accountable, we can only do so much. Fate lies in the hands of our citizens.

DEPARTMENT OF JUSTICE GRANT AWARD FOR COMPREHENSIVE OPIOID, STIMULANT, AND SUBSTANCE ABUSE PROGRAM – ADD ON

Steve Wyatt stated the Board of Commissioners supported a grant application several months ago to the Department of Justice for a \$900,000 grant. The Board needs to approve, accept and take necessary budgetary measures today. Our other partners will do a presentation at a future meeting.

Department of Justice grant opportunity is consistent with substance use prevention strategies defined by the Community Health Improvement Plan, Behavioral Health Summit and Substance Abuse Task Force. The Henderson County Board of Health was briefed on the grant application at their June 9, 2020 meeting.

The Department of Public Health will administer the grant and will contract with The Free Clinics and HOPE Rx to implement and achieve the required deliverables. No county funds or county positions are required for the initiative.

It is worth noting that the early investments in a Behavioral Health System Coordinator and other

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substance abuse initiatives by the Henderson County Board of Commissioners has now in part generated \$1.525 million dollars in grants (Drug Free Communities and Department of Justice).

On October 13, 2020, the Henderson County Board of Health approved acceptance of the grant if awarded subject to consideration and final approval by the Henderson County Board of Commissioners.

Chairman Hawkins made the motion that the Board accepts the Department of Justice grant award for the Henderson County Department of Health and approve the necessary budgetary actions to implement the initiative subject to funding limitations of the grant. All voted in favor and the motion carried.

CLOSED SESSION

The Board is requested to go into Closed Session for the following reason:

1. Pursuant to N.C. Gen. Stat. § 143-318.11(a)(4) to discuss matters relating to the location or expansion of industries or other businesses in Henderson County, including agreement on a tentative list of economic development incentives that may be offered by the Board in negotiations.

Commissioner Edney made the motion to go into closed session pursuant to N.C. Gen. Stat. §143-318.11(a)(4) for the reasons set out in the Request for Board Action in the Board's agenda packet. All voted in favor and the motion carried.

ADJOURN

Chairman Hawkins made the motion to go out of closed session and adjourn at 1:00 p.m. All voted in favor and the motion carried.

Attest:

Teresa L. Wilson, Clerk to the Board

Grady Hawkins, Chairman

Footnotes for MERITOR TAX APPEAL

ⁱⁱ *Trott v. Birmingham Ry., Light & Power Co.*, 144 Ala. 383, 430, 39 So. 716 (Ala. 1905), quoted in *Ammons v. County of Wake*, 127 N.C. App. 426 (1997).

ⁱⁱ *Middleton v. Wilmington, Brunswick & Southern R.R. Co.*, 224 N.C. 309 (1944).

DURING THE OCTOBER 21, 2020 REGULAR MEETING, THE BOARD ENACTED THE FOLLOWING

2020.93 Henderson County Hospital Corporation Bond Order

2020.94 Service Badge and Sidearm Request – Sergeant Fredrick Westphal

2020.95 Budget Amendment – DSS Document Management System

A regular meeting of the Board of Commissioners of the County of Henderson, North Carolina, was duly held on October 21, 2020 at 9:00 a.m. in the Commissioners' Meeting Room, Henderson County Historic Courthouse, 1 Historic Courthouse Square, Hendersonville, North Carolina.

* * *

The following members were present: Chairman Hawkins, Commissioners Edney, McCall and Andreotta

The following members were absent: Vice Chairman Lapsley

Also present: County Manager Wyatt, Assistant County Manager Brantley, Clerk to the Board Wilson and County Attorney Burrell

* * *

Thereupon Chairman Hawkins introduced the following bond order, the title of which was read and copies of which had been previously distributed to the Board:

BOND ORDER AUTHORIZING THE ISSUANCE AND SALE BY THE COUNTY OF HENDERSON, NORTH CAROLINA OF NOT TO EXCEED \$15,000,000 HOSPITAL REVENUE BOND (MARGARET R. PARDEE MEMORIAL HOSPITAL PROJECT), SERIES 2020 OF THE COUNTY AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH

BE IT ORDERED by the Board of Commissioners (the "*Board*") of the County of Henderson, North Carolina (the "*County*"):

Section 1. The Board does hereby find and determine as follows:

(a) The filing of an application with the North Carolina Local Government Commission (the "*Commission*") requesting approval of the issuance of its \$17,000,000 County of Henderson, North Carolina Hospital Revenue Bonds (Margaret R. Pardee Memorial Hospital Project), Series 2020 (the "*2020 Bonds*"), in one or more series, for the purpose of providing funds relating to the financing by the Margaret R. Pardee Hospital and Henderson County Hospital Corporation of capital expenditures in connection with (1) roof replacement on the main Hospital building, (2) construction of a parking lot on property on 9th Avenue and Brown Streets, and the demolition and construction of a new parking lot on the old EMS site, (3) construction of a temporary EMS access and structural improvements to the parking garage, (4) maintenance and improvements to the boilers and steam system serving the main Hospital building, (5) maintenance and improvements to the HVAC system serving the main Hospital building, (6) maintenance and improvements to the chilled water system and plumbing serving the main Hospital building (collectively, the "*Projects*"), all for use by the Hospital.

(b) The County, by resolution, also requested the Commission to sell the 2020 Bonds at private sale without advertisement.

(c) The Commission has been requested to approve the application of the County for the issuance of the 2020 Bonds in an aggregate principal amount not to exceed \$15,000,000 in accordance with N.C.G.S. 159-86.

(d) The County has determined to issue the 2020 Bonds in an aggregate principal amount not to exceed \$15,000,000 for the purpose of providing funds, together with other available funds, to (1) pay, and to reimburse for amounts previously paid for, the cost of capital expenditures relating to the Projects and (2) pay the costs of issuing the 2020 Bonds.

(e) The County proposes to sell the 2020 Bonds to First Citizens Bank (the "*Purchaser*").

(f) There have been presented to the County at this meeting copies of the following documents relating to the issuance and sale of the 2020 Bonds:

(1) Master Trust Indenture dated as of September 1, 2001 (the "*Master Indenture*") between the County and First-Citizens Bank & Trust Company, the successor to which is U.S. Bank National Association, as trustee (the "*Trustee*"); and

(2) A draft of the Seventh Supplemental Trust Indenture to be dated as of November 1, 2020 between the County and the Trustee (the "*Seventh Supplemental Indenture*").

(g) The County has determined that the issuance and sale of the 2020 Bonds in the manner provided in this Bond Order is in the best interests of the County.

Section 2. Capitalized words and terms used in this Bond Order and not defined herein have the same meanings given such words and terms in the Master Indenture and the Seventh Supplemental Indenture.

Section 3. Pursuant to the provisions of The State and Local Government Revenue Bond Act, as amended (the "*Act*"), particularly N.C.G.S. 159-88, the County hereby authorizes the issuance of the 2020 Bonds in an aggregate principal amount not to exceed \$15,000,000. The 2020 Bonds will be issued as a fixed-rate, fully registered bonds maturing in annual installments at such times and in such amounts as set forth in the Seventh Supplemental Indenture, subject to the provisions of this Bond Order and the Master Indenture.

Section 4. The 2020 Bonds are subject to optional redemption at the times, on the terms and conditions, and at the prices as set forth in the Seventh Supplemental Indenture.

Section 5. The proceeds of the 2020 Bonds will be applied as provided in the Seventh Supplemental Indenture.

Section 6. The 2020 Bonds, together with any additional Bonds hereafter issued under the Master Indenture, are secured on a parity basis by a pledge, charge and lien on the Net Revenues of the Hospital System to the extent set forth in the Master Indenture. The 2020 Bonds are additionally secured by a pledge, charge and lien on the funds in the Bond Fund to the extent set forth in the Seventh Supplemental Indenture.

Section 7. The form, terms and conditions of the Seventh Supplemental Indenture are hereby approved, and the Chairman and Vice Chairman of the Board are hereby authorized to execute and directed to deliver, or cause to be delivered, the Seventh Supplemental Indenture together with such changes, additions and deletions as the Chairman and Vice Chairman of the Board, with the advice of counsel, may deem necessary and appropriate, including, without limitation, changes, additions and deletions necessary to incorporate the final terms of the 2020 Bonds as set forth in the Seventh Supplemental Indenture, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and content thereof and the Clerk or the Deputy Clerk are hereby authorized to attest to the same.

Section 8. The Chairman and Vice Chairman of the Board and the County Manager and the Finance Director of the County, or any of them or their deputies, are authorized and directed without limitation except as may be expressly set forth in this Bond Order to take such action and to execute and deliver such certificates, agreements, instruments, opinions or other documents as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by this Bond Order, the Master Indenture and the Seventh Supplemental Indenture.

The officers of the County and the agents and employees of the County are hereby authorized and directed to do all acts and things required of them by the provisions of this Bond Order, the 2020 Bonds, the Master Indenture and the Seventh Supplemental Indenture for the full, punctual and complete performance of the terms, covenants, provisions and agreements of the same.

Section 9. The issuance and private sale without advertisement of the 2020 Bonds are hereby approved, subject to the terms and conditions set forth in this Bond Order.

Section 10. This Bond Order is effective immediately on its passage.

On motion of Chairman Hawkins, the foregoing Bond Order entitled **"BOND ORDER AUTHORIZING THE ISSUANCE AND SALE BY THE COUNTY OF HENDERSON, NORTH CAROLINA OF NOT TO EXCEED \$15,000,000 HOSPITAL REVENUE BOND (MARGARET R. PARDEE MEMORIAL HOSPITAL PROJECT), SERIES 2020 OF THE COUNTY AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH"** was passed by the following vote:

AYES: All commissioners present

NAYS: None

ABSTAIN: None

Adopted this the 21st day of October 2020.

HENDERSON COUNTY BOARD OF COMMISSIONERS

[SEAL]

By: _____


Chairman



Resolution Honoring Sergeant Frederick Westphal



For 24 Years of Law Enforcement Service and Awarding Him His Badge and Sidearm

WHEREAS, Sergeant Frederick Westphal joined the Henderson County Sheriff's Office as an auxiliary Deputy and served between October 14, 1996 through September 14, 1998. Mr. Westphal was hired as a benefit-eligible employee and served between September 14, 1998 through September 30, 2020 and held the ranks of Detention Officer, Deputy, Master Deputy, Corporal, and Sergeant; and

WHEREAS, Sergeant Westphal's service and dedication to the Henderson County Sheriff's Office and service, dedication and accomplishments in the field of law enforcement during his 24 years of service are hereby recognized and commended; and

WHEREAS, N.C.G.S. 20-187.2 provides that retiring officers of the Henderson County Sheriff's Office may receive, at the time of their retirement, the badge worn or carried by them during their service with Henderson County; and

WHEREAS, N.C.G.S. 20-187.2 further provides that the Henderson County Board of Commissioners may, in its discretion, award to a retiring officer the service sidearm of such retiring officer at a price determined by the Board of Commissioners, upon securing a permit as required by N.C.G.S. 14-402 et seq; and

WHEREAS, Sergeant Westphal has served as a member of the Henderson County Sheriff's Office for a period of 22 benefit-eligible years and retired from the Henderson County Sheriff's Office on September 30, 2020; and

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

1. Sheriff Lowell Griffin is hereby authorized in accordance with the provisions of N.C.G.S. 20-187.2 to transfer to Sergeant Westphal the badge worn by him during his service with the Henderson County Sheriff's Office; and
2. Sheriff Griffin is hereby authorized in accordance with the provisions of N.C.G.S. 20-187.2 to transfer to Sergeant Westphal his service sidearm at no cost to the officer and upon him securing a permit required by N.C.G.S. 14-402.

BE IT FURTHER RESOLVED, that the Henderson County Board of Commissioners recognizes and thanks Sergeant Westphal for his dedicated service to Henderson County and its citizens.

Adopted this the 21st day of October 2020.

CHAIRMAN

Doug Hankins
HENDERSON COUNTY BOARD OF COMMISSIONERS

ATTEST:

Alicia L. Wilson

CLERK TO THE BOARD

**Interlocal Agreement Between the County of Henderson
And the City of Hendersonville
For Management of Funds from the Coronavirus Relief Fund (CRF)
Established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act**

THIS INTERLOCAL AGREEMENT, made and entered into pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes this 1 day of ~~October~~ 2020, by and between the County of Henderson, a body politic and corporate organized and existing under the laws of the state of North Carolina (hereinafter referred to as "County") and Hendersonville, a North Carolina Municipal Corporation organized and existing under the laws of the state of North Carolina (hereinafter referred to as "Municipality");

WHEREAS, the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) established the Coronavirus Relief Fund (CRF); and

WHEREAS, the State of North Carolina received approximately \$4.067 billion in CRF funds, including approximately \$481,000,000, which the U.S. Treasury sent directly to four local governments in the State; and

WHEREAS, S.L. 2020-80 allocates \$300 million of the State of North Carolina's CRF allocation to counties ineligible to receive direct funding from the federal CRF; and

WHEREAS, S.L. 2020-80 directs the recipient County to allocate at least 25 percent of the funds for use by municipalities within the County for necessary expenditures incurred due to the public health emergency as required by section 601(d) of the Social Security Act, as amended by the CARES Act; and

WHEREAS, S.L. 2020-80 requires the recipient County to determine the total amount allocated to each municipality within the County, and requires each municipality that receives funds to develop a plan to spend the funds by September 1, 2020, or the County can use those funds or redistribute to other municipalities; and

WHEREAS, S.L. 2020-80 makes the CRF allocations subject to recoupment by the U.S. Treasury if they are not used in an eligible manner according to the most recently published U.S. Treasury Department guidance for CRF; and

WHEREAS, S.L. 2020-80 states counties and municipalities are liable to the State for any misuse or mishandling of the funds, and subject to clawback and other appropriate measures, including the reduction or elimination of other State Funds; and

WHEREAS, S.L. 2020-80 states any local government officer, official, or employee will be subject to a civil action by the State and held personally liable for reimbursement for violating the requirements of the CRF allocation; and

WHEREAS, S.L. 2020-80 and the North Carolina Pandemic Recovery Office have structured the administration of the CRF allocation to require the County to administer the allocation to municipalities and submit expenditure plans to the State; and

WHEREAS, the North Carolina Pandemic Recovery Office has advised that municipalities shall be directly liable to the State for violating the requirements of the CRF allocation; and

WHEREAS, the County's CRF allocation is \$4,439,236, and of that amount, the municipal governments within the County share \$1,109,809; and

WHEREAS, the Municipality's CRF allocation (to be used as reimbursement for qualifying expenditures) is \$597,013.

NOW, THEREFORE, it is agreed as follows:

1. The County shall allocate to the Municipality \$597,013 as the Municipality's share for reimbursement for expenditures as specified in the Municipality's plan, due Sept. 1, 2020. As stated in S.L. 2020-80, U.S. Treasury Guidance, and N.C. Pandemic Recovery Office guidance, the county is administering the local government CRF allocation. Counties and municipalities are liable to the State for any misuse or mishandling of the funds allocated to each entity, and subject to clawback and other appropriate measures, including the reduction or elimination of State Funds.
2. Municipality agrees to expend funds allocated pursuant to this Agreement in compliance with the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136), S.L. 2020-80, U.S. Treasury Department Guidance, and NC Pandemic Recovery Office guidance. Any funds allocated by the County to the Municipality that are found to be expended in violation of all applicable laws and guidance shall be repaid by the Municipality to the State of North Carolina. The County assumes no liability for any violations of CRF expenditure requirements by the Municipality, its officers, agents, or employees, for funds allocated by the County to the Municipality. The Municipality shall maintain documentation of their expenditures to ensure compliance with reporting and auditing requirements.

3. In accordance with guidance from the U.S. Treasury Department, CRF payments are federal financial assistance subject to Single Audit requirements found in Uniform Guidance 2 CFR §200 Subpart F. CRF is a federal program with a CFDA No. 21.019. The U.S. Treasury Department is the federal granting agency and, except for the four local governments that received CRF directly, the Office of State Management and Budget (OSBM) is the State pass-through entity. The Uniform Guidance CFR §200 Subparts B, C, D, and E do not apply, except for §200.303 and §§ 200.330 through 200.332.
4. In order to comply with State reporting requirements required pursuant to S.L. 2020-80, the Municipality shall submit its CRF Plan to the County by September 1, 2020. Municipality acknowledges that failure to submit its CRF Plan to the County by this date shall result in the loss of funding provided for in this Agreement. If the County has already transmitted funds to the Municipality and the Municipality fails to submit its CRF Plan to the County by the date provided for in this paragraph, the Municipality shall return the funds to the County.
5. In order to comply with monthly State reporting requirements on use of the funds, Municipality shall submit the required forms to the County by the 19th day of each month (or the previous business day if the 19th is on a weekend) for the County to upload to the State portal (Attachments C-1 and C-2 and supporting documentation). Following receipt of the monthly reports and substantiation for the amount requested for reimbursement, as required by OSBM, the County shall reimburse the Municipality for the funds expended.
6. Municipality will notify the County when the Municipality's allocation is fully spent, using the form found at "Attachment F Covid-19 Grant Outcomes and Accomplishments Final Report" to the North Carolina Pandemic Recovery Office "Coronavirus Relief Fund Frequently Asked Questions for Local Governments". However, if the Municipality's allocation will not be fully spent by December 1, the Municipality will notify the County of the same, in writing, by not later than November 20. It is the County's intent to reallocate any unspent funds by December 1st to other eligible CRF expenses to fully utilize all CRF funds for the community.
7. Modifications to this Agreement shall be in writing, signed, duly executed by the parties hereto, and kept on file along with the original Agreement.
8. Any notice permitted or required under this Agreement from one party to the other must be in writing and will be effective (a) on the date it was actually delivered to the addressee if delivered personally, or sent by a nationally recognized courier (such as FedEx or United Parcel Service) or sent by facsimile, or (b) three days after having been deposited in the United States mail, if sent by certified mail, return receipt request, in each case to the respective addresses of Municipality and the County listed below, or those other addresses of which either party gives the other party written notice:

If to the Municipality, to:

City of Hendersonville
160 Sixth Avenue E
Hendersonville, NC 28792-3775

If to the County, to:

Office of the County Manager
1 Historic Courthouse, Suite 2
Hendersonville, NC 28792

9. The parties agree that the terms and provisions of this Agreement shall be construed in accordance with the laws of the State of North Carolina. This Agreement contains the entire agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this **INTERLOCAL AGREEMENT** to be duly executed pursuant to authorization obtained in a duly adopted resolution or has otherwise been duly authorized to sign on behalf of their respective corporation.

City of Hendersonville

County of Henderson

By:

Barbara S. Volk

Mayor

By:

Ch. J. H. Kus

Chair, Board of Commissioners

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Samantha Reynolds

Finance Director of Henderson County

**Interlocal Agreement Between the County of Henderson
And the Town of Fletcher
For Management of Funds from the Coronavirus Relief Fund (CRF)
Established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act**

THIS INTERLOCAL AGREEMENT, made and entered into pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes this 1st day of Oct. 2020, by and between the County of Henderson, a body politic and corporate organized and existing under the laws of the state of North Carolina (hereinafter referred to as "County") and Fletcher, a North Carolina Municipal Corporation organized and existing under the laws of the state of North Carolina (hereinafter referred to as "Municipality");

WHEREAS, the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) established the Coronavirus Relief Fund (CRF); and

WHEREAS, the State of North Carolina received approximately \$4.067 billion in CRF funds, including approximately \$481,000,000, which the U.S. Treasury sent directly to four local governments in the State; and

WHEREAS, S.L. 2020-80 allocates \$300 million of the State of North Carolina's CRF allocation to counties ineligible to receive direct funding from the federal CRF; and

WHEREAS, S.L. 2020-80 directs the recipient County to allocate at least 25 percent of the funds for use by municipalities within the County for necessary expenditures incurred due to the public health emergency as required by section 601(d) of the Social Security Act, as amended by the CARES Act; and

WHEREAS, S.L. 2020-80 requires the recipient County to determine the total amount allocated to each municipality within the County, and requires each municipality that receives funds to develop a plan to spend the funds by September 1, 2020, or the County can use those funds or redistribute to other municipalities; and

WHEREAS, S.L. 2020-80 makes the CRF allocations subject to recoupment by the U.S. Treasury if they are not used in an eligible manner according to the most recently published U.S. Treasury Department guidance for CRF; and

WHEREAS, S.L. 2020-80 states counties and municipalities are liable to the State for any misuse or mishandling of the funds, and subject to clawback and other appropriate measures, including the reduction or elimination of other State Funds; and

WHEREAS, S.L. 2020-80 states any local government officer, official, or employee will be subject to a civil action by the State and held personally liable for reimbursement for violating the requirements of the CRF allocation; and

WHEREAS, S.L. 2020-80 and the North Carolina Pandemic Recovery Office have structured the administration of the CRF allocation to require the County to administer the allocation to municipalities and submit expenditure plans to the State; and

WHEREAS, the North Carolina Pandemic Recovery Office has advised that municipalities shall be directly liable to the State for violating the requirements of the CRF allocation; and

WHEREAS, the County's CRF allocation is \$4,439,236, and of that amount, the municipal governments within the County share \$1,109,809; and

WHEREAS, the Municipality's CRF allocation (to be used as reimbursement for qualifying expenditures) is \$352,655.

NOW, THEREFORE, it is agreed as follows:

1. The County shall allocate to the Municipality \$352,655 as the Municipality's share for reimbursement for expenditures as specified in the Municipality's plan, due Sept. 1, 2020. As stated in S.L. 2020-80, U.S. Treasury Guidance, and N.C. Pandemic Recovery Office guidance, the county is administering the local government CRF allocation. Counties and municipalities are liable to the State for any misuse or mishandling of the funds allocated to each entity, and subject to clawback and other appropriate measures, including the reduction or elimination of State Funds.
2. Municipality agrees to expend funds allocated pursuant to this Agreement in compliance with the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136), S.L. 2020-80, U.S. Treasury Department Guidance, and NC Pandemic Recovery Office guidance. Any funds allocated by the County to the Municipality that are found to be expended in violation of all applicable laws and guidance shall be repaid by the Municipality to the State of North Carolina. The County assumes no liability for any violations of CRF expenditure requirements by the Municipality, its officers, agents, or employees, for funds allocated by the County to the Municipality. The Municipality shall maintain documentation of their expenditures to ensure compliance with reporting and auditing requirements.

3. In accordance with guidance from the U.S. Treasury Department, CRF payments are federal financial assistance subject to Single Audit requirements found in Uniform Guidance 2 CFR §200 Subpart F. CRF is a federal program with a CFDA No. 21.019. The U.S. Treasury Department is the federal granting agency and, except for the four local governments that received CRF directly, the Office of State Management and Budget (OSBM) is the State pass-through entity. The Uniform Guidance CFR §200 Subparts B, C, D, and E do not apply, except for §200.303 and §§ 200.330 through 200.332.
4. In order to comply with State reporting requirements required pursuant to S.L. 2020-80, the Municipality shall submit its CRF Plan to the County by September 1, 2020. Municipality acknowledges that failure to submit its CRF Plan to the County by this date shall result in the loss of funding provided for in this Agreement. If the County has already transmitted funds to the Municipality and the Municipality fails to submit its CRF Plan to the County by the date provided for in this paragraph, the Municipality shall return the funds to the County.
5. In order to comply with monthly State reporting requirements on use of the funds, Municipality shall submit the required forms to the County by the 19th day of each month (or the previous business day if the 19th is on a weekend) for the County to upload to the State portal (Attachments C-1 and C-2 and supporting documentation). Following receipt of the monthly reports and substantiation for the amount requested for reimbursement, as required by OSBM, the County shall reimburse the Municipality for the funds expended.
6. Municipality will notify the County when the Municipality's allocation is fully spent, using the form found at "Attachment F Covid-19 Grant Outcomes and Accomplishments Final Report" to the North Carolina Pandemic Recovery Office "Coronavirus Relief Fund Frequently Asked Questions for Local Governments". However, if the Municipality's allocation will not be fully spent by December 30, the Municipality will notify the County of the same, in writing, by not later than November 20. It is the County's intent to reallocate any unspent funds by December 1st to other eligible CRF expenses to fully utilize all CRF funds for the community.
7. Modifications to this Agreement shall be in writing, signed, duly executed by the parties hereto, and kept on file along with the original Agreement.
8. Any notice permitted or required under this Agreement from one party to the other must be in writing and will be effective (a) on the date it was actually delivered to the addressee if delivered personally, or sent by a nationally recognized courier (such as FedEx or United Parcel Service) or sent by facsimile, or (b) three days after having been deposited in the United States mail, if sent by certified mail, return receipt request, in each case to the respective addresses of Municipality and the County listed below, or those other addresses of which either party gives the other party written notice:

If to the Municipality, to:

Town of Fletcher
300 Old Cane Creek Road
Fletcher, NC 28732-0045

If to the County, to:

Office of the County Manager
1 Historic Courthouse, Suite 2
Hendersonville, NC 28792

9. The parties agree that the terms and provisions of this Agreement shall be construed in accordance with the laws of the State of North Carolina. This Agreement contains the entire agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this **INTERLOCAL AGREEMENT** to be duly executed pursuant to authorization obtained in a duly adopted resolution or has otherwise been duly authorized to sign on behalf of their respective corporation.

City of Fletcher

County of Henderson

By:

Bob A. Whiteside
Mayor

By:

Dave S. Harkins
Chair, Board of Commissioners

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Samantha Reynolds
Finance Director of Henderson County

**Interlocal Agreement Between the County of Henderson
And the Town of Mills River
For Management of Funds from the Coronavirus Relief Fund (CRF)
Established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act**

THIS INTERLOCAL AGREEMENT, made and entered into pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes this 1st day of Oct. 2020, by and between the County of Henderson, a body politic and corporate organized and existing under the laws of the state of North Carolina (hereinafter referred to as "County") and Mills River, a North Carolina Municipal Corporation organized and existing under the laws of the state of North Carolina (hereinafter referred to as "Municipality");

WHEREAS, the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) established the Coronavirus Relief Fund (CRF); and

WHEREAS, the State of North Carolina received approximately \$4.067 billion in CRF funds, including approximately \$481,000,000, which the U.S. Treasury sent directly to four local governments in the State; and

WHEREAS, S.L. 2020-80 allocates \$300 million of the State of North Carolina's CRF allocation to counties ineligible to receive direct funding from the federal CRF; and

WHEREAS, S.L. 2020-80 directs the recipient County to allocate at least 25 percent of the funds for use by municipalities within the County for necessary expenditures incurred due to the public health emergency as required by section 601(d) of the Social Security Act, as amended by the CARES Act; and

WHEREAS, S.L. 2020-80 requires the recipient County to determine the total amount allocated to each municipality within the County, and requires each municipality that receives funds to develop a plan to spend the funds by September 1, 2020, or the County can use those funds or redistribute to other municipalities; and

WHEREAS, S.L. 2020-80 makes the CRF allocations subject to recoupment by the U.S. Treasury if they are not used in an eligible manner according to the most recently published U.S. Treasury Department guidance for CRF; and

WHEREAS, S.L. 2020-80 states counties and municipalities are liable to the State for any misuse or mishandling of the funds, and subject to clawback and other appropriate measures, including the reduction or elimination of other State Funds; and

WHEREAS, S.L. 2020-80 states any local government officer, official, or employee will be subject to a civil action by the State and held personally liable for reimbursement for violating the requirements of the CRF allocation; and

WHEREAS, S.L. 2020-80 and the North Carolina Pandemic Recovery Office have structured the administration of the CRF allocation to require the County to administer the allocation to municipalities and submit expenditure plans to the State; and

WHEREAS, the North Carolina Pandemic Recovery Office has advised that municipalities shall be directly liable to the State for violating the requirements of the CRF allocation; and

WHEREAS, the County's CRF allocation is \$4,439,236, and of that amount, the municipal governments within the County share \$1,109,809; and

WHEREAS, the Municipality's CRF allocation (to be used as reimbursement for qualifying expenditures) is \$61,200.

NOW, THEREFORE, it is agreed as follows:

1. The County shall allocate to the Municipality \$61,200 as the Municipality's share for reimbursement for expenditures as specified in the Municipality's plan, due Sept. 1, 2020. As stated in S.L. 2020-80, U.S. Treasury Guidance, and N.C. Pandemic Recovery Office guidance, the county is administering the local government CRF allocation. Counties and municipalities are liable to the State for any misuse or mishandling of the funds allocated to each entity, and subject to clawback and other appropriate measures, including the reduction or elimination of State Funds.
2. Municipality agrees to expend funds allocated pursuant to this Agreement in compliance with the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136), S.L. 2020-80, U.S. Treasury Department Guidance, and NC Pandemic Recovery Office guidance. Any funds allocated by the County to the Municipality that are found to be expended in violation of all applicable laws and guidance shall be repaid by the Municipality to the State of North Carolina. The County assumes no liability for any violations of CRF expenditure requirements by the Municipality, its officers, agents, or employees, for funds allocated by the County to the Municipality. The Municipality shall maintain documentation of their expenditures to ensure compliance with reporting and auditing requirements.

3. In accordance with guidance from the U.S. Treasury Department, CRF payments are federal financial assistance subject to Single Audit requirements found in Uniform Guidance 2 CFR §200 Subpart F. CRF is a federal program with a CFDA No. 21.019. The U.S. Treasury Department is the federal granting agency and, except for the four local governments that received CRF directly, the Office of State Management and Budget (OSBM) is the State pass-through entity. The Uniform Guidance CFR §200 Subparts B, C, D, and E do not apply, except for §200.303 and §§ 200.330 through 200.332.
4. In order to comply with State reporting requirements required pursuant to S.L. 2020-80, the Municipality shall submit its CRF Plan to the County by September 1, 2020. Municipality acknowledges that failure to submit its CRF Plan to the County by this date shall result in the loss of funding provided for in this Agreement. If the County has already transmitted funds to the Municipality and the Municipality fails to submit its CRF Plan to the County by the date provided for in this paragraph, the Municipality shall return the funds to the County.
5. In order to comply with monthly State reporting requirements on use of the funds, Municipality shall submit the required forms to the County by the 19th day of each month (or the previous business day if the 19th is on a weekend) for the County to upload to the State portal (Attachments C-1 and C-2 and supporting documentation). Following receipt of the monthly reports and substantiation for the amount requested for reimbursement, as required by OSBM, the County shall reimburse the Municipality for the funds expended.
6. A Final Report (Attachment F) will be required when the Municipality's allocation is fully spent or by November 20th, whichever is earlier. It is the County's intent to reallocate any unspent funds by December 1st to other eligible CRF expenses to fully utilize all CRF funds for the community.
7. Modifications to this Agreement shall be in writing, signed, duly executed by the parties hereto, and kept on file along with the original Agreement.
8. Any notice permitted or required under this Agreement from one party to the other must be in writing and will be effective (a) on the date it was actually delivered to the addressee if delivered personally, or sent by a nationally recognized courier (such as FedEx or United Parcel Service) or sent by facsimile, or (b) three days after having been deposited in the United States mail, if sent by certified mail, return receipt request, in each case to the respective addresses of Municipality and the County listed below, or those other addresses of which either party gives the other party written notice:

If to the Municipality, to:

Town of Mills River
124 Town Center Drive
Mills River, NC 28759-5507

If to the County, to:

Office of the County Manager
1 Historic Courthouse, Suite 2
Hendersonville, NC 28792

9. The parties agree that the terms and provisions of this Agreement shall be construed in accordance with the laws of the State of North Carolina. This Agreement contains the entire agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this **INTERLOCAL AGREEMENT** to be duly executed pursuant to authorization obtained in a duly adopted resolution or has otherwise been duly authorized to sign on behalf of their respective corporation.

Town of Mills River

County of Henderson

By: _____

Mayor

By: _____

Chair, Board of Commissioners

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Samantha Reynolds
Finance Director of Henderson County

**LINE-ITEM TRANSFER REQUEST
HENDERSON COUNTY**



Department: DSS

Please make the following line-item transfers:

What expense line-item is to be increased?

Account	Line-Item Description	Amount
<u>115531-526201</u>	<u>NON-CAPITAL TECHNOLOGY</u>	<u>\$105,631</u>
<u>215400-598011</u>	<u>TRANSFER TO GENERAL FUND</u>	<u>\$105,631</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

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

Account	Line-Item Description	Amount
<u>114980-402100</u>	<u>TRANSFER FROM CAPITAL RESERVE FUND</u>	<u>\$105,631</u>
<u>214400-401000</u>	<u>FUND BALANCE APPROPRIATED</u>	<u>\$105,631</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

Justification: *Please provide a brief justification for this line-item transfer request.*
 TO BUDGET FOR CONVERSION PROJECT INCLUDING LICENSING AND SOFTWARE SERVICES FOR DSS DOCUMENT
 MANAGEMENT SYSTEM. APPROVED BY BOC 10.21.2020

 Authorized by Department Head

 Date

 Authorized by Budget Office

 Date

 Authorized by County Manager

 Date

For Budget Use Only

Batch # _____

BA # _____

Batch Date _____

HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite #1
Hendersonville, NC 28792
Phone (828) 697-4808 • Fax (828) 692-9855
www.hendersoncountync.org

GRADY HAWKINS
Chairman
WILLIAM LAPSLEY
Vice-Chairman

CHARLIE MESSER
J. MICHAEL EDNEY
REBECCA MCCALL

PROCLAMATION WORLD POLIO DAY

October 24, 2020

- WHEREAS,** Rotary is a global network of neighbors, friends, leaders, and problem-solvers who unite and take action to create lasting change in communities across the globe; and
- WHEREAS,** the Rotary motto, Service Above Self, inspires members to provide humanitarian service, follow high ethical standards, and promote goodwill and peace in the world; and
- WHEREAS,** Rotary in 1985 launched PolioPlus and in 1988 helped establish the Global Polio Eradication Initiative, which today includes the World Health Organization, U.S. Centers for Disease Control and Prevention, UNICEF, and the Bill & Melinda Gates Foundation, and Gavi, the Vaccine Alliance, to immunize the children of the world against polio; and
- WHEREAS,** polio cases have dropped by 99.9 percent since 1988 and the world stands on the threshold of eradicating the disease; and
- WHEREAS,** to date, Rotary has contributed more than US\$2.1 billion and countless volunteer hours to protecting more than 2.5 billion children in 122 countries; and
- WHEREAS,** Rotary is working to raise an additional \$50 million per year, which would be leveraged for maximum impact by an additional \$100 million annually from the Bill & Melinda Gates Foundation; and
- WHEREAS,** these efforts are providing much-needed operational support, medical staff, laboratory equipment, and educational materials for health workers and parents; and
- WHEREAS,** in addition, Rotary has played a major role in decisions by donor governments to contribute more than \$10 billion to the effort; and
- WHEREAS,** there are over 1.2 million Rotary members in more than 35,000 clubs throughout the world that sponsor service projects to address such critical issues as poverty, disease, hunger, illiteracy, and the environment in their local communities and abroad;

NOW, THEREFORE, BE IT PROCLAIMED, that we, the Henderson County Board of Commissioners, do hereby designate October 24, 2020, as World Polio Day in Henderson County and encourage all citizens to join the County, Four Seasons Rotary and Rotary International in the fight for a polio-free world.

Adopted this the 21st day of October, 2020.


GRADY HAWKINS, CHAIRMAN
HENDERSON COUNTY BOARD OF COMMISSIONERS

ATTEST:


TERESA L. WILSON, CLERK TO THE BOARD

Please make the following line-item transfers:

What expense line-item is to be increased?

Account	Line-Item Description	Amount
115930-534006	OCCUPANCY TAX TRANSMITTAL	\$2,126,263

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

Account	Line-Item Description	Amount
114839-433000	OCCUPANCY TAXES	\$2,126,263

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

BUDGET FOR FY21 GROSS OCCUPANCY TAX COLLECTIONS. \$2,095,000 NET COLLECTIONS WERE BUDGETED FOR TDA. 3% FEE RETAINED FOR THE FIRST \$500,000 COLLECTED AND 1% FEE RETAINED BY THE COUNTY FOR THE REMAINING AMOUNTS COLLECTED. GROSS AMOUNTS COLLECTED BY THE COUNTY WITH NET TRANSMITTED TO THE TDA. APPROVED BY THE BOC ON 10.21.2020

Authorized by Department Head

Date _____

10/21/2020

Authorized by Budget Office

Date _____

Authorized by County Manager

Date _____

For Budget Use Only

Batch #

BA #

Batch Date

MEMORANDUM OF AGREEMENT BETWEEN THE
United States Department of Agriculture, Natural Resources Conservation Service
AND THE
North Carolina Department of Agriculture and Consumer Services -- Division of Soil and Water
Conservation
AND THE
Henderson County Soil and Water Conservation District
AND Henderson County, North Carolina

Note: Other stakeholders and signatories may be added, as appropriate].

I. PURPOSE

This Memorandum of Agreement (MOA) is entered into between the United States Department of Agriculture (USDA) Natural Resources Conservation Service (hereafter referred to as NRCS), the North Carolina Department of Agriculture and Consumer Services -- Division of Soil and Water Conservation (hereafter referred to as the Division), the Henderson County Soil and Water Conservation District (hereafter referred to as the District), and the County of Henderson County, North Carolina (hereafter referred to as the County) [Note: Include additional stakeholders, as appropriate]

The NRCS and Henderson County Soil and Water Conservation District (referred to jointly as the Parties) have common objectives of delivering technical and financial assistance to farmers, ranchers, forest stewards, and other entities to voluntarily protect, restore, and enhance the productivity of American agricultural lands. The Parties recognize the importance of natural resources, the wise use and management of these natural resources, and, as appropriate, the protection and/or development of these natural resources. This agreement is made and entered into with the objectives of:

- Continuing to support the delivery of excellent and innovative customer service;
- Strengthening and modernizing conservation delivery to optimize efficiency and effectiveness;
- Broadening our outreach to existing and new customers and partners;
- Supporting science-based decision making as close to the resource issue/opportunity as possible;
- Encouraging a voluntary approach as the primary means of accomplishing conservation goals; and
- Using sound approaches to strengthen each Party and its role in the delivery of soil, water, and related natural resource conservation across the nation.

II. AUTHORITIES, STATUTES, LAWS

NRCS is authorized to cooperate and furnish assistance to the parties in the conservation of natural resources as referenced in the Soil Conservation and Domestic Allotment Act, 16 U.S.C. 590; The Department of Agriculture Reorganization Act of 1994, Public Law 103-354; and Secretary's Memorandum No. 1010-1, Reorganization of the Department of Agriculture, dated October 20, 1994.

The Division is authorized to enter into this agreement by the North Carolina General Statutes §139-4 and §106-840 - §106-844.

The District authority is defined in Soil Conservation Districts Law, General Statutes of North Carolina §139-1 - §139-47.

The County is authorized to enter into this agreement by North Carolina General Statute §153A-11 and §160A-461 - §160A-464

III. BACKGROUND

The NRCS and Henderson County Soil and Water Conservation District share a rich history of collaborating to deliver comprehensive technical and financial assistance to farmers, ranchers, forest stewards, and other entities to voluntarily protect, restore, and enhance natural resources.

The Soil Conservation Service was established in 1935 (renamed NRCS in 1994 to reflect its broader conservation mission). NRCS is committed to "helping people help the land." It provides assistance and resources for conservation practices that improve water and air quality, prevent erosion, restore wetlands, and enhance wildlife. NRCS's approach to mission delivery and customer service is deeply rooted in the notion that locally-led, voluntary efforts yield the most effective and productive outcomes. Locally-led conservation is the principle that farmers, ranchers, and forest stewards know their lands better than anyone else based on their personal knowledge and experience with those lands. As such, they are best positioned to make optimal decisions for the benefit of their operations, its natural resource conditions, and their communities.

The first Conservation District, Brown Creek Soil and Water Conservation District in Anson County, North Carolina, was established in 1937 to provide local leadership in natural resources management. Conservation Districts serve as the link between federal and state agency resources with the local farmers, ranchers, and forest stewards. They are responsible for promoting and carrying out their conservation programs by assisting communities and its members develop, apply, and maintain appropriate conservation practices and resource management systems. They are authorized to provide broad area planning and implementation assistance to units of government. They are a focal point for coordinating and delivering technical assistance and funding to their respective communities.

IV. STATEMENT OF MUTUAL BENEFIT

In conjunction with the NRCS, the Henderson County Soil and Water Conservation District coordinates and implements locally led conservation plans because of their connections to Federal, State, Tribal, and local governments; private resources; and the public. The Parties agree to facilitate cooperation, collaboration, and agreement between agencies, landowners, and others stakeholders; develop comprehensive conservation plans; and bring those plans to the attention of landowners and others within the district.

In addition, the Parties recognize the importance of working together to broaden strategic assessment and planning authority under the Soil and Water Resources Conservation Act of 1977 for the conservation, protection, and enhancement of soil, water, and related natural resources. The Parties further recognize that natural resources are finite and under increasing pressure from a variety of impacts. Soil, water, air, plants, animals, and energy are all addressed under the programs, initiatives, and partnership efforts of the Parties.

In order to deliver the necessary technical and financial assistance to enable locally-led, voluntary conservation, the Parties agree to adhere to the principles, roles, and responsibilities outlined in this Section of the MOA. This MOA does not affect or modify existing regulations or agency responsibilities and authorities. Moreover, this MOA does not commit either part to activities beyond the scope of their respective mission and statutory authorities.

A. Locally-Led, Voluntary Conservation

The Parties agree that locally-led, voluntary conservation must be driven by natural resource conservation needs, rather than by programs. Its primary focus is to identify natural resource concerns, along with related economic and social concerns. Locally-led conservation consists of a series of activities and phases that involve community stakeholders in natural resource planning, implementation of solutions, and evaluation of results:

The District will:

- Assist NRCS and the North Carolina Soil and Water Conservation Commission (SWCC) in promoting federal, state, and local conservation programs by participating in outreach and community education activities.
- Advocate for a strong natural resource conservation program by keeping appropriate boards, landowners, legislators, county commissioners, and other key stakeholders apprised of conservation activities within the district.
- Assemble and chair the local working group, as chartered under the State Technical Committee and authorized by 7 CFR 610, Part C, to encourage stakeholder participation to assist the District to assess and prioritize conservation needs.
 - Encourage diverse participation in local working groups through community outreach and education, to include stakeholders from historically underserved communities.
 - Open and advertise local working group meetings to the public.
 - Develop the agenda and associated materials/information for local working groups.
 - Develop and file local working group meeting records within 30 calendar days of the meetings at the local NRCS office.
 - Adhere to local working group responsibilities and standard operating procedures, as documented in NRCS and SWCC policy (Title 440, Conservation Programs Manual).
- Develop the conservation needs assessment through broad-based community participation and in accordance with NRCS and SWCC policy and procedures. This will provide a comprehensive evaluation of the district's natural resource base and be the basis for making decisions about local priorities or policies in all local conservation programs.
- Recommend local natural resource priorities and criteria for NRCS and SWCC conservation activities and programs based on the conservation needs assessment and public input.
- Develop a District Long-Range Plan every three (3) years and an Annual Plan of Work each year. These documents must incorporate local and community inputs.
- Identify NRCS, SWCC, and other program resources, develop and implement conservation plans and natural resource systems, and evaluate/measure the technical and community impacts of solutions.
- Review and sign to acknowledge all conservation plans within the District.
- Update NRCS on activities of local and state advisory committees and community groups attended by District board members and staff.
- Cooperate and collaborate across Districts, as appropriate.

NRCS will:

- Support outreach activities and ensure the District is kept informed of NRCS activities and programs on at least a monthly basis. This includes bringing technical and financial assistance opportunities (including matching fund strategies) to the attention of the District.
- Work cooperatively to solicit and leverage community recommendations to inform priorities that guide the delivery of NRCS conservation programs.
 - Designate a representative to participate in District meetings and events, including local working group meetings.
 - Develop and transmit written notifications to the local working group members as to the decisions made in response to their recommendations within 90 days.
- Respond to requests from the District for technical guidance and assistance.
- Partner with local and Tribal agricultural, conservation, agency, and community groups where possible, to further District natural resource conservation goals and objectives.

- Provide an annual summary of NRCS accomplishments to the District.
- Present all conservation plans within the District to the District Board of Supervisors for signed acknowledgement.

B. Adherence to Technical Standards

The Parties agree to the use of science-based decision-making to address local natural resource issues. Implementation of sound conservation plans and practices will strengthen each party, as well as their roles in the delivery of soil and water conservation.

The District will:

- Adhere to Federal, State, Local, and Tribal laws and regulations.
- Adopt NRCS and SWCC policies and procedures, including the NRCS Field Office Technical Guide (FOTG), and other science-based technical standards.
- Leverage and promote use of USDA and SWCC technologies and applications, as appropriate.
- Encourage and support acquisition of conservation practice job approval authority for its personnel based on employee knowledge, skill and ability level, and within applicable laws and guidelines.
- Participate in local, state, and national opportunities for policy, program, and project development.
- Develop a plan for training its employees and encourage them to attend available training sessions to maintain their knowledge, skills, and abilities related to conservation planning and practice Inventory & Evaluation, design, layout, checkout, and certification.

NRCS will:

- Develop, update, and disseminate technical standards, policies, and procedures.
- Seek input and comment from communities on natural resource conservation policies and issues.
- Inform the District and communities when pending statutes, laws, regulations, policies, or procedures may have a significant impact on the community.
- Develop and provide access to USDA technologies and applications to facilitate shared standards, as appropriate.
- Evaluate non-NRCS employees and assign USDA/NRCS job approval authority in accordance with NRCS policy and consistent with State laws.
- Provide USDA/NRCS engineering job approval, as based on job class and in accordance with NRCS policy and Federal, State, and local laws, regulations and codes.
- Create and promote opportunities for the District board members and staff to participate in policy, program, and project development.
- Provide technical or other training for conservation partnership employees in conjunction with its own training, or as separate events. Training must be consistent with and support of mission objectives of NRCS and the District. As such, the principle emphasis will be on the delivery of field-based conservation technical assistance.

C. Data and Information Sharing

Any information furnished to NRCS under this agreement is subject to the Freedom of Information Act (5 U.S.C. 552). Cooperators providing technical or financial assistance under USDA programs may have access to information that must not be subsequently disclosed and may only be used for the purpose of providing that assistance.

See Appendix A, "ACKNOWLEDGMENT OF REQUIREMENTS FOR PROTECTION OF PRIVACY OF PERSONAL AND GEOSPATIAL INFORMATION RELATING TO NATURAL RESOURCES CONSERVATION SERVICE PROGRAMS." The signatory agrees to abide by these requirements as a condition of receiving access to such information.

V. PERSONNEL AND FISCAL MANAGEMENT

The parties recognize that natural resources conservation programs are delivered through an intergovernmental system, in which federal, state, and local governments work together.

The parties will work together to provide staffing and fiscal resources commensurate with workload, priorities, allocated funding, and expertise necessary to deliver a balanced and diversified conservation delivery framework. Staffing will be a mix of employees provided by federal, state, county, and district resources. There are certain authorities delegated to specific staff as follows:

The Department Head Will:

The parties jointly agree that the District Director will serve as the Henderson County Soil and Water Conservation District Department Head. The Department Head will represent the District and its employees at county meetings, conferences, and appropriate functions.

Personnel Management

The management of personnel will be as follows:

- a) Hiring and dismissal of district employees will be in accordance with county personnel policies or district policy when employees are not employed by the county.
- b) The management of NRCS personnel is the responsibility of NRCS.
- c) Hiring, supervision, development, evaluation, and dismissal of county employees will be done in accordance with applicable law and county personnel policies.
- d) The management of county employees is the responsibility of the Henderson County Soil and Water Conservation District Board of Supervisors. In the interest of facilitating these responsibilities, the Supervisory Soil Conservationist (SSC) is delegated the authority for:
 - 1) Technical supervision
 - a. The Supervisory Soil Conservationist is assigned the role of Technical Supervisor for USDA Certified Planner Designation (CPD) and Job Approval Authority (JAA). As a condition of assigning USDA/NRCS CPD and JAA or for ecological sciences and engineering practices to District employees, NRCS must periodically review the technical work of these employees to assure adherence to planning and design standards and policy. NRCS Area Office personnel will also periodically review the technical work of both NRCS and District employees in the office with USDA/NRCS JAA.
 - 2) Assist in delivery of employee technical training and development.
- e) The Department Head will make recommendations to the Henderson County Soil and Water Conservation District Board of Supervisors regarding the following in accordance with county government policy:
 - 1) Recruitment and hiring of district employees.
 - 2) Employee performance evaluation, including awards, disciplinary actions, and separation.

- 3) Leave coordination and approval.
- 4) Certification of Time and Attendance Reports.
- 5) Determination and approval of training requiring expenditure of district funds.
- 6) For counties with technicians cost shared through the state's cost share programs, responsibility for documenting 1040 hours for each funded position spent per year on non-point source pollution control issues by office staff.

In the event that a county employee feels aggrieved, their recourse is according to county government personnel policy. The parties agree to work cooperatively to resolve employee grievances.

Fiscal Management

The parties will work together to maximize available resources and actively seek funding to accomplish natural resource priorities and programs.

Each party is responsible for its own fiscal resources to include equipment, supplies, and accounts.

The Department Head and District Administrative Assistant will actively assist the district with the following:

- 1) Development of operating budgets.
- 2) Tracking of expenditures for maintaining funding accountability.
- 3) Making recommendations regarding expenditure of funds and purchases.

VI. GENERAL PROVISIONS

A. Period of Performance

This MOA takes effect upon the signature of the Parties and shall remain in effect until mutually modified or terminated.

B. Amendments

This MOA may be extended or amended upon written request of either Party and the subsequent written concurrence of the other. Either of the parties may terminate this MOA with a 60-day written notice to the other.

This state-level MOA may be supplemented by a local-level MOA, if desired and mutually agreed to by the parties. The local-level MOA reflects locally developed detailed working arrangements, to include NRCS's and Conservation District's Annual Workplan and/or Plan of Operations. These may include, but are not limited to, documenting specific objectives or goals, action items, provision for documentation of accomplishments, schedule of planned events, and assignment of responsibilities.

C. Transfer of Funding or Non-Monetary Resources

This MOA is established to document the collaborative relationship between the Parties. Nothing in this MOA shall require either Party to obligate or transfer funding, or anything of value. This may include, but is not limited to:

- Office spaces and equipment/supplies
- Vehicles and associated expenses (e.g., fuel, maintenance)
- Computers, software, and technical equipment

The transfer of funding or other resources of value among the Parties offices requires execution of a separate agreement. The appropriate instruments include:

- Cooperative Agreement (2 CFR 200.24), which allows federal agencies to transfer a thing of value to the State, local or Tribal government, or other recipient to carry out a public purpose of support or stimulation authorized by law of the United States.
- Contribution Agreement (7 CFR 6962a), which is a unique statutory authority allowing NRCS to enter into an agreement with a non-federal entity that shares a mutual purpose in carrying out NRCS programs. All parties must contribute resources to the accomplishment of these objectives.
- Reimbursable Agreement (31 USC 686; PL 90-577), which allows federal agencies to provide specialized or technical services to State and local governments.

D. Other

- This MOA is not intended to, and does not create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by any party against the agencies, officers, or any person or organization that is party to this agreement.

All activities and programs conducted under this MOA shall be in compliance with the nondiscrimination provisions contained in Titles VI and VII of the Civil Rights Act of 1964, as amended; Civil Rights Restoration Act of 1987 (Public Law 100-250); and other nondiscrimination statutes; namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendment of 1972, and the Age Discrimination Act of 1975. Also, they will be in accordance with regulations of the Secretary of Agriculture (7 CFR Part 15, subpart A), which provide that no person in the United State shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of an applicant or recipient receiving federal financial assistance from the Department of Agriculture or any Agency thereof.

All activities conducted under this MOA shall be in compliance with the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D).

VII. SIGNATURES

USDA Natural Resources Conservation Service

Henderson County Soil and Water
Conservation District

State Conservationist

Andrew C. Brannon
Chairperson

[Insert Date]

September 14, 2020
[Insert Date]

NCDA&CS - NC Division of Soil and Water
Conservation

Henderson County, NC

Director

SDOJA
[County Manager]

[Insert Date]

10-21-20
[Insert Date]

CITIZEN PARTICIPATION PLAN

This plan describes how the Henderson County will involve citizens in the planning, implementation and assessment of the Community Development Block Grant (CDBG) program. The plan provides for, and encourages, citizen participation and which emphasizes participation by persons of low- or moderate-income, particularly residents of predominantly low- and moderate-income neighborhoods, slum or blighted areas, and areas in which the grantee proposes to use CDBG funds. The regulations give ultimate responsibility for the design and implementation of the program to local elected officials and also requires that citizens be given an opportunity to serve in a key advisory role to these elected officials.

SCOPE OF CITIZEN PARTICIPATION

Citizens will be involved in all stages of the CDBG program, including program implementation, assessment of performance and design of changes in the Citizen Participation Plan. There will be two (2) general mechanisms for their involvement:

1. To attend or hold public hearings or community meetings; and
2. To provide individual citizen efforts in the form of comments, complaints or inquiries submitted directly to the Program Administrators or designated County official.

PROGRAM IMPLEMENTATION

Citizen participation in program implementation will occur primarily through consultation with the County. The County will be asked to review and comment on specific guidelines for approved project. They will also meet to review any program amendments, budget revisions and program modifications. All such changes will be discussed with the County and their comments considered prior to taking action. If program amendments require approval from the North Carolina Department of Commerce, a public hearing shall be held specifically on the amendment.

PROGRAM ASSESSMENT

As a part of the orientation to the program offered at the public hearing, citizens will be invited to submit comments on all aspects of program performance through the program year. Comments should be submitted in writing to County Manager, Historic Courthouse, 1 Historic Courthouse Square, Suite 1, Hendersonville, NC 28792. He will respond in writing within ten (10) days. If the response is unsatisfactory, the complainant should write directly to Chairman of the Board of Commissioners, Henderson County. He shall respond within ten (10) days.

If the citizen is still dissatisfied, he/she should write to North Carolina Department of Commerce, Commerce Finance Center, 4318 Mail Service Center, Raleigh, North Carolina 27699-4318, Attention: Program Representative, requesting an investigation of the problem. Program staff will also be available during normal business hours to respond to any citizen inquiries or complaints.

The Citizen Participation Plan will be subject to annual review and proposed revision, to occur in the period between the performance hearing and the public hearing on the subsequent year's application.

TECHNICAL ASSISTANCE

Technical Assistance will be provided to citizen organizations and groups of low/moderate income persons or target area residents upon request to County Henderson. Such assistance will support citizen efforts to develop proposals, define policy and organize for the implementation of the program. It is expected that such assistance will be provided directly to the County in response to their request. Assistance could be provided in the form of local presentations, informational handouts, research of a specific issue or other short-term efforts.

PUBLIC INFORMATION

The Henderson County will also undertake public information efforts to promote citizen participation. These efforts will include the following:

1. Public Notice of all Public Hearings will be published in the non-legal section of the local newspaper at least ten (10) days before the scheduled hearing. These notices will indicate the date, time, location and topics to be considered.
2. Orientation Information will be provided at the first public hearing. The Program Administrator(s) will make a presentation which covers: (a) the total amount of CDBG funds available and the competitive basis for award; (b) the range of eligible activities; (c) the planning process and the schedule of meetings and hearings; (d) the role of citizens in the program and (e) a summary of other program requirements, such as the environmental policies, fair housing provisions and contracting procedures.
3. A Public File containing program documentation will be available for review at the Henderson County Planning Department, during normal business hours. Included will be copies of the Application, Environmental Review Record, the Citizen Participation Plan and the Annual Performance Report. Other program documents are also available for citizen review on request at the Henderson County Planning Department consistent with applicable State and local laws regarding personal privacy and obligations of confidentiality.
4. Public Hearings an interpreter will be provided for all non-English speaking individuals and/or deaf individuals.

ADOPTED, this the 21st day of October 2020

Grady Hawkins
Henderson County Chief Elected Official

Don C. Hawkins
Henderson County Chairman CEO