

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
WEDNESDAY, NOVEMBER 18, 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, Vice-Chairman William Lapsley, 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, Engineer Marcus Jones, Construction Manager David Berry, DSS Director Jerrie McFalls, Recreation Director Carleen Dixon, Sheriff Lowell Griffin, Emergency Management/Rescue Coordinator Jimmy Brissie, Finance Director Samantha Reynolds, Budget Manager Megan Powell, Budget Analyst Sonya Flynn, HR Director Karen Ensley, Planning Director Autumn Radcliff, Purchasing Agent Doug Guffey, Interim Code Enforcement Services Director Matt Champion, PIO Kathryn Finotti - videotaping, Deputy Mike Marsteller as security.

CALL TO ORDER/WELCOME

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

INVOCATION

The invocation was provided by Pastor David Wright of Hendersonville Seventh-day Adventist Church.

PLEDGE OF ALLEGIANCE

The pledge of allegiance was led by Chairman Hawkins.

2020.98 PROCLAMATION OF A DAY OF PUBLIC THANKSGIVING AND PRAYER

Commissioner Rebecca McCall read aloud the Proclamation dated October 3, 1789 by the President of the United States George Washington, in honor of our country's heritage and sacrifices in the past.

Whereas, it is the duty of all nations to acknowledge the providence of Almighty God, to obey His will, to be grateful for His benefits, and humbly to implore His protection and favor, and

Whereas, Both Houses and Congress have by their joint Committee requested me "to recommend to the People of the United States a day of Public Thanksgiving and Prayer to be observed by acknowledging with grateful hearts the many signal favors of Almighty God especially by affording them an opportunity peaceably to establish a form of government for their safety and happiness."

Now, Therefore I do recommend and assign Thursday, the 26th day of November next, to be devoted by the People of these States to the service of that great and glorious Being, who is the beneficent Author of all the good that was, that is, or that will be.

Chairman Hawkins made the motion to adopt the proclamation. All voted in favor and the motion carried.

PUBLIC HEARINGS

Public Hearing for Consideration of Economic Development Incentives for Project Wheel

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

President of the Henderson County Partnership for Economic Development Brittany Brady stated a public hearing has been scheduled on November 18, 2020, at 9:30 a.m., regarding the granting of economic

DATE APPROVED: December 7, 2020

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development incentives for the Project Wheel company. An advertisement of this public hearing was published in the *Hendersonville Lightning* on November 4, 2020. According to the advertisement:

The company has requested to remain anonymous at this time due to competitive pressures. Project Wheel company is a manufacturing concern located inside the United States contemplating a new plant site in Henderson County.

Under the project as proposed, the public benefit to be derived from the capital project is a total taxable capital investment over five years by or on behalf of Project Wheel company of at least \$17,000,000.00 in real property (not including any land acquisition costs), and not less than \$21,000,000.00 in business personal property (equipment). The project would result in the creation of 150 new jobs, at an average wage of \$39,867.00, which is in excess of the median wage in Henderson County for full-time employment, plus other benefits. The contemplated incentives would last for a period of seven years from each investment. The first year's contemplated incentive, if granted, would be not more than \$13,464.00, based on the new investment, the number of new employees, and the Board's incentives guidelines. The maximum amount of incentives to be considered in this grant over the time period five years would be \$981,750.00.

At the conclusion of the public hearing, the Board may choose to take action, delay action to a subsequent meeting, or take no action.

Public Input:

There was none.

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

Vice-Chairman Lapsley made the motion to approve the economic incentive package as presented. All voted in favor and the motion carried.

Public Hearing for Consideration of Economic Development Incentives for Project Helios

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

President of the Henderson County Partnership for Economic Development Brittany Brady stated a public hearing has been scheduled on November 18, 2020, at 9:30 a.m., regarding the granting of economic development incentives for the Project Helios company. An advertisement of this public hearing was published in the *Hendersonville Lightning* on November 4, 2020. According to the advertisement:

The company has requested to remain anonymous at this time due to competitive pressures. Project Helios company is a manufacturing concern contemplating a new operation in Henderson County.

Under the project as proposed, the public benefit to be derived from the capital project is a total taxable capital investment over five years by or on behalf of Project Helios company of at least \$150,000.00 in real property improvements, and not less than \$5,000,000.00 in business personal property (equipment). The project would result in the creation of 60 new jobs, at an average wage of \$65,000, which is in excess of the median wage in Henderson County for full-time employment, plus other benefits. The contemplated incentives would last for a period of five years from each investment. The first year's contemplated incentive, if granted, would be not more than \$17,671.50, based on the new investment, the number of new employees, and the Board's incentives guidelines. The maximum amount of incentives to be considered in this grant over the time period five years would be \$114,403.93.

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At the conclusion of the public hearing, the Board may choose to take action, delay action to a subsequent meeting, or take no action.

Russ Burrell stated a public hearing has been scheduled on November 18, 2020, at 9:30 a.m., regarding

Public Input:

There was none.

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

Vice-Chairman Lapsley made the motion to approve the economic incentive package as presented. All voted in favor and the motion carried.

2020.99 Public Hearing to Consider Action in the Nature of Economic Development Under G. S. 158-7.1 (Interlocal with City of Hendersonville; Joint Agreement with Hendersonville and Economic Investment Fund of Henderson County)

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

Russ Burrell stated a public hearing has been scheduled on November 18, 2020, at 9:30 a.m., regarding proposed action in the nature of economic development under N.C. Gen. Stat. §158-7.1. An advertisement of this public hearing was published in the *Hendersonville Lightning* on November 4, 2020. According to the advertisement, this hearing concerns the following:

Two proposed complementary agreements, the first an interlocal agreement, pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes, with the City of Hendersonville, and the second a three party agreement with the City of Hendersonville and the Economic Investment Fund of Henderson County, Inc. (the "EIF", a North Carolina non-profit corporation). The purpose of the proposed agreements would be to provide financing for the purchase, by EIF, of certain real estate to be used as an industrial park, consisting of +/- 41.46 acres located between Crest Road and Commercial Blvd, having the following REIDs: 9967047, 9967049, 202522 (less +/- 0.97 acres), 9966235, 9966236, 9966237, and 202520. It is the intent of the Board of Commissioners to approve these agreements at the close of the public hearing. The property will be subjected by the EIF to restrictive covenants to restrict the property to uses that are consistent with the County's economic development policies and guidelines.

The terms of the agreements would include a net investment by the County of approximately \$470,000 as a loan to the EIF (as well as a like investment by the City of Hendersonville) to be used to purchase real estate to be used for location of industry. The EIF would borrow approximately \$1,170,000 from each of the City of Hendersonville and Henderson County (a total of \$2,340,000), would impose restrictive covenants on the property and subdivide it as an industrial subdivision, and then convey a portion of the real estate to the developer of the site for the Project Wheel company, and repay the County and the City the amounts loaned to the EIF except for the approximate loan amount noted above (\$470,000 each). Both the County and the City would then jointly hold a first lien deed of trust on the real estate securing the remaining balance of the sums loaned to the EIF, at a fair market value rate of interest. Release of the acreage from the lien of the deed of trust would be made in exchange for payment of a release fee of \$64,500 per acre but only if the acreage is sold by the EIF to entities that would qualify for economic development incentives under The County's Economic Assistance Guidelines.

The second agreement, an interlocal agreement, pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes, with the City of Hendersonville, would set out the parties' obligations to provide financing for the purchase as set out above.

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As these proposed agreements are in the nature of economic development under N.C. Gen. Stat. §158-7.1, the funds provided would be general property tax revenue. The public benefit from this transaction would be the employment and investment noted, above. In addition, the resulting transaction would make the remaining land obtained by the EIF (after the conveyance to the developer of the site for the Project Wheel corporation) increase in taxable value.

At the conclusion of the public hearing, the Board may choose to take action, delay action to a subsequent meeting, or take no action.

Public Input

1. William Garrison – (His brother Scott was also in attendance) Mr. Garrison stated this is family property, and his family is in full support of this project. Hopefully it will create jobs.

Brittany Brady stated the City is applying for a Golden Leaf Grant for water, however this not a conditional commitment. Their portion of the purchase of the property will come from the City's General Fund.

It was noted that Blue Ridge Fire Department would lose part of their tax base.

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

Commissioner McCall made the motion that the Board approves the Three-Party Agreement, that the Board resolves to approve the interlocal agreement, and directs staff to prepare the resolution for signature by the chairman. All voted in favor and the motion carried.

INFORMAL PUBLIC COMMENT

1. Chuck McGrady spoke regarding the Ecusta Trail. Moving forward, a Federal Grant will be utilized to purchase the property, with the money streaming through the State sometime in September. The hope is to close the deal in Spring 2021. We are waiting to see if the MPO is on board. He does not feel Henderson County has much skin in the game.
2. Chris Burns spoke regarding the Ecusta Trail. The greenway plan, he feels, was the first step in the process. The committee promised not to use tax funds for the project, and with the grant, this will happen. The Ecusta Trail will improve the quality of life for generations to come.

INFORMAL PUBLIC COMMENT VIA EMAIL

1. Marijane Pell - Several years ago, the Commissioners, in their wisdom, consulted with the people in Etowah to determine in what direction they wanted their community to grow. This took many months involving many people and meetings. Eventually, it was completed and then accepted by the commissioners. Since the time, there have been several new buildings built in Etowah. All of them have followed the outlines of what the Etowah public had agreed on. Until now. What happened? The criteria for building in Etowah was that the building could be siding but somewhere on the building there needed to be stone or brick. Where was the planning department in allowing this building to be built? This new building looks like a Quonset hut and its right in the middle of Etowah. What community wants a metal corrugated building in the middle of their community? Please do something to make this ugly building more attractive. It looks like it should be in an industrial park. Even if they just redo the front of the building...it could look much more attractive. Please try and help us. Many people, including you commissioners, worked very hard on our community plan. Please abide by it and ask the owners to make it fit in with the community.

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- Eric Clonch - I read a recent article about the proposal for what is known as the Mud Creek Greenway, which is immediately south of Downtown Hendersonville, and located between White Street and Erkwood Drive. This proposed portion of the greenway is less than 0.75 mile (i.e. - less than three-quarters of a mile) in length and is expected to cost between \$3,000,000 to \$4,000,000. I was shocked at the price-tag associated with this proposed section of the greenway. Across NC, the average cost of 1-mile of greenway is roughly \$800,000, which in and of itself is incredibly expensive. I actually cannot believe that the planning department is "recommending" that the County implement this proposed section of the greenway at a cost that exceeds \$4,000,000 when calculated in a 'per mile' manner. This appears to be a waste of County taxpayer money relative to the benefit it will provide to County residents, and I urge you not to use County taxpayer money in support of this section of the greenway at this cost. There may be other sections of the greenway where capital should be invested. There may be other priorities that need County funding, such as funding for the items listed as high-priorities in the soon-to-be-released Henderson County Parks & Recreation Needs Assessment Survey. Spending more than \$4,000,000 per mile to fund this section of the greenway does not seem like a wise use of County taxpayer money. Perhaps this section of the Greenway should be handed off to the City of Hendersonville Planning Department and funded by the City of Hendersonville since this section appears to be located either inside the City Limits of Hendersonville, or within its extended jurisdiction. All county residents are invited to provide feedback between now and November 16 via a survey found at <https://www.hendersoncountync.gov/greenway-network/page/mud-creek-greenway-feasibility-study-virtual-public-meeting>

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 – November 2, 2020 Regularly Scheduled Meeting

The Board is requested to adopt the Minutes from the November 2, 2020 meeting as presented.

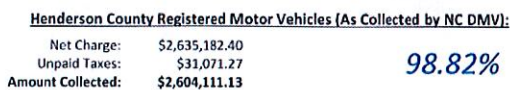
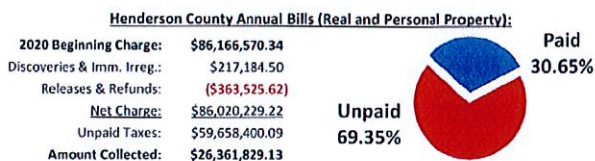
Motion:

I move the Board approves the Minutes of November 2, 2020.

Tax Collector’s Report

Collections Specialist Luke Small had presented the Tax Collector’s Report to the Commissioners dated November 6, 2020 for information only. No action was required.

Please find outlined below collections information through November 5, 2020 for 2020 real and personal property bills mailed on August 1, 2020. Vehicles taxes are billed monthly by NC DMV.



Henderson County FY21 Budget Analysis:

Budget Ordinance	Revenue Collected
Ad Valorem: \$87,594,211.00	Ad Valorem: \$28,965,940.26
Prior Years: \$1,035,000.00	Prior Years: \$389,665.54
Budget Total: \$88,629,211.00	YTD Revenue: \$29,355,605.80



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County Financial Report/Cash Balance Report – September 2020

The September 2020 County Financial and Cash Balance Reports were provided for the Board's review and approval.

The following are explanations for departments/programs with higher budget to actual percentages for the month of September:

- Emergency Management – FEMA expenditure reimbursement to partner agencies
- Medical Services – Autopsies – timing and quantity of services provided
- Juvenile Justice – timing of provider appropriations
- Public Education – payment of 3rd of 10 annual appropriations made to the public school system
- Non-departmental – collection of YTD occupancy tax transmitted to the Tourism Development Authority

Year to Date Net Revenues under expenditures for Emergency Telephone (911) Fund is due to the payment of annual service contracts.

The project to date deficit the BRCC Patton Building Project is due to the payment of architect fees and other expenditures for the project in the Capital Projects Fund, to be reimbursed from a future financing.

Motion:

I move the Board of Commissioners approves the September 2020 County Financial Report and Cash Balance Report as presented.

Henderson County Public Schools Financial Reports – August 2020

The Henderson County Public Schools August 2020 Local Current Expense Fund / Other Restricted Funds Report was provided for the Board's information.

Motion:

I move that the Board of Commissioners approves the Henderson County Public Schools August 2020 Financial Reports as presented.

Vaya Health – Quarterly Fiscal Monitoring Report (FMR) for the quarter ended September 30, 2020.

N.C.G.S. 122C-117(c) requires the staff of the local area mental health authority to provide the County Finance Officer with the quarterly Fiscal Monitoring Report (FMR) within 30 days of the end of the quarter. The County Finance Officer is then required to provide the FMR to the Board of Commissioners at the next regularly scheduled meeting of the board. The FMR for Vaya Health was received by the County Finance Officer on October 30, 2020.

Motion:

I move that the Board of Commissioners approves the Vaya Health Fiscal Monitoring Report for the quarter ended September 30, 2020.

2020.100 Adoption of financing resolution for Blue Ridge Community College construction project

The required initial resolution prepared by the County's Bond Counsel, Parker Poe Adams & Bernstein LLP, authorizes the negotiation of an installment financing contract and provides for certain other related matters for the financing of the Blue Ridge Community College Project. The maximum amount of this borrowing would be \$30,000,000. The County's obligation would be secured by the pledge of the Blue Ridge Community College property.

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A reimbursement resolution was previously adopted by the Board on April 17, 2020.

Note: The “maximum amount” figure in the resolution is not intended to accurately state the project costs or amount to be financed, but rather act as a safe harbor number for the purpose of these resolutions only.

The resolution makes the necessary findings for the project and the financing, authorizes the Finance Director to make an application to the Local Government Commission (LCG) for approval of the financing, and directs staff to retain the assistance of its bond counsel, financial advisor and the underwriter for the financing.

The resolution also sets a public hearing on the proposed financing for December 7, 2020 at 5:30 p.m. and directs the Finance Director to cause a notice of public hearing to be published once and no fewer than 14 days prior to the public hearing.

Motion:

I move that the Board adopts the financing resolution authorizing the negotiation of an installment financing contract and which provides for certain other related matters for the financing, and further move that the Board schedules the public hearing on the proposed financing for December 7, 2020 at 5:30 p.m.

Chairman Hawkins moved that the following resolution, copies of which having been made available to the Board of Commissioners, be adopted, by reading the title thereof (further reading waived without objection):

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO

WHEREAS, the County of Henderson, North Carolina (the “*County*”) is a validly existing political subdivision of the State of North Carolina, existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the “*State*”);

WHEREAS, the County has the power, pursuant to the General Statutes of North Carolina to (1) purchase real and personal property, (2) enter into installment purchase contracts in order to finance the purchase of real and personal property used, or to be used, for public purposes, and (3) grant a security interest in some or all of the property purchased to secure repayment of the purchase price;

WHEREAS, the Board hereby determines that it is in the best interest of the County to (1) enter into an Installment Financing Contract (the “*Contract*”) with Henderson County Governmental Financing Corporation (the “*Corporation*”) in order to pay the capital costs of renovation and expansion of the Patton Building on the campus of Blue Ridge Community College (the “*BRCC Facility*”) and the construction and equipping of a police training facility (collectively, the “*Project*”), and (2) to enter into a deed of trust, security agreement and fixture filing (the “*Deed of Trust*”) related to the County’s fee simple interest in certain real property on which the BRCC Facility is located (the “*Site*”) that will provide security for the County’s obligations under the Contract;

WHEREAS, the County hereby determines that the Project is essential to the County’s proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the Project will provide an essential use and will permit the County to carry out public functions that it is authorized

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by law to perform; and that entering into the Contract and Deed of Trust is necessary and expedient for the County by virtue of the findings presented herein;

WHEREAS, the County hereby determines that the Contract allows the County to finance the Project and take title thereto at a favorable interest rate currently available in the financial marketplace and on terms advantageous to the County;

WHEREAS, the County hereby determines that the estimated cost of financing the Project is an amount not to exceed \$26,000,000, and that such cost of the Project exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the County in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;

WHEREAS, although the cost of financing the Project pursuant to the Contract is expected to exceed the cost of financing the Project pursuant to a bond financing for the same undertaking, the County hereby determines that the cost of financing the Project pursuant to the Contract and the Deed of Trust and the obligations of the County thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of the Project; and (3) no revenues are produced by the Project so as to permit a revenue bond financing;

WHEREAS, the County has determined and hereby determines that the estimated cost of financing the Project pursuant to the Contract reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

WHEREAS, the County does not anticipate a future property tax increase to pay installment payments falling due under the Contract;

WHEREAS, Parker Poe Adams & Bernstein LLP, as special counsel ("*Bond Counsel*"), will render an opinion to the effect that entering into the Contract and the transactions contemplated thereby are authorized by law;

WHEREAS, no deficiency judgment may be rendered against the County in any action for its breach of the Contract, and the taxing power of the County is not and may not be pledged in any way directly or indirectly or contingently to secure any money due under the Contract;

WHEREAS, the County is not in default under any of its debt service obligations;

WHEREAS, the County's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the County has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget ordinance;

WHEREAS, past audit reports of the County indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the County has not been censured by the North Carolina Local Government Commission (the "*LGC*"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies;

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WHEREAS, a public hearing on the Contract after publication of a notice with respect to such public hearing must be held and approval of the LGC with respect to entering the Contract must be received; and

WHEREAS, the County hereby determines that all findings, conclusions and determinations of the County in this Resolution are subject to modification or affirmation after all interested parties have been afforded the opportunity to present their comments at a public hearing regarding the execution and delivery of the Contract and the Deed of Trust and the Project to be financed.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA, AS FOLLOWS:

Section 1. ***Authorization to Negotiate the Contract.*** That the County Manager and the Finance Director, with advice from the County Attorney and Bond Counsel, are hereby authorized and directed to proceed and negotiate on behalf of the County for the financing of the Project for a principal amount not to exceed \$26,000,000 under the Contract to be entered into in accordance with the provisions of Section 160A-20 of the General Statutes of North Carolina and to provide in connection with the Contract, as security for the County's obligations thereunder, a Deed of Trust conveying a lien and interest in the Site, including the improvements thereon, as may be required by the entity, or its assigns, providing the funds to the County under the Contract.

Section 2. ***Application to LGC.*** That the Finance Director or her designee is hereby directed to file with the LGC an application for its approval of the Contract and all relevant transactions contemplated thereby on a form prescribed by the LGC and to state in such application such facts and to attach thereto such exhibits regarding the County and its financial condition as may be required by the LGC.

Section 3. ***Direction to Retain Bond Counsel, Financial Advisor and Underwriter.*** That the County Manager and the Finance Director, with advice from the County Attorney, are hereby authorized and directed to retain the assistance of Parker Poe Adams & Bernstein LLP, Raleigh, North Carolina, as bond counsel; Stifel, Nicolaus and Company, Incorporated, Charlotte, North Carolina, as financial advisor; and PNC Capital Markets LLC, Charlotte, North Carolina, as underwriter.

Section 4. ***Public Hearing.*** That a public hearing (the "*Public Hearing*") shall be conducted by the Board of Commissioners on December 7, 2020 at 5:30 p.m. in the Commissioners' Meeting Room, Henderson County Historic Courthouse, Hendersonville, North Carolina, concerning the Contract, the Deed of Trust, the proposed Project and any other transactions contemplated therein and associated therewith.

Section 5. ***Notice of Public Hearing.*** That the Clerk to the Board is hereby directed to cause a notice of the Public Hearing, in the form attached hereto as Exhibit A, to be published once in a qualified newspaper of general circulation within the County no fewer than 10 days prior to the Public Hearing.

Section 6. ***Repealer.*** That all motions, orders, resolutions and parts thereof in conflict herewith are hereby repealed.

Section 7. ***Effective Date.*** That this Resolution is effective on the date of its adoption.

Low impact Development Initiative – This item was pulled from the agenda.

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2020.101 Proclamation – Breastfeeding Family Friendly Community Initiative

The WIC/Nutrition Program is one of many partners involved in the Henderson County Breastfeeding Coalition which was formed in September 2016 to promote and support breastfeeding within the community. This proactive group has recently moved forward with a campaign to achieve a Breastfeeding Family Friendly Community designation for Henderson County through endorsements by local governments, workplaces and organizations. Stakeholders agree to pursue the Ten Steps to a Breastfeeding Family Friendly Community to advance breastfeeding practices that will improve maternal and child health outcomes. The Henderson County Board of Health reviewed information about the initiative on two separate occasions and formally supported the effort on January 14, 2020 and subsequently requested on September 8, 2020 that the matter be forwarded to the Henderson County Board of Commissioners for their consideration.

The Henderson County Department of Public Health is requesting support of the breastfeeding initiative by adoption of the proposed proclamation.

Motion:

I move the Board approves the Proclamation to establish Henderson County as a Breastfeeding Family Friendly Community.

2020.102 Service Badge and Sidearm Request – Major Steve Carter

The Henderson County Sheriff's Office requests that the service badge and sidearm of Major for Field Operations, Steven Carter be given to him in recognition of his retirement from the Henderson County Sheriff's Office.

Major Steven Carter began his career with the Henderson County Sheriff's Office in September 1992 as a Reserve Deputy then quickly transitioned to Full-Time. He has held the ranks of Detention Officer, Deputy, Corporal, Sergeant, Lieutenant, Captain and Major. Major Carter served for over 28 years in the Sheriff's Office. He has spent his adult life serving our community as well as agencies throughout Western North Carolina. To honor him and show my gratitude, the Sheriff's Office intends to present him service badge and service sidearm to him.

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 Major Steven Carter.

2020.103 Service Badge and Sidearm Request – Master Deputy Kenneth McGraw

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

Deputy Kenneth McCraw began his career with the Henderson County Sheriff's Office as a Reserve Deputy for Ten (10) years as well as Full-Time from 1988-1990, then returning in 2000. He has held the ranks of Deputy, Master Deputy, Corporal and Sergeant. Deputy McCraw served for over 22 years in the Sheriff's Office. To honor him and show my gratitude, the Sheriff's Office intends to present him service badge and service sidearm to him.

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 Deputy Kenneth McCraw.

2020.104 Resolution Approving the Community Development Block Grants Coronavirus (CDBG-CV) Program Application

The NC Department of Commerce requires that the Board of Commissioners approve a resolution in support of the Community Development Block Grant (CDBG-CV) Program application before submittal to the State. The resolution certifies that the Board has followed all pre-application procedures for public hearings and approves the County’s submittal of the application.

Motion:

I move the Board approves the Resolution in support of the Community Development Block Grant Coronavirus Program Application.

2020.105 Memorandum of Understanding (MOU) – NC DHHS

Session Law 2017-41 requires all counties to enter into an annual written agreement with the Department of Health and Human Services (DHHS) for all social services programs excluding medical assistance (Medicaid). Although the law requires the written agreement to be executed no later than July 1st of each year, with the impact COVID19 has had on daily business, DHHS chose to not issue a new MOU for SFY 2020-2021 but continued to work with counties to meet or exceed these standards. The Department also determined that the next MOU would be issued for an effective date of January 1, 2021 to continue through June 30, 2022.

DHHS has provided a Memorandum of Understanding between DHHS and Henderson County effective for FY2-21-2022 which is attached for the Board’s consideration. DSS Staff will be present should the Board have any questions about the annual MOU.

Motion:

I move the Board adopts the MOU as presented, and authorizes the Chairman to sign the MOU on behalf of the Board.

2020.106 Soil and Water Conservation District – Grant Awards

The Henderson Soil and Water Conservation District is requesting that the Board approve a series of grants to be awarded to the department for two separate stream restoration projects, one at the Edneyville Community Center and one on the campus of Rugby Middle School. These grants will provide funding for similar projects at each site, which will include stream restoration, establishment of a riparian buffer and native vegetation, and the creation of educational access points/outdoor learning labs. The grants awarded for the two projects are in the table below:

Project Site	Grant Funder	Grant Amount
Edneyville Community Center	NC Department of Environmental Quality, Division of Water Resources: 319 NPS Pollution Control Grant	\$150,000
Edneyville Community Center	NC Attorney General: Environmental Enhancement Grant	\$90,000
Rugby Middle School	Duke Energy Foundation: Nature Grant	\$10,000
Rugby Middle School	NC Department of Environmental Quality, Division of Water Resources: Water Resources Development Grant	\$71,600

Motion:

I move the Board approves the grants for the stream restoration projects at the Edneyville Community Center and Rugby Middle School, and the associated Budget Amendment.

Bid Award for Purchase of Thirteen Dodge Chargers

The Board is requested to approve the low bid and authorize the Sheriff to proceed with the purchase of 13 Dodge Chargers. Bidding was conducted between October 21, 2020 and November 4, 2020.

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Twelve vehicles (12) vehicles were approved as part of the Sheriff's Fiscal Year 2021 budget and meet the Henderson County Vehicle Replacement Plan criteria. \$321,720.00 was budgeted in the FY2021 Budget for the purchase of these vehicles.

One vehicle was included in the bid specifications as a replacement for a wrecked vehicle that was totaled by the insurance agency. A budget amendment will be done when the insurance proceeds are received in the amount of \$21,906.96. The remainder of the funds needed was available in the Sheriff Department's capital vehicle budget line from savings from the Dodge Durango purchases earlier in the year. The total cost of the purchase of these thirteen vehicles is \$338,692.00.

Motion:

I move the Henderson County Board of Commissioners to accept the low bid from Autostar CDJR of Hendersonville for thirteen 2021 Dodge Chargers for \$338,692.00 and authorize the Sheriff to proceed with the purchase.

Bid Award for Purchase and Installation of Carpet

The Board is requested to approve the bid and authorize Facility Services to proceed with the purchase and installation of carpet at multiple County locations. Bidding was conducted between September 23, 2020 and October 14, 2020. The bid packet submitted by Leicester Flooring was initially the lowest price; however, after review of their bid it was determined that there were omissions, as noted in the bid tabulation, that resulted in Leicester Flooring withdrawing their bid. Professional Business Interiors Inc. was the next lowest bidder and had no omissions in their bid.

The purchase and installation of carpet at multiple County locations was approved as part of the Facility Services Planned Projects budget for Fiscal Year 2021. There is sufficient budget available for these projects.

Motion:

I move the Henderson County Board of Commissioners accept the bid from Professional Business Interiors Inc. (PBI Inc.) for the purchase and installation of carpet as specified and authorize Facility Services to proceed with the execution of the work.

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. **EMS Peer Review Committee – 1 vac.**
Position #15
2. **Fire Commission – 1 vac.**
Position #1
3. **Henderson County Zoning Board of Adjustment – 3 vac.**
Positions #1, 2 & 8
4. **Hendersonville Planning Board – 1 vac.**
Position #3
5. **Home and Community Care Block Grant Advisory Committee – 1 vac.**
Position #3
6. **Laurel Park Planning Board – 1 vac.**
Position #1

DISCUSSION/ADJUSTMENT OF DISCUSSION AGENDA

Chairman Hawkins made the motion to adopt the discussion agenda with the addition of discussion of Christmas Activities. All voted in favor and the motion carried

HENDERSON COUNTY AUDIT RESULTS FOR THE FISCAL YEAR ENDED JUNE 30, 2020

Ms. Cassie Wilson, CPA, manager with our external audit firm, Martin Starnes and Associates, CPAs, P.A. provided a brief executive summary presentation of the audit results and financial statements for the fiscal year ended June 30, 2020. Ms. Wilson and Samantha Reynolds, Finance Director were available to answer any questions the Board of Commissioners and Management may have regarding the results of the audit.

The Comprehensive Annual Financial Report (CAFR) and Compliance Letters will be submitted to the Local Government Commission (LGC) for final approval as required.

The final report will be placed on the County’s website for the public to view and in the main branch of the public library.

Audit Highlights

- Unmodified opinion
- Cooperative staff

Audit Process

- Planning and Risk Assessment
- Interim Procedures
- Final Procedures
- Year-Round Process

General Fund Expenditures / July 1, 2019 – June 30, 2020

Budgeted expenditures	\$ 159,829,820
Actual expenditures	\$ 150,567,521
Net expenditures under budget	\$ 9,262,299

General Fund Revenues – Budget / July 1, 2019 – June 30, 2020

Annual revenues	\$ 143,668,225
Other financing sources:	
Transfers in	\$ 2,393,922
Appropriated Fund Balance	\$ 13,767,673
Total budgeted revenues	\$ 159,829,820

General Fund Revenues / July 1, 2019 – June 30, 2020

Total budgeted revenues (Includes Fund Balance)	\$ 159,829,820
Actual revenues	\$ 157,962,429
Net revenues under budget	\$ -1,867,391

General Fund Summary Report / July 1, 2019 – June 30, 2020

	Actual
Total revenues	\$ 157,962,429
Total expenditures	\$ 150,567,521
Net change in Fund Balance	\$ 7,394,908

November 18, 2020

Fund Balance Position / General Fund

Unassigned Fund Balance	\$	31,426,092
BOC Policy Level (12% of actual FY 20 expenditures)	\$	<u>18,068,103</u>
Amount over BOC Policy (as of July 1, 2020)	\$	13,357,989

FY 20-21 Adopted Budget / General Fund

Annual Expenditures	\$	151,906,849
Annual Revenues	\$	135,643,954
Other financing sources:		
Transfers from other funds	\$	2,635,051
Fund Balance	\$	13,627,844

2020 ELECTIONS UPDATE

Elections Director Karen Hebb provided the Board of Commissioners with an update on the 2020 Election in Henderson County.

Karen Hebb stated results were certified last Friday, and the recounts begins tomorrow by refeed of ballots. It was a great election with record voting and a 78% turnout. All election employees have a great deal of overtime, some over 300 hours. County Departments; Human Resources, Finance, EMS, IT, Facilities Services, Wellness Clinic, and the Sheriff's Department were a huge assistance to the Election.

HENDERSON COUNTY RAILS TO TRAILS UPDATE

John Mitchell stated at the request of the Board of Commissioners, staff are working with Conserving Carolina to secure the rail corridor that exists between Hendersonville and Brevard. In the fall of 2019, Conserving Carolina was awarded a federal grant to purchase the property for rail-to-trail use.

In February of this year, the Board directed staff to pursue funding for the preliminary engineering and construction of the rail-trail. On August 27, the French Broad River MPO Board awarded the County funding for three of the five phases. Staff will update the Board of Commissioners about the status of the grants and long-term plans for construction.

This project has been part of the long-term vision of this board for many years, and this item is the culmination of many years of work.

History

Rails to Trails was outlined in the Comprehensive Plan and the Greenway Master Plan as a Priority Trail. The City of Hendersonville has completed a planning study and an Economic Development Impact Analysis.

The Rail Line is owned privately by Watco and can be sold or transferred to another owner. Watco made the decision to sell in 2019. County staff worked with Conserving Carolina to secure a Federal TAP Grant (Transportation Alternative Program) NCDOT. A Grant in the amount of \$6.4m was awarded. At the end of October, Conserving Carolina's Board voted to approve an offer with Watco Companies, to purchase the rail line between Hendersonville and Brevard. The agreed upon price is the amount of the NCDOT grant. The grant requires a 20% local match to secure the other 80%.

The purchase price is \$7,760,000. Watco has contracted to purchase the rails and the ties in the transaction for \$2,027,000. This money functions as the required 20% local match and serves to defray some of the additional costs.

November 18, 2020

Staff has been informed that NCDOT will be able to reimburse the grant by early December. The due diligence period in the contract between Watco and Conserving Carolina is four months. Meaning the property could close at the end of February. Staff believes that this could occur sooner, due to the availability of the State grant and the progress of the work being conducted by Conserving Carolina.

The Rail Banking process is occurring simultaneously. Watco will file for "abandonment" with the intent to form a rail-trail. This process typically can take up to 180 days. Staff believes it could be significantly shortened due to the availability of the State grant.

STBG-DA

- At the Boards mid month March meeting staff were directed to seek Surface Transportation Block Grant - Direct Attributable funds from the MPO to potentially build the rail trail.
- Due to the work of Commissioner McCall and Vice Chairman Bill Lapsley, we were successful in securing grants for the first three phases of construction of the trail. This is also an 80/20 match, and we are now working with our partners to raise the needed money for that match.

Current Status and Outlook

- Conserving Carolina has completed a rail appraisal, preliminary environmental design and survey.
- Conserving Carolina has formed an LLC to be the holding entity for the Rail-Trail
- Conserving Carolina has reached an agreement with Watco to purchase the line (Willing Buyer/Willing Seller)
- The 20% local match has been secured.
- Staff believes that the transaction could occur this winter or early spring - Surface Transportation Board - NCDOT

At the Board's direction, staff have been working to help secure this transaction. Since the State grant is a reimbursement, Conserving Carolina has asked the County to bridge the funding for the purchase to secure the grant. That funding would be for the total amount of the contract \$7,760,000. The Finance Department has confirmed that the County could accomplish this loan.

Request

- Conserving Carolina is seeking a bridge loan from the County to draw down the Federal TAP Grant funding.
- As the Board is aware, grant funding of this type is a reimbursement.
- If the Board wishes to continue forward with this project, we will need the boards direction to conclude the transaction.

Timing

- STBG-DA Funding could become available to spend next October, and the public could see work beginning after October of next year.

The County Attorney is drafting a contract which will protect the County's money during the period of the bridge financing.

Commissioner Edney made the motion that the Board authorize staff to move forward. All voted in favor and the motion carried.

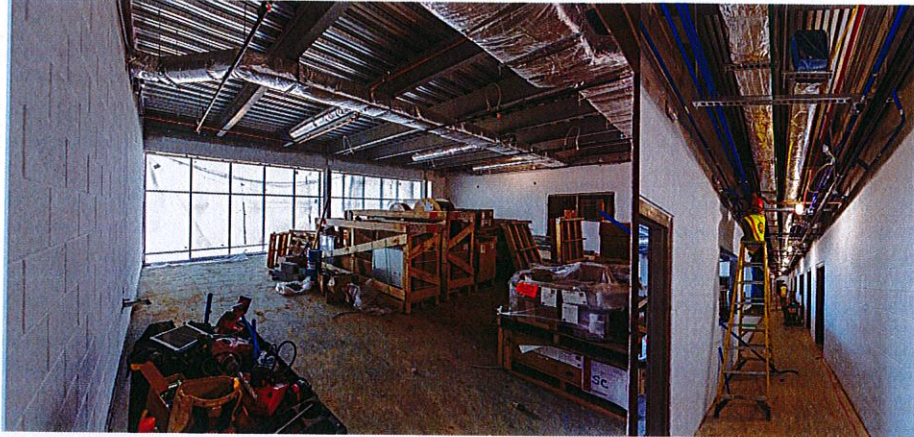
CONSTRUCTION PROJECTS UPDATE

David Berry provided the Board of Commissioners with an update on the construction projects around Henderson County. This monthly report is a review of the scope and statuses of assigned construction

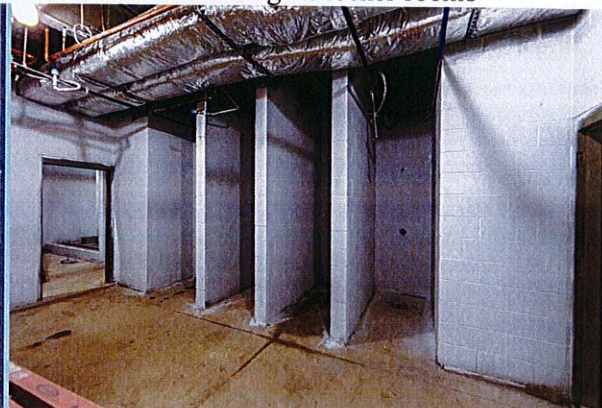
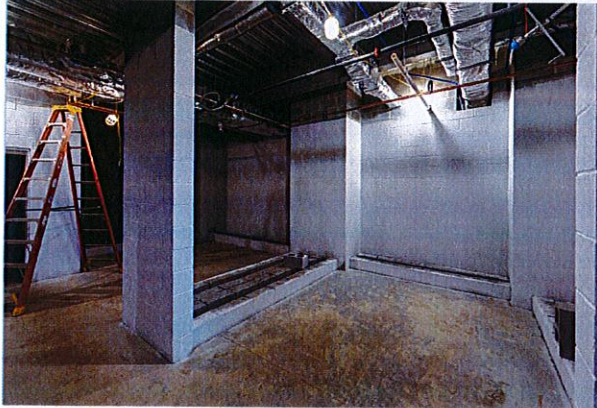
November 18, 2020

management responsibilities and includes specific updates in regard to County funded construction activities.

Hendersonville High School



Shower stalls of girls locker rooms



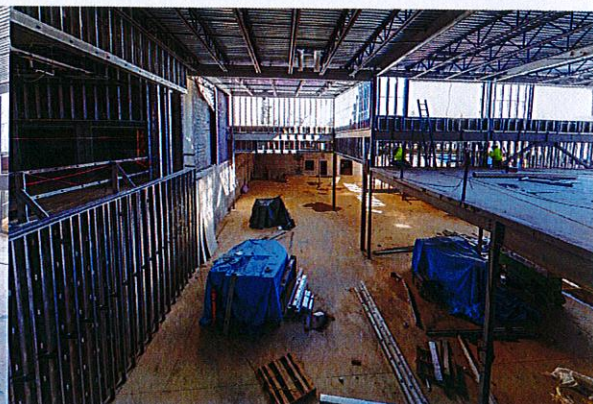
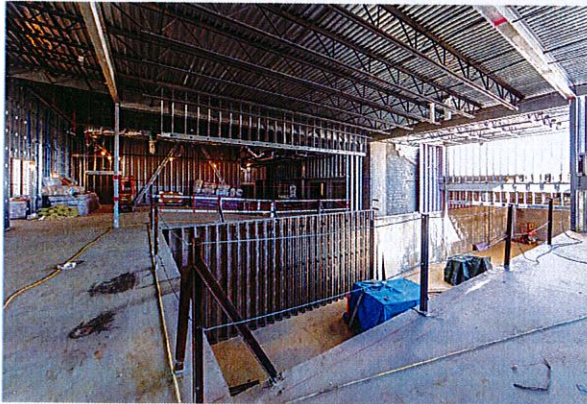
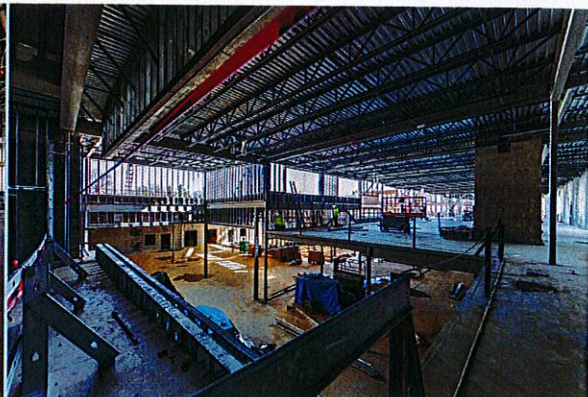
Auxiliary Gym

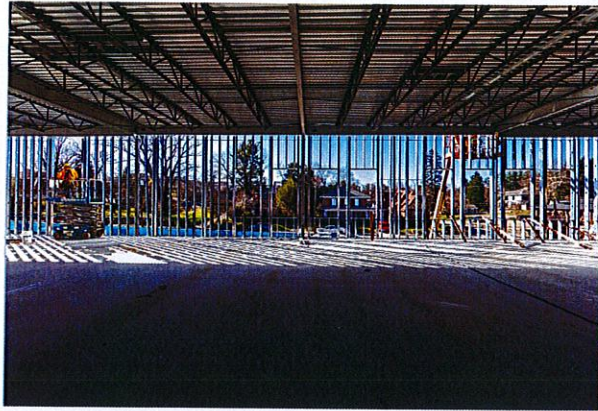


Old walls tying into new

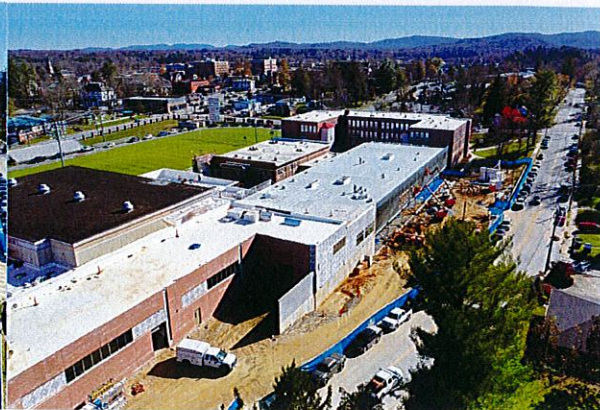
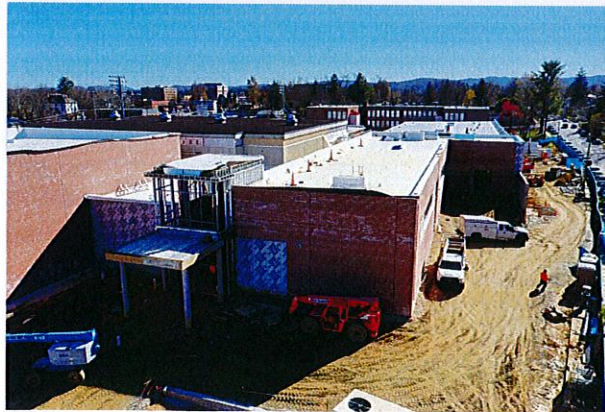
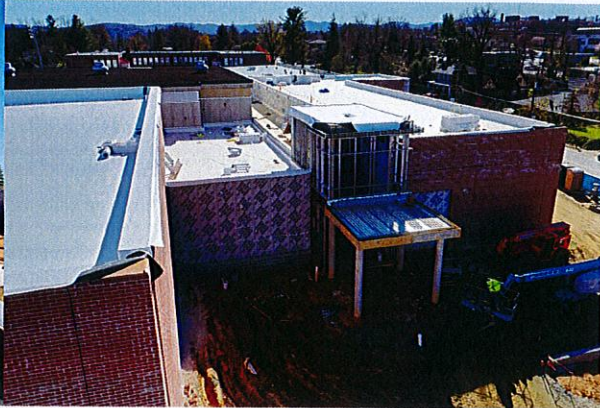
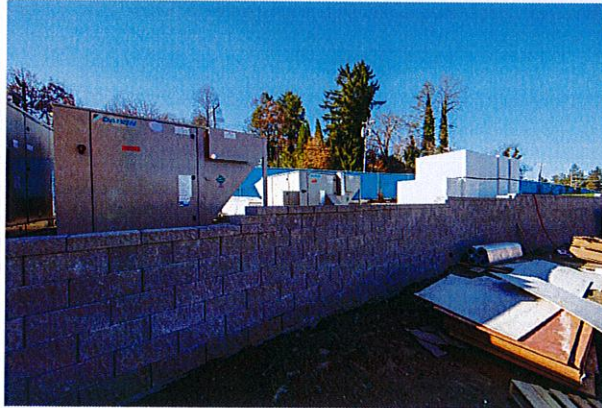
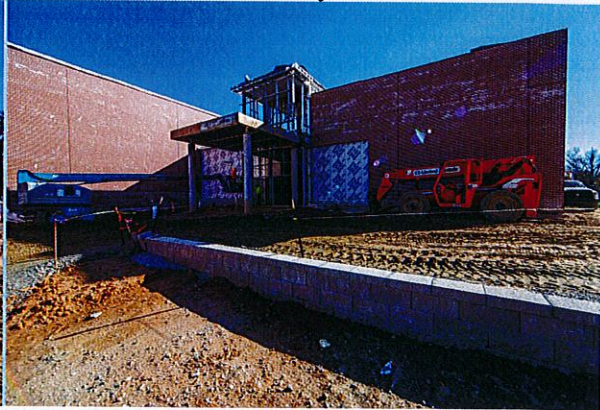


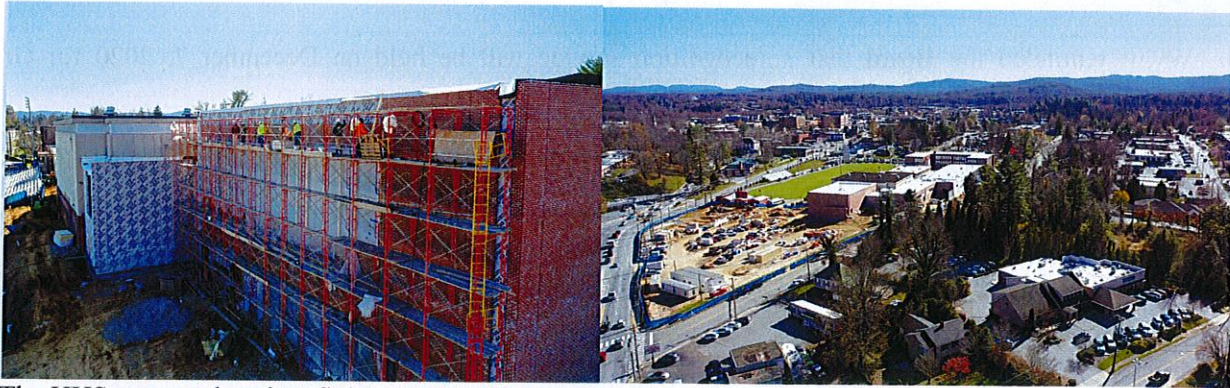
New classrooms





North End – Primary Entrance area





The HHS proposed project finish date is August 2022.

Blue Ridge Community College

Henderson County and BRCC staff continues work with Architect Clark Nexsen and contractor Vannoy Construction on all Furniture, Fixtures and Equipment components; Furniture requirements, building security components, data cabling and technology needs, AV equipment, intercom & phone systems. The FF&E portion of the overall \$23,400,000 budget is \$1,100,000. Vannoy continues with the planning and estimating portions of the project and a bid date is scheduled on December 3, 2020, with Guaranteed Maximum Pricing to be presented at the mid-January Commissioners' meeting for approval. The estimated project construction duration is approximately 16 months beginning February 2021 through June 2022.

The BRCC POPAT building is being hard bid simultaneously. Plans have been reviewed and final bid document plans have been completed and received. The Request for Proposal is currently being advertised with a mandatory contractor's construction pre-bid meeting scheduled for December 1, 2020, and a bid opening of December 15, 2020.

Flat Rock and Rugby HVAC Upgrades

The final stages of the project are wrapping up. Both chillers have been installed and a final punch list walk-through is being performed by Henderson County staff and Henderson County Public Schools staff. The required test and balancing of both systems remain to be scheduled and will be done as soon as it can be coordinated with HCPS and our engineers for the project.

Overflow Human Services Parking Lot

This project has been advertised and bid. The low bidder Cooper Construction (\$56,900) was awarded the project. If possible, they plan to mobilize this Friday and start the project this weekend. The project was estimated and budgeted at \$89,500.

CHRISTMAS ACTIVITIES – ADD ON

Commissioner Edney noted that 2020 has been a tough year, and Henderson County employees have gone above and beyond. In the past a Christmas bonus has been given, and this year he would like to do more.

Commissioner Edney made the motion that the Board approves the award of a one-time bonus (\$250) to all permanent and auxiliary employees, the first check in December, mirroring the recipients as last year. All voted in favor and the motion carried.

COUNTY MANAGER'S REPORT

County Manager Steve Wyatt thanked Commissioner McCall for the Thanksgiving Proclamation.

The County Manager recognized the upcoming birthday of Chairman Hawkins (November 28, 2020).

November 18, 2020

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Mr. Wyatt reminded the Board that a recognition service will be held on December 7, 2020 for Grady Hawkins, before the Board meeting.

Steve Wyatt informed the Board that Madison Cawthorn had contacted him and would like to locate his office here in Henderson County. Staff is researching options.

ADJOURN

Chairman Hawkins made the motion to adjourn at 11:55 a.m. All voted in favor and the motion carried.

Attest:

Teresa L. Wilson, Clerk to the Board

Grady Hawkins, Chairman

DURING THE NOVEMBER 18, 2020 REGULAR MEETING, THE BOARD ENACTED THE FOLLOWING

2020.98 PROCLAMATION OF A DAY OF PUBLIC THANKSGIVING AND PRAYER

2020.99 Public Hearing to Consider Action in the Nature of Economic Development Under G. S. 158-7.1 (Interlocal with City of Hendersonville; Joint Agreement with Hendersonville and Economic Investment Fund of Henderson County)

2020.100 Adoption of financing resolution for Blue Ridge Community College construction project

2020.101 Proclamation – Breastfeeding Family Friendly Community Initiative

2020.102 Service Badge and Sidearm Request – Major Steve Carter

2020.103 Service Badge and Sidearm Request – Master Deputy Kenneth McGraw

2020.104 Resolution Approving the Community Development Block Grants Coronavirus (CDBG-CV) Program Application

2020.105 Memorandum of Understanding (MOU) – NC DHHS

2020.106 Soil and Water Conservation District – Grant Awards – Budget Amendment

HENDERSON COUNTY BOARD OF COMMISSIONERS

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

GRADY H. HAWKINS
Chairman
WILLIAM G. LAPSLEY
Vice-Chairman

J. MICHAEL EDNEY
REBECCA K. MCCALL
DANIEL J. ANDREOTTA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA
President George Washington - October 3, 1789

A Proclamation.

Whereas, it is the duty of all nations to acknowledge the providence of Almighty God, to obey His will, to be grateful for His benefits, and humbly to implore His protection and favor, and

Whereas, Both Houses and Congress have by their joint Committee requested me "to recommend to the People of the United States a day of Public Thanksgiving and Prayer to be observed by acknowledging with grateful hearts the many signal favors of Almighty God especially by affording them an opportunity peaceably to establish a form of government for their safety and happiness."

Now, Therefore I do recommend and assign Thursday, the 26th day of November next, to be devoted by the People of these States to the service of that great and glorious Being, who is the beneficent Author of all the good that was, that is, or that will be.

Adopted this 18th day of November 2020.

Grady Hawkins

GRADY HAWKINS, CHAIRMAN
HENDERSON COUNTY
BOARD OF COMMISSIONERS

Attest:

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

THREE-PARTY AGREEMENT

A THREE-PARTY AGREEMENT TO PROVIDE FOR THE DEVELOPMENT OF THE GARRISON INDUSTRIAL PARK PROPERTY BETWEEN THE ECONOMIC INVESTMENT FUND OF HENDERSON COUNTY, THE COUNTY OF HENDERSON AND THE CITY OF HENDERSONVILLE MADE PURSUANT TO N.C. GEN. STAT. §158-7.1

This Three-Party Agreement (the "*Agreement*") is made this the 18th day of November, 2020, by and among the following three parties:

1. Economic Investment Fund of Henderson County, Inc., a North Carolina nonprofit corporation (the "*Fund*"), whose address is 330 North King Street, Hendersonville, North Carolina 28792.
2. The County of Henderson, a body corporate and politic of the State of North Carolina (the "*County*"), whose address is 1 Historic Courthouse Square, Suite 5, Hendersonville, North Carolina 28792.
3. The City of Hendersonville, a North Carolina municipal corporation (the "*City*"), whose address is 160 Sixth Avenue East, Hendersonville, North Carolina 28792.

* * * * *

The parties agree as follows:

Purpose and Background.

4. The *Agreement* is to provide for the financing of the purchase, and for the marketing, development and sale to industries meeting both the *City's* and the *County's* Economic Development Assistance Guidelines, in a manner consistent with the land development ordinances of the *City* and the *County*, of the "Garrison Property", which consists of 41 acres, more or less, and is located off Crest Road in Blue Ridge Township, Henderson County (the "*Property*").

5. The *Property* is more fully known as those parcels numbered 1-7 on the attached Exhibit A, and shown on the geographical information system of the *County* as the following real estate identification numbers:

- 202522 (less a small portion of this parcel is being retained by the seller to access parcel 202519)
- 9967049
- 202520
- 9966237
- 9966236
- 9966235
- 9967047

6. The *Fund* holds an option to purchase the *Property*, purchased with an earnest money payment of \$20,000.00, and monthly payments of \$10,000 toward a purchase price of \$66,476 per acre as determined by an accurate survey of the *Property*. The option period expires September 9, 2021, although the *Fund* has the right to purchase the *Property* outright at any time prior to September 9, 2021. The option does not give the *Fund* the right to purchase less than the totality of the *Property*. The *Fund* has requested that the *City* and the *County* provide a loan to the *Fund*, sufficient to pay the balance of the purchase price for the *Property*, determined in accordance with the provisions provided hereinbelow, and the *City* and *County* have agreed, subject to the terms of this *Agreement*.

7. The *Fund* has been marketing and will continue to market the *Property* through the The Henderson County Partnership for Economic Development, Inc., a North Carolina nonprofit corporation (the "*Partnership*").

8. Prior to any transfer of title to any portion of the *Property* by the *Fund* (after the purchase by the *Fund* of the *Property*), the *Fund* shall establish covenants and restrictions on the use of the *Property*, to bind any future owners and users of the *Property*, in form that is acceptable to both the *City* and the *County*. These covenants and restrictions shall establish guidelines for new construction and ongoing maintenance of the *Property*. It is anticipated by all parties that the *City* will annex the *Property*, and the covenants and restrictions would also bridge any difference between the industrial zoning district requirements of the *County* and the *City*, and would also establish the requirement and process for annexation into the *City*. The *Fund* shall record the restrictive covenants as part of the closing on the *Fund's* purchase of the *Property*.

Duration.

9. This *Agreement* shall remain in effect until the later of the repayment in full of the *Loan Amount* to both the *City* and the *County* (reference Paragraph 11 below), or sale of all of the *Property* by the *Fund* to *industrial clients* qualifying for incentives under both the *City's* and *County's* Economic Development Assistance Guidelines (attached hereto and incorporated by reference as Exhibits B and C), at which point this *Agreement* shall expire and terminate as to all provisions except those which, by their terms, survive such expiration and termination. As used herein, "*industrial client*" shall be deemed to include a purchaser or lessee that will occupy a portion of the *Property* for the length of time required to qualify for incentives under the *Economic Development Assistance Guidelines* of both the *City* and the *County*.

Financing of Purchase of the Property.

10. Because the *Fund* is required by the terms of the *Option* to purchase the *Property* in its entirety, and not in parts, the *City* and the *County* agree that they will jointly loan the *Fund* the *Loan Amount*, determined below, for the purchase of the *Property* as a whole.

11. The "*Loan Amount*" and the "*Loan Terms*" shall be as follows:

A. The "*Loan Amount*" shall equal the purchase price of the *Property*, less any pre-payments made by the *Fund*.¹ The *City* and the *County* shall each loan one-half (1/2) of

¹ The *Option* requires monthly payments in the amount of \$10,000 that count as pre-payments against the *Fund's* purchase price for the *Property*. As used herein, "pre-payment" refers to the initial earnest money

the *Loan Amount* to the *Fund* for the purchase of the *Property*. Neither the *City* nor the *County* will make the loan until such time as an *industrial client* qualifying for an economic development incentive of at least an 80% percent incentive payment under both the *City* and the *County's* Economic Development Assistance Guidelines (Exhibits B and C) has contracted with the *Fund* to purchase of all or a portion of the *Property* for development of an industrial site from the *Fund*, and the due diligence period under the sales contract (including all extensions) with the industrial client has expired. This shall be referred to as the "*Initial Sale*."

B. The purchase of the *Property* by the *Fund*, and *Initial Sale* shall occur as two separate transactions, each being fully funded. The *Net Proceeds* (sale price less closing costs) received from the *Initial Sale* shall be paid to the *City* and *County* as consideration for the release of the acreage sold by the *Fund* as part of the *Initial Sale* from their jointly held first-lien Deed of Trust (ref Paragraph 11(C) below).

C. The *Fund* shall be required (1) to sign and deliver to the *City* a Promissory Note, payable to the *City* and the *County* jointly, for the *Loan Amount*, and (2) to secure the Promissory Note with a first lien Deed of Trust on the *Property*, also to be delivered to the *City*², naming the *City* and the *County* as to a 50% interest each as beneficiaries. The Promissory Note shall bear interest at a fixed market rate of interest established by the *Wall Street Journal* prime rate of interest per annum on the last business day prior to the closing on the purchase of the balance of the *Property*. The Loan Amount shall be amortized over a twenty (20) year amortization schedule, and interest shall accrue with a balloon payment of all accrued principal and interest being due and payable one hundred twenty (120) months from the date of closing. The initial payment under the Promissory Note shall be the net proceeds from the *Initial Sale* as provided in Paragraph 11.B, however notwithstanding Paragraph 11.B, the *Net Proceeds* must at least equal the per acreage release fee provided in Paragraph 11.D, below, or else the *City* and the *County* shall not be obligated to release the acreage for the *Initial Sale*. The Promissory Note shall also provide that if the *Initial Sale* does not close, or if the *Initial Sale* does not close within thirty (30) days of the purchase of the *Property* by the *Fund* (including if the *Initial Sale* doesn't close as at all), either the *City* or the *County*, or both, shall have the right to accelerate the entire balance due under the Promissory Note. The terms of the Promissory Note and Deed of Trust shall be consistent with the terms of this *Agreement*, and shall be in such form as is acceptable to both the *City* and the *County*.

D. None of the acreage will be released unless the *Property* is being sold to an industrial client that would qualify for the payment of incentives under both the *City's* and the *County's* Economic Development Assistance Guidelines (Exhibits B and C) and both the *City* and the *County* determine the probably average hourly wage to be paid to the employees of the industrial client. It is agreed that the release fee plus accrued interest is the fair market value of the release. After the *Initial Sale*, and for each subsequent sale, the *City* and the *County* shall release the Deed of Trust on the acreage being sold in exchange for payment of the *Net Proceeds* of the sale, or \$64,500.00 per acre, whichever is greater, plus the accrued

deposit paid by the *Fund*, the monthly option payments, and any other payments made by the *Fund* that count against the *Fund's* purchase price for the *Property*.

² The original promissory note and Deed of Trust will be held by the *City* for the benefit of both the *City* and the *County*. The promissory note and Deed of Trust will not be marked "paid," nor shall a satisfaction of the Deed of Trust be recorded in the Henderson County Registry, without the prior written consent of the *County*.

interest attributable to the released acreage. If not sooner paid, the total balance due under the Promissory Note will be due and payable with the release of the final acreage of the *Property*.

E. If an industrial client qualifies for an 80% incentives payment as defined in both the *City's* and *County's* Economic Development Assistance Guidelines, both the *City* and the *County* shall waive the accrued interest upon a finding, in addition to the findings in subparagraph 11.D, by both the *City* and the *County*, after a duly advertised public hearing, that the *industrial client* will stimulate the local economy, promote business and result in the creation of a substantial number of jobs in the *County* paying at or above the median average wage in the *County*.

12. Upon the closing of the purchase of the *Property* by the *Fund*, title to the *Property* shall be in the *Fund*, subject to the first lien Deed of Trust required by Paragraph 11 of this *Agreement*.

Operational Ownership of the Property.

13. The marketing by the *Partnership* and the negotiations for the sale of the *Property* by the *Fund* shall attempt to locate manufacturing industries compatible with the goals of the area and which qualify for incentives under the Economic Development Assistance Guidelines of the *City* and the *County*, and shall subdivide the *Property* for the same.

14. The terms of any proposed sale by the *Fund* and the associated Release by both the *City* and the *County*, will be presented, on a confidential basis pursuant to N.C. Gen. Stat. §143-318.11(a)(4), to both the *City* and the *County*. Such proposed sale shall be to a concern which qualifies for incentives under the Economic Development Assistance Guidelines of both the *City* and *County* (Exhibits B and C).

15. Upon the *Initial Sale*, and all sales following, the proceeds of such sale(s) shall be applied as follows:

A. Repayment to the *City* and the *County* of the *Loan Amount*. If the net proceeds any given sale of a portion of the *Property* is for less than the total amount remaining owed to both the *City* and the *County* for repayment of the purchase price, then the *City* and the *County* shall each receive one-half (1/2) of such net proceeds; however release deeds will only be signed by the *City* and the *County* for the amount of acreage qualifying for release at the per acre price, plus interest (if not waived), pursuant to Paragraph 10 above.

B. Once the *City* and the *County* are repaid in full for the *Loan Amount* plus any accrued interest not waived, then any amounts received from the sale of any remaining portions of the *Property* shall belong to the *Fund*, to be used by the *Fund* for its purposes.

16. Obligations of the parties:

A. The *Fund* shall:

(i) Take title to the *Property*.

(ii) Encumber the *Property* with a first deed of trust benefitting the *City* and *County* equally.

(iii) Petition the *City* for annexation of the entire *Property* into the *City* by voluntary annexation prior to the transfer of title by the *Fund* of any portion of the *Property*. The *Fund* shall contractually obligate all purchasers named on all sales contracts (and all persons or entities in whose name title will be held if different) and all transferees of any portion of the *Property* to consent to and sign the annexation petition, in addition to the *Fund*. The contract(s) of sale shall also preclude the withdrawal of the purchasers' consent to the annexation for a period of 180 days from the date of the contract. The annexation Petition shall be signed and submitted to the *City* as part of the closing on the *Initial Sale*.

(iv) Encumber the entirety of the *Property* with covenants and restrictions containing development standards that meet or exceed the standards contained within the Industrial zoning classification of the *City*, prior to the transfer of title to any of the *Property* by the *Fund*. Such covenants and restrictions shall also contain language obligating all future owners of the *Property* to petition for and consent to the voluntary annexation of the entirety of the *Property* by the *City*. The covenants and restrictions (and all amendments thereto) shall be subject to the prior approval of both the *City* and the *County*. The covenants and restrictions shall be recorded as part of the closing for the *Fund's* purchase of the *Property*.

(iv) Market the *Property* through the *Partnership* for sale to the owner or operator of a qualified industrial or manufacturing facility under the both the *City's* and the *County's* Economic Development Assistance Guidelines, attached hereto as Exhibits B and C.

(v) Negotiate with such owners or operators to insure the future use of the *Property* for the purposes set out herein.

(vi) Repay the *City* and the *County* all amounts loaned to the *Fund* and all accrued interest not waived.

B. The *County* shall:

(i) Loan to the *Fund* one-half ($\frac{1}{2}$) of the *Loan Amount*. Notwithstanding anything in this *Agreement* to the contrary, if the *Fund* purchases less than the entire *Property*, the *County* shall not be obligated to make any loan to the *Fund*.

(ii) Release the subdivided lots in the *Property* upon payment to the *County* of the release fee provided in paragraph 11.D above. Should any proposed sale of one of such lots bring less than the total amount required to pay the release fee for the acreage included in the proposed sale, then the *County* shall not be obligated to release the acreage from the first lien Deed of Trust held for the benefit of the *City* and the *County*.

(iii) Decisions of whether or not the *County* will provide additional incentives to any *industrial client* beyond those provided herein shall be at the sole and independent discretion of the *County*.

C. The *City* shall:

(i) Loan to the *Fund* one-half (½) of the *Loan Amount*. Notwithstanding anything in this *Agreement* to the contrary, if the *Fund* purchases less than the entire *Property*, the *City* shall not be obligated to make any loan to the *Fund*.

(ii) Release the subdivided lots in the *Property* upon payment to the *City* of the release fee provided in paragraph 11.D above. Should any proposed sale of one of such lots bring less than the total amount required to pay the release fee for the acreage included in the proposed sale, then the *City* shall not be obligated to release the acreage from the first lien Deed of Trust held for the benefit of the *City* and the *County*.

(iii) Decisions of whether or not the *City* will provide additional incentives to any *industrial client* beyond those provided herein shall be at the sole and independent discretion of the *City*.

17. This *Agreement* provides the entire agreement of the parties hereto, and all prior or contemporaneous discussions, written communications, emails, are superseded by the terms hereof. This *Agreement* may only be amended by written instrument signed by all parties hereto.

18. This *Agreement* may not be assigned by any party hereto without the express written consent of all other parties.

19. There shall be no intended nor incidental third-party beneficiaries to this *Agreement*.

20. The *Fund* shall require all purchasers of the *Property* to certify to all of the following as part of the purchase agreement:

A. That the purchaser will comply with, and require all contractors and subcontractors to comply with, the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, "Verification of Work Authorization," sometimes known as E-verify;

B. That the purchaser is not on the Iran Final Divestment List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.58, and will not contract with anyone on such List; and

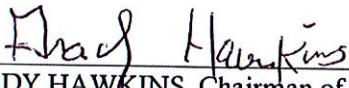
C. That the purchaser is not on the Companies that Boycott Israel List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.80, and will not contract with anyone on such List in performance of the work hereunder.

Executed by the parties, as of the date shown above.

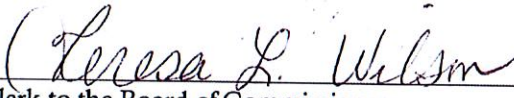
ECONOMIC INVESTMENT FUND
OF HENDERSON COUNTY, INC.

By: 
JOHN GOULD, Chairman

COUNTY OF HENDERSON

By: 
GRADY HAWKINS, Chairman of the Henderson
County Board of Commissioners

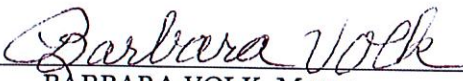
Attest:

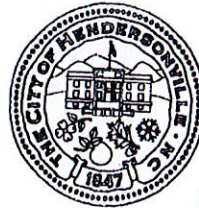

Clerk to the Board of Commissioners



(Official Seal)

CITY OF HENDERSONVILLE

By: 
BARBARA VOLK, Mayor




Attest:


Clerk, Hendersonville City Council

(Official Seal)

This *Agreement* has been pre-audited in that manner required by the Local Government Fiscal Control Act.


Finance Director for the City of Hendersonville


Finance Director for Henderson County

INTERLOCAL AGREEMENT

AN INTERLOCAL AGREEMENT TO PROVIDE FOR THE DEVELOPMENT OF THE GARRISON INDUSTRIAL PARK PROPERTY BETWEEN THE COUNTY OF HENDERSON AND THE CITY OF HENDERSONVILLE MADE PURSUANT TO N.C. GEN. STAT. §160-460 *et seq.*

This Interlocal Agreement (the "*Agreement*") is made this the 18th day of November, 2020, by and among the following parties:

1. The County of Henderson, a body corporate and politic of the State of North Carolina (the "*County*"), whose address is 1 Historic Courthouse Square, Suite 5, Hendersonville, North Carolina 28792.
2. The City of Hendersonville, a North Carolina municipal corporation (the "*City*"), whose address is 160 Sixth Avenue East, Hendersonville, North Carolina 28792.

* * * * *

The parties agree as follows:

Purpose and Background.

3. The *Agreement* is to provide for the financing of the purchase, and for the marketing, development and sale to industries meeting the *City's* and the *County's* economic development policy incentive guidelines, in a manner consistent with the land development ordinances of the *City* and the *County*, of the "Garrison Property", which consists of 41 acres, more or less, and is located off Crest Road in Blue Ridge Township, Henderson County (the "*Property*").

4. The *Property* is more fully known as those parcels numbered 1-7 on the attached Exhibit A, and shown on the geographical information system of the *County* as the following real estate identification numbers:

- 202522 (less a small portion of this parcel is being retained by the seller to access parcel 202519)
- 9967049
- 202520
- 9966237
- 9966236
- 9966235
- 9967047

5. The Economic Investment Fund of Henderson County, Inc., a North Carolina nonprofit corporation (the "*Fund*") holds an option to purchase the *Property*, purchased with an earnest money payment of \$20,000.00, and monthly payments of \$10,000 toward a purchase price of \$60,620.76 per acre as determined by an accurate survey of the *Property*. The option period expires September 9, 2021, although the *Fund* has the right to purchase the *Property* outright at any time

prior to September 9, 2021 (the "*Option*"). The *Option* does not give the *Fund* the right to purchase less than the totality of the *Property*. The *Fund* has requested that the *City* and the *County* provide a loan to the *Fund*, sufficient to pay the balance of the purchase price for the *Property*, determined in accordance with the provisions provided hereinbelow, and the *City* and *County* have agreed, subject to the terms of this *Agreement*.

6. The *Fund* has been marketing and will continue to market the *Property* through the Henderson County Partnership for Economic Development, Inc., a North Carolina nonprofit corporation (the "*Partnership*").

7. The *City* and the *County* shall require that prior to any transfer of title to any portion of the *Property* by the *Fund* (after the purchase by the *Fund* of the *Property*), the *Fund* shall establish covenants and restrictions on the use of the *Property*, to bind any future owners and users of the *Property*, in form that is acceptable to both the *City* and the *County*. These covenants and restrictions shall establish guidelines for new construction and ongoing maintenance of the *Property*. It is anticipated by all parties that the *City* will annex the *Property*, and the covenants and restrictions would also bridge any difference between the industrial zoning district requirements of the *County* and the *City*, and would also establish the requirement and process for annexation into the *City*. The *City* and the *County* shall require the *Fund* to record the restrictive covenants as part of the closing on the *Fund's* purchase of the *Property*.

Duration.

8. This *Agreement* shall remain in effect until the later of the repayment in full of the *Loan Amount* to both the *City* and the *County* (reference Paragraph 10 below), or sale of all of the *Property* by the *Fund* to *industrial clients* qualifying for incentives under both the *City's* and *County's* Economic Development Assistance Guidelines (Exhibits B and C attached hereto and incorporated herein by reference), at which point this *Agreement* shall expire and terminate as to all provisions except those which, by their terms, survive such expiration and termination. As used herein, "*industrial client*" shall be deemed to include a purchaser or lessee that will occupy a portion of the *Property* for the length of time required to qualify for incentives under the *Economic Development Assistance Guidelines* of both the *City* and the *County*.

Financing of Purchase of the Property.

9. Because the *Fund* is required by the terms of the *Option* to purchase the *Property* in its entirety, and not in parts, the *City* and the *County* agree that they will jointly loan the *Fund* the *Loan Amount*, determined below, for the purchase of the *Property* as a whole.

10. The "*Loan Amount*" and the "*Loan Terms*" shall be as follows:

A. The "*Loan Amount*" shall equal the purchase price of the *Property*, less any pre-payments made by the *Fund*.¹ The *City* and the *County* shall each loan one-half (1/2) of the *Loan Amount* to the *Fund* for the purchase of the *Property*. Neither the *City* nor the *County* will make the loan until such time as an *industrial client* qualifying for an economic

¹ The *Option* requires monthly payments in the amount of \$10,000 that count as pre-payments against the *Fund's* purchase price for the *Property*. As used herein, "pre-payment" refers to the initial earnest money deposit paid by the *Fund*, the monthly option payments, and any other payments made by the *Fund* that count against the *Fund's* purchase price for the *Property*.

development incentive of at least an 80% percent incentive payment under the *City* and the *County's* Economic Development Assistance Guidelines (Exhibits B and C) has contracted with the *Fund* to purchase all or a portion of the *Property* for development of an industrial site from the *Fund*, and the due diligence period under the sales contract (including all extensions) with the *industrial client* has expired. This shall be referred to as the "*Initial Sale*."

B. The purchase of the *Property* by the *Fund*, and *Initial Sale* shall occur as two separate transactions, each being fully funded. The "*Net Proceeds*" (sale price less closing costs) received from the *Initial Sale* will be paid to the *City* and *County* as consideration for the release of the acreage sold by the *Fund* as part of the *Initial Sale* from their jointly held first lien Deed of Trust (see Paragraph 10(C) below).

C. The *City* and the *County* shall require the *Fund* (1) to sign and deliver to the *City* a Promissory Note, payable to the *City* and the *County* jointly, for the *Loan Amount*, and (2) to secure the Promissory Note with a first lien Deed of Trust on the *Property*, also to be delivered to the *City*², naming the *City* and the *County* as to a 50% interest each as beneficiaries. The Promissory Note shall bear interest at a fixed market rate of interest established by the *Wall Street Journal* prime rate of interest per annum on the last business day prior to the closing on the purchase of the balance of the *Property*. The *Loan Amount* shall be amortized over a twenty (20) year amortization schedule, and interest shall accrue with a balloon payment of all accrued principal and interest being due and payable one hundred twenty (120) months from the date of closing. The initial payment under the Promissory Note shall be the *Net Proceeds* from the *Initial Sale* as provided in Paragraph 10.B, however notwithstanding Paragraph 10.B, the *Net Proceeds* must at least equal the per acre *Release Fee* provided in Paragraph 10.D, or else the *City* and the *County* shall not be obligated to release the acreage for the *Initial Sale*. The Promissory Note shall also provide that if the *Initial Sale* does not close, or if the *Initial Sale* does not close within thirty (30) days of the purchase of the *Property* by the *Fund* (including if the *Initial Sale* doesn't close as at all), either the *City* or the *County*, or both, shall have the right to accelerate the entire balance due under the Promissory Note. The terms of the Promissory Note and Deed of Trust shall be consistent with the terms of this *Agreement*, and shall be in such form as is acceptable to both the *City* and the *County*.

D. None of the acreage will be released unless the *Property* is being sold to an *industrial client* that would qualify for the payment of incentives under both the *City's* and the *County's* Economic Development Assistance Guidelines (Exhibits B and C) and both the *City* and the *County* determine the probable average hourly wage to be paid to the employees of the *industrial client*. It is agreed that the release fee plus accrued interest is the fair market value of the release. After the *Initial Sale*, and for each subsequent sale, the *City* and the *County* shall release the Deed of Trust on the acreage being sold in exchange for payment of the *Net Proceeds* of the sale, or \$64,500 per acre, whichever is greater, plus the accrued interest attributable to the released acreage. If not sooner paid, the total balance due under the Promissory Note will be due and payable with the release of the final acreage of the *Property*.

² The original promissory note and Deed of Trust will be held by the *City* for the benefit of both the *City* and the *County*. The promissory note and Deed of Trust will not be marked "paid," nor shall a satisfaction of the Deed of Trust be recorded in the Henderson County Registry, without the prior written consent of the *County*.

E. If an *industrial client* qualifies for an 80% incentives payment as defined in both Economic Development Assistance Guidelines, both the *City* and the *County* shall waive the accrued interest upon a finding, in addition to the findings in subparagraph 10.D, by both the *City* and the *County*, after a duly advertised public hearing, that the *industrial client* will stimulate the local economy, promote business and result in the creation of a substantial number of jobs in the *County* paying at or above the median average wage in the *County*.

11. Upon the closing of the purchase of the *Property* by the *Fund*, title to the *Property* shall be in the *Fund*, subject to the first lien Deed of Trust required by Paragraph 10 of this *Agreement*.

Operational Ownership of the Property.

12. The *City* and the *County* shall require that the marketing by the *Partnership* and the negotiations for the sale of the *Property* by the *Fund* shall attempt to locate manufacturing industries compatible with the goals of the area and which qualify for incentives under the Economic Development Assistance Guidelines of the *City* and the *County*, and shall subdivide the *Property* for the same.

13. The *City* and the *County* shall require that the terms of any proposed sale by the *Fund* and the associated Release by both the *City* and the *County*, will be presented, on a confidential basis pursuant to N.C. Gen. Stat. §143-318.11(a)(4), to both the *City* and the *County*. Such proposed sale shall be to a concern which qualifies for incentives under the Economic Development Assistance Guidelines of both the *City* and *County* (Exhibits B and C).

Annexation and Zoning, Subdivision and Stormwater Jurisdiction

14. The *City* and the *County* agree to require the *Fund* to petition the *City* for annexation of the entire *Property* into the *City* by voluntary annexation prior to the transfer of title by the *Fund* of any portion of the *Property*. The *Fund* shall contractually obligate all purchasers named on all sales contracts (and all persons or entities in whose name title will be held if different) and all transferees of any portion of the *Property* to consent to and sign the annexation petition, in addition to the *Fund*. The contract(s) of sale shall also preclude the withdrawal of the purchasers' consent to the annexation for a period of 180 days from the date of their purchase contract.(s) The annexation Petition shall be signed and submitted to the *City* as part of the closing on the *Initial Sale*.

15. If the *City* annexes the *Property* into the *City*, the *City* requests and agrees that the *County* shall retain zoning regulation, and subdivision regulation jurisdiction over the *Property* as allowed by NCGS § 160A-360(d) and NCGS § 160D-202(f). For the avoidance of doubt, with respect to zoning regulation and subdivision regulation jurisdiction, the *City* requests that the *County* exercise those powers that the *City* could exercise under NCGS 160A, Article 19, Parts 3 and 4 (or NCGS Chapter 160D, Articles 7 and 8). It is understood and agreed that the *City* may rescind this grant of subdivision and zoning regulation jurisdiction (pursuant to NCGS § 160A-360(g) and NCGS § 160D-202(h)) at any time by providing written notice to the *County* two (2) years in advance of the effective date of such rescission of jurisdiction by the *City*, and at the end of the two (2) year notice period, repealing the terms of the Resolution which approved this grant of jurisdiction. The terms of this Paragraph shall survive the expiration and termination of this *Agreement* pursuant to Paragraph 8 above unless or until this grant of jurisdiction by the *City* is rescinded, in which case this Paragraph shall terminate on the effective date of any such rescission of jurisdiction by the *City*. For the avoidance of doubt, if this *Agreement* is terminated for any other

reason (i.e. other than pursuant to paragraph 8 above), the *City* and the *County* agree that the *County's* zoning and subdivision regulation jurisdiction shall end as of the date of such termination, without further action by any party hereto.

15. The *City* and the *County* shall require the *Fund* to encumber the entirety of the *Property* with covenants and restrictions containing development standards that meet or exceed the standards contained within the Industrial zoning classification of the *City*, prior to the transfer of title to any of the *Property* by the *Fund*. Such covenants and restrictions shall also contain language obligating all future owners of the *Property* to petition for and consent to the voluntary annexation of the entirety of the *Property* by the *City*. The covenants and restrictions (and all amendments thereto) shall be subject to the prior approval of both the *City* and the *County*. The covenants and restrictions shall be recorded as part of the closing for the *Fund's* purchase of the *Property*.

Other Provisions

16. Decisions of whether or not the *City* will provide additional incentives to any *industrial client* beyond those provided herein shall be at the sole and independent discretion of the *City*. Decisions of whether or not the *County* will provide additional incentives to any *industrial client* beyond those provided herein shall be at the sole and independent discretion of the *County*.

17. The *City* and the *County* shall enter into a three-party agreement with the *Fund* consistent with the terms of this *Agreement*. Notwithstanding anything in this *Agreement* to the contrary, if the *Fund* purchases less than the entire *Property*, neither the *City* nor the *County* shall be obligated to make any loan to the *Fund*.

18. This *Agreement* may be amended by a written instrument only, signed by both parties hereto, which has been approved by Resolution of both parties after a duly held and advertised public hearing.

19. This *Agreement* may be terminated prior to the end of its Duration (ref. paragraph 8 above) by written agreement, signed by both parties hereto, which has been approved by Resolution of both parties after a duly held and advertised public hearing.

Executed by the parties, as of the date shown above.

COUNTY OF HENDERSON

By: Grady Hawkins
GRADY HAWKINS, Chairman of the Henderson
County Board of Commissioners



Attest: _____ (Official Seal)
Teressa L. Wilson
Clerk to the Board

CITY OF HENDERSONVILLE

By: *Barbara Volk*
BARBARA VOLK, Mayor



Attest: (Official Seal)

Angela L. Leese
Clerk, Hendersonville City Council

This agreement has been pre-audited in that manner required by the Local Government Fiscal Control Act.

[Signature]
Finance Director for the City of Hendersonville

Samantha Reynolds
Finance Director for Henderson County

EXTRACTS FROM MINUTES OF THE BOARD OF COMMISSIONERS

A regular meeting of the Board of Commissioners of the County of Henderson, North Carolina, was duly held on November 18, 2020 at 9:30 a.m. in the Commissioners' Meeting Room, Henderson County Historic Courthouse, 1 Historic Courthouse Square, Hendersonville, North Carolina. Chairman Grady Hawkins presiding.

The following members were present:

Vice Chairman William Lapsley
Commissioner J. Michael Edney
Commissioner Rebecca McCall
Commissioner Daniel Andreotta

The following members were absent:

None

* * * * *

Chairman Hawkins moved that the following resolution, copies of which having been made available to the Board of Commissioners, be adopted, by reading the title thereof (further reading waived without objection):

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO

WHEREAS, the County of Henderson, North Carolina (the "*County*") is a validly existing political subdivision of the State of North Carolina, existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the "*State*");

WHEREAS, the County has the power, pursuant to the General Statutes of North Carolina to (1) purchase real and personal property, (2) enter into installment purchase contracts in order to finance the purchase of real and personal property used, or to be used, for public purposes, and (3) grant a security interest in some or all of the property purchased to secure repayment of the purchase price;

WHEREAS, the Board hereby determines that it is in the best interest of the County to (1) enter into an Installment Financing Contract (the "*Contract*") with Henderson County Governmental Financing Corporation (the "*Corporation*") in order to pay the capital costs of renovation and expansion of the Patton Building on the campus of Blue Ridge Community College (the "*BRCC Facility*") and the construction and equipping of a police training facility (collectively, the "*Project*"), and (2) to enter into a

deed of trust, security agreement and fixture filing (the “*Deed of Trust*”) related to the County’s fee simple interest in certain real property on which the BRCC Facility is located (the “*Site*”) that will provide security for the County’s obligations under the Contract;

WHEREAS, the County hereby determines that the Project is essential to the County’s proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the Project will provide an essential use and will permit the County to carry out public functions that it is authorized by law to perform; and that entering into the Contract and Deed of Trust is necessary and expedient for the County by virtue of the findings presented herein;

WHEREAS, the County hereby determines that the Contract allows the County to finance the Project and take title thereto at a favorable interest rate currently available in the financial marketplace and on terms advantageous to the County;

WHEREAS, the County hereby determines that the estimated cost of financing the Project is an amount not to exceed \$26,000,000, and that such cost of the Project exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the County in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;

WHEREAS, although the cost of financing the Project pursuant to the Contract is expected to exceed the cost of financing the Project pursuant to a bond financing for the same undertaking, the County hereby determines that the cost of financing the Project pursuant to the Contract and the Deed of Trust and the obligations of the County thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of the Project; and (3) no revenues are produced by the Project so as to permit a revenue bond financing;

WHEREAS, the County has determined and hereby determines that the estimated cost of financing the Project pursuant to the Contract reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

WHEREAS, the County does not anticipate a future property tax increase to pay installment payments falling due under the Contract;

WHEREAS, Parker Poe Adams & Bernstein LLP, as special counsel (“*Bond Counsel*”), will render an opinion to the effect that entering into the Contract and the transactions contemplated thereby are authorized by law;

WHEREAS, no deficiency judgment may be rendered against the County in any action for its breach of the Contract, and the taxing power of the County is not and may not be pledged in any way directly or indirectly or contingently to secure any money due under the Contract;

WHEREAS, the County is not in default under any of its debt service obligations;

WHEREAS, the County’s budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the

County has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget ordinance;

WHEREAS, past audit reports of the County indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the County has not been censured by the North Carolina Local Government Commission (the "LGC"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies;

WHEREAS, a public hearing on the Contract after publication of a notice with respect to such public hearing must be held and approval of the LGC with respect to entering the Contract must be received; and

WHEREAS, the County hereby determines that all findings, conclusions and determinations of the County in this Resolution are subject to modification or affirmation after all interested parties have been afforded the opportunity to present their comments at a public hearing regarding the execution and delivery of the Contract and the Deed of Trust and the Project to be financed.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA, AS FOLLOWS:

Section 1. ***Authorization to Negotiate the Contract.*** That the County Manager and the Finance Director, with advice from the County Attorney and Bond Counsel, are hereby authorized and directed to proceed and negotiate on behalf of the County for the financing of the Project for a principal amount not to exceed \$26,000,000 under the Contract to be entered into in accordance with the provisions of Section 160A-20 of the General Statutes of North Carolina and to provide in connection with the Contract, as security for the County's obligations thereunder, a Deed of Trust conveying a lien and interest in the Site, including the improvements thereon, as may be required by the entity, or its assigns, providing the funds to the County under the Contract.

Section 2. ***Application to LGC.*** That the Finance Director or her designee is hereby directed to file with the LGC an application for its approval of the Contract and all relevant transactions contemplated thereby on a form prescribed by the LGC and to state in such application such facts and to attach thereto such exhibits regarding the County and its financial condition as may be required by the LGC.

Section 3. ***Direction to Retain Bond Counsel, Financial Advisor and Underwriter.*** That the County Manager and the Finance Director, with advice from the County Attorney, are hereby authorized and directed to retain the assistance of Parker Poe Adams & Bernstein LLP, Raleigh, North Carolina, as bond counsel; Stifel, Nicolaus and Company, Incorporated, Charlotte, North Carolina, as financial advisor; and PNC Capital Markets LLC, Charlotte, North Carolina, as underwriter.

Section 4. ***Public Hearing.*** That a public hearing (the "*Public Hearing*") shall be conducted by the Board of Commissioners on December 7, 2020 at 5:30 p.m. in the Commissioners' Meeting Room, Henderson County Historic Courthouse, Hendersonville, North Carolina, concerning the Contract, the Deed of Trust, the proposed Project and any other transactions contemplated therein and associated therewith.

Section 5. ***Notice of Public Hearing.*** That the Clerk to the Board is hereby directed to cause a notice of the Public Hearing, in the form attached hereto as Exhibit A, to be published once in a

qualified newspaper of general circulation within the County no fewer than 10 days prior to the Public Hearing.

Section 6. **Repealer.** That all motions, orders, resolutions and parts thereof in conflict herewith are hereby repealed.

Section 7. **Effective Date.** That this Resolution is effective on the date of its adoption.

On motion of Chairman Hawkins, the foregoing resolution entitled “**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO**” was duly adopted by the following vote:

AYES:

ALL

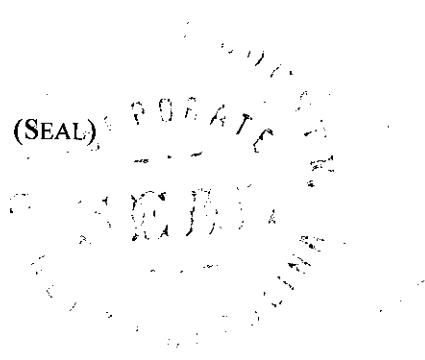
NAYS:

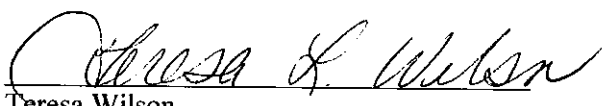
NONE

STATE OF NORTH CAROLINA)
)
COUNTY OF HENDERSON) SS:

I, TERESA WILSON, Clerk to the Board of Commissioners of the County of Henderson, North Carolina, *DO HEREBY CERTIFY* that the foregoing is a true and exact copy of a resolution entitled **“RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO”** adopted by the Board of Commissioners of the County of Henderson, North Carolina at a meeting held on the 18th day of November, 2020.

WITNESS my hand and the corporate seal of the County of Henderson, North Carolina, this the 18th day of November, 2020.





Teresa Wilson
Clerk to the Board of Commissioners
County of Henderson, North Carolina

EXHIBIT A
NOTICE OF PUBLIC HEARING

At its November 18, 2020 meeting, the Board of Commissioners (the "*Board of Commissioners*") of the County of Henderson, North Carolina (the "*County*") adopted a resolution which:

1. Authorized the County to proceed to pay the capital costs of the renovation and expansion of the Patton Building on the campus of Blue Ridge Community College (the "*BRCC Facility*") and the construction and equipping of a police training facility (collectively, the "*Project*"), pursuant to an installment financing contract (the "*Contract*"), in a principal amount not to exceed \$26,000,000 under which the County will make certain installment payments in order to make the Project available to the County;

2. Authorized the County to proceed to provide, in connection with the Contract, as grantor, a deed of trust, security agreement and fixture filing (the "*Deed of Trust*") pursuant to which the real property on which the BRCC Facility is located (the "*Site*"), as set forth below (the "*Mortgaged Property*"), will be mortgaged by the County to create a lien thereon for the benefit of the entity, or its assigns, providing the funds to the County under the Contract.

The Site is located at 145 W. Campus Dr., Flat Rock, NC 28731 on the campus of BRCC. The Mortgaged Property will be subject to the mortgage provided in the Deed of Trust. On payment by the County of all installment payments due under the Contract, the Deed of Trust and any lien created thereunder will terminate and the County's title to the Mortgaged Property will be unencumbered. The Project will be owned by the County and leased to the Board of Trustees of Blue Ridge Community College.

NOTICE IS HEREBY GIVEN, pursuant to Sections 160A-20 of the General Statutes of North Carolina, that on December 7, 2020 at 5:30 p.m. in the Commissioners' Meeting Room, Henderson County Historic Courthouse, 1 Historic Courthouse Square, Hendersonville, North Carolina 28792, a public hearing will be conducted concerning the approval of the execution and delivery of the Contract and the County's financing of the Project. All interested parties are invited to present comments at the public hearing regarding the execution and delivery of the Contract and the Project to be financed thereby.

/s/ Teresa Wilson
Clerk to the Board of Commissioners
County of Henderson, North Carolina

Published: November __, 2020

HENDERSON COUNTY BOARD OF COMMISSIONERS

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

GRADY H. HAWKINS
Chairman
WILLIAM G. LAPSLEY
Vice-Chairman

J. MICHAEL EDNEY
REBECCA K. MCCALL
DANIEL J. ANDREOTTA

Proclamation

Breastfeeding Family Friendly Community

WHEREAS, families are a priority in Henderson County and part of helping them thrive is ensuring community support to develop and sustain healthy lifestyles; and

WHEREAS, according to the American Academy of Pediatrics, Academy of Nutrition and Dietetics, American College of Obstetrics and Gynecology, American Academy of Family Physicians and other leading health organizations, breastfeeding is the optimal food for infants; and

WHEREAS, a mother's decision to breastfeed her baby should be supported by her family and community; and

WHEREAS, breastfeeding is associated with lower rates of childhood illness such as diabetes and infectious diseases and reduced risk of maternal breast and ovarian cancers and a faster recovery from childbirth as compared to formula feeding; and

WHEREAS, breastfeeding promotes bonding, benefits the entire family and is associated with lifelong health and development; and

WHEREAS, collaborating with healthcare providers and community resources can positively impact breastfeeding success; and

WHEREAS, a breastfeeding family friendly community encourages families of all races and ethnicities to continue breastfeeding by providing a supporting and welcoming environment; and


WHEREAS, the World Alliance for Breastfeeding Action is dedicated to the protection, promotion and support of breastfeeding worldwide with the annual international observance of World Breastfeeding Week August 1-7; and

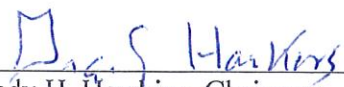
WHEREAS, our community efforts to advance breastfeeding are directly supported by the Henderson County Board of Health and the Henderson County Breastfeeding Coalition;

NOW, THEREFORE, on this 18th day of November 2020, and henceforth, we, the Henderson County Board of Commissioners, declare the County of Henderson to be a Breastfeeding Family Friendly Community.

Adopted this 18th day of November 2020.

Attest:


Teresa L. Wilson, Clerk


Grady H. Hawkins, Chairman
Henderson County Board of Commissioners



Resolution Honoring Major Steven Carter



For 28 Years of Law Enforcement Service with Henderson County as a Benefit-Eligible Employee and Awarding Him His Badge and Sidearm

WHEREAS, Major Steven Carter joined the Henderson County Sheriff's Office as a benefit-eligible on October 19, 1992 and held the ranks of Detention Officer, Deputy, Corporal, Sergeant, Lieutenant, Captain, and Major; and

WHEREAS, Major Carter also served as a Reserve Deputy for the Henderson County Sheriff's Office from September 3, 1992 through October 18, 1992; and

WHEREAS, Major Carter's service and dedication to the Henderson County Sheriff's Office and service, dedication and accomplishments in the field of law enforcement during his 28 years of benefit-eligible 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, Major Carter has served as a member of the Henderson County Sheriff's Office for a period of 28 years and retired from the Henderson County Sheriff's Office on October 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 Major Carter 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 Major Carter 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 Major Carter for his dedicated service to Henderson County and its citizens.

Adopted this the 18th day of November 2020.

CHAIRMAN 
HENDERSON COUNTY BOARD OF COMMISSIONERS

ATTEST:


CLERK TO THE BOARD



Resolution Honoring Master Deputy Kenneth McCraw



For Over 22 Years of Law Enforcement Service with Henderson County as a Benefit-Eligible Employee and Awarding Him His Badge and Sidearm

WHEREAS, Master Deputy Kenneth McCraw joined the Henderson County Sheriff's Office as a benefit-eligible employee and served between December 28, 1988 through November 26, 1990 and returned to employment with the Henderson County Sheriff's Office as a benefit-eligible employee on August 3, 2000 and held the ranks of Deputy, Master Deputy, Corporal, and Sergeant; and

WHEREAS, Master Deputy Kenneth McCraw also served as a Reserve Deputy for the Henderson County Sheriff's Office from November 27, 1990 through March 29, 1993 and from October 4, 1993 through August 2, 2000; and

WHEREAS, Master Deputy McCraw's service and dedication to the Henderson County Sheriff's Office and service, dedication and accomplishments in the field of law enforcement during his over 22 years of benefit-eligible 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, Master Deputy McCraw has served as a member of the Henderson County Sheriff's Office for a period of over 22 years and retired from the Henderson County Sheriff's Office on October 26, 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 Master Deputy McCraw 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 Master Deputy McCraw 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 Master Deputy McCraw for his dedicated service to Henderson County and its citizens.

Adopted this the 18th day of November 2020.

CHAIRMAN 
HENDERSON COUNTY BOARD OF COMMISSIONERS

ATTEST:


CLERK TO THE BOARD

HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite 1
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DANIEL J. ANDREOTTA

RESOLUTION FOR COUNTY OF HENDERSON APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR THE COVID-19 RENT AND UTILITY ASSISTANCE PROJECT

- WHEREAS,** the Henderson County Board of Commissioners has previously indicated its desire to assist in community development efforts for housing within the County; and,
- WHEREAS,** two public hearings have been held concerning the proposed application for Community Development Block Grant funding to benefit COVID-19 Rent and Utility Assistance; and,
- WHEREAS,** the Commissioners wish the County to pursue a formal application for Community Development Block Grant funding to benefit COVID-19 Rent and Utility Assistance; and,
- WHEREAS,** the Commissioners certifies it will meet all federal regulatory and statutory requirements of the State of North Carolina Community Development Block Grant Program,


NOW, THEREFORE BE IT RESOLVED, by the County's Board of Commissioners that the County of Henderson is authorized to submit a formal application to the North Carolina Department of Commerce for approval of a Community Development Block Grant to benefit COVID-19 Rent and Utility Assistance.

Adopted this the 18th day of November, 2020.




GRADY HAWKINS, CHAIRMAN
HENDERSON COUNTY BOARD OF COMMISSIONERS

ATTEST:



TERESA L. WILSON, CLERK TO THE BOARD

MEMORANDUM OF UNDERSTANDING

(FISCAL YEAR 2020-21 and 2021-22)

BETWEEN

**THE NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES
AND
HENDERSON COUNTY**

**A Written Agreement Pursuant to N.C. Gen. Stat. § 108A-74,
an Act of the North Carolina General Assembly**

This Memorandum of Understanding (“MOU”) is made by and between the North Carolina Department of Health and Human Services, (hereinafter referred to as the “Department”) and Henderson County a political subdivision of the State of North Carolina (hereinafter referred to as the “County”) to comply with the requirements of law, N.C. Gen. Stat. § 108A-74. The Department and the County may be referred to herein individually as a “Party” and collectively as the “Parties.”

TERMS OF UNDERSTANDING

In consideration of the mutual promises and agreements contained herein, as well as other good and valuable consideration, the sufficiency of which is hereby acknowledged by the Parties, the Parties agree to this MOU, effective January 1, 2021, in compliance with the mandates of law enacted by the North Carolina General Assembly and in recognition of possible amendments by the General Assembly, the Parties further agree to conform to changes made to the law, notwithstanding a contractual term previously agreed upon.

1.0 Parties to the MOU

The only Parties to this MOU are the North Carolina Department of Health and Human Services and Henderson County, a political subdivision of the State of North Carolina.

1.1 Relationships of the Parties

Nothing contained herein shall in any way alter or change the relationship of the Parties as defined under the laws of North Carolina. It is expressly understood and agreed that the enforcement of the terms and conditions of this MOU, and all rights of action relating to such enforcement, shall be strictly reserved to the Department and the County. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Department and County that any such person or entity, other than the Department or the County, receiving services or benefits under this MOU shall be deemed an incidental beneficiary only.

Subcontracting: The County shall be responsible for the performance of all of its subcontractors. The County shall disclose the names of its subcontractors to the Department within thirty (30) days of the execution thereof. The County shall also provide additional information concerning its subcontractors as may be requested by the Department within thirty (30) days of the request. The

County additionally agrees not to enter into any confidentiality agreement or provision with a subcontractor or other agent to provide services related to this MOU that would prevent or frustrate the disclosure of information to the Department. Subcontractors shall be defined under this MOU to mean any party the County enters into a contractual relationship with for the complete administration of one or more social services programs covered by this MOU. Temporary employees hired by the County shall not be considered subcontractors under this MOU.

Assignment: No assignment of the County's obligations or the County's right to receive any funding made in any way concerning the matters covered by this MOU hereunder shall be permitted.

2.0 Terms of the MOU

The term of this MOU shall be for a period of 18 months beginning January 1, 2021 and ending June 30, 2022.

2.1 Default and Modification

Default: In the event the County fails to satisfy the mandated performance requirements as set forth in **Attachment I** or fails to otherwise comply with the terms of this MOU, the Department may withhold State and/or federal funding. Any such withholding shall be in compliance with, and as allowed by, state and/or federal law.

Performance Improvement: Prior to the Department exercising its authority to withhold State and/or federal funding for a failure to satisfy the mandated performance requirements set forth in **Attachment I** or failure to meet the terms of this MOU, the process for performance improvement set forth in N.C. Gen. Stat. § 108A-74 will govern. Nothing contained in this MOU shall supersede or limit the Secretary's authority to take any action otherwise set forth in N.C. Gen. Stat. § 108A-74.

Waiver of Default: Waiver by the Department of any default or breach in compliance with the terms of this MOU by the County shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be modification of the terms of this MOU unless stated to be such in writing, signed by an authorized representative of the Department and the County and attached to the MOU.

Force Majeure: Neither Party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, public health emergency or other catastrophic natural event or act of God.

Modification: The terms and conditions of this MOU may only be modified by written agreement of the Parties, signed by an authorized representative of the Parties.

3.0 MOU Documents

The Recitals and the following attachments are incorporated herein by reference and are part of this MOU:

- (1) The portions hereof preceding the Terms of Understanding, including but not limited to the introductory paragraph and the Recitals, which are contractual as well as explanatory
- (2) The Terms of Understanding
- (3) Attachment I – Mandated Performance Requirements:
 - a. I-A: Energy Programs
 - b. I-B: Work First
 - c. I-C: Food and Nutrition Services
 - d. I-D: Child Welfare – Foster Care
 - e. I-E: Adult Protective Services
 - f. I-F: Special Assistance
 - g. I-G: Child Support Services
- (4) Attachment II - Child Welfare - CFSR

4.0 Entire MOU

This MOU and any documents incorporated specifically by reference represent the entire agreement between the Parties and supersede all prior oral or written statements or agreements between the Parties.

5.0 Definitions

While "County" is used as an abbreviation above, the following definitions, some of which are contained in N.C. Gen. Stat. § 108A-74(a), also apply to this MOU:

- (1) "County department of social services" also means the consolidated human services agency, whichever applies.
- (2) "County director of social services" also means the human services director, whichever applies.
- (3) "County board of social services" also means the consolidated human services board, whichever applies.
- (4) "Child welfare services or program" means protective, foster care, and adoption services related to juveniles alleged to be abused, neglected, or dependent as required by Chapter 7B of the General Statutes.
- (5) "Social services programs" or "Social services programs other than medical assistance" means social services and public assistance programs established in Chapter 108A other than the medical assistance program (Part 6 of Article 2 of Chapter 108A). This includes, but is not limited to, child welfare programs, adult protective services, guardianship services for adults, and programs of public assistance established in Chapter 108A. It also includes the child support enforcement program, as established in Article 9 of Chapter 110 of the General Statutes, and the North Carolina Subsidized Child Care Program.

To the extent that any term used herein is defined by a statute or rule applicable to the subject matter of this MOU, the statutory or rule definition shall control. For all remaining terms, which

are not defined by statute or rule, those terms shall have their ordinary meaning. Should any further definition be needed, the Parties agree that the meanings shall be those contained in the current version (as of the time the dispute or question arises) of Black's Law Dictionary, and if not defined therein, then of a published unabridged modern American English Language Dictionary published since the year 2000.

6.0 Audit Requirements

The County shall furnish to the State Auditor, upon his/her request, all books, records, and other information that the State Auditor needs to fully account for the use and expenditure of state funds in accordance with N.C.G.S. § 147-64.7. Additionally, as the State funding authority, the Department of Health and Human Services shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions.

7.0 Record Retention

The County shall retain records at its own expense in accordance with applicable State and Federal laws, rules, and regulations. The County shall facilitate and monitor the compliance of its subcontractors with all applicable requirements of record retention and disposition.

In order to protect documents and public records that may be the subject of Department litigation, the Department shall notify the County of the need to place a litigation hold on those documents. The Department will also notify the County of the release of the litigation hold. If there is no litigation hold in place, the documents may be destroyed, disposed of, or otherwise purged through the biannual Records Retention and Disposition Memorandum from the Department's Controller's Office.

8.0 Liabilities and Legal Obligations

Each party hereto agrees to be responsible for its own liabilities and that of its officers, employees, agents or representatives arising out of this MOU. Nothing contained herein is intended to alter or change the relationship of the Parties as defined under the laws of the State of North Carolina.

9.0 Confidentiality

Any medical records, personnel information or other items exempt from the NC Public Records Act or otherwise protected by law from disclosure given to the Department or to the County under this MOU shall be kept confidential and not divulged or made available to any individual or organization except as otherwise provided by law. The Parties shall comply with all applicable confidentiality laws and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the administrative simplification rules codified at 45 Parts 160, 162, and 164, alcohol and drug abuse patient records laws codified at 42 U.S.C. §290dd-2 and 42 CFR Part 2, and the Health Information Technology for Economics and Clinical Health Act (HITECH Act) adopted as part of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

10.0 Secretary's Authority Undiminished

Certain functions delegated to the County pursuant to this MOU are the duty and responsibility of the Department as the grantee of federal grant funds. The Parties understand and agree that nothing in this MOU shall be construed to diminish, lessen, limit, share, or divide the authority of the Secretary of the Department to perform any of the duties assigned to the Department or its Secretary by the North Carolina General Statutes, the terms and conditions of the federal funds and their applicable laws and regulations or other federal laws and regulations regarding any federal funding which is used by the Department to reimburse the County for any of its duties under this MOU.

11.0 MOU does not Diminish Other Legal Obligations

Notwithstanding anything to the contrary contained herein and to facilitate the mandated performance requirements of N.C. Gen. Stat. § 108A-74, the Parties acknowledge and agree that this MOU is not intended to supersede or limit, and shall not supersede or limit, the County's obligations to comply with all applicable: 1) federal and state laws; 2) federal and state rules; and 3) policies, standards, and directions of the Department, as all such currently exist and may be amended, enacted, or established hereafter.

12.0 Notice

The persons named below shall be the persons to whom notices provided for in this MOU shall be given. Either Party may change the person to whom notice shall be given upon written notice to the other Party. Any notice required under this MOU will only be effective if actually delivered to the Parties named below. Delivery by hand, by first class mail, or by email are authorized methods to send notices.

For the Department of Health and Human Services, Division of Social Services

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Susan Osborne, Assistant Secretary NCDHHS 2417 Mail Services Center Raleigh, NC 27699-2001	Susan Osborne NCDHHS Doretha Dix Campus, McBryde Building Phone: 919-527-6338 E-mail: Susan.Osborne@dhhs.nc.gov

For Henderson County:

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Jerrie McFalls, Director c/o Henderson County DSS 1200 Spartanburg Hwy, Suite 300 Hendersonville, NC 28792	Jerrie McFalls, Director Phone: 828-697-5500 E:mail: McFallsJ@hendersoncountync.gov

13.0 Responsibilities of the Department

The Department hereby agrees that its responsibilities under this MOU are as follows:

- (1) The Department shall develop performance requirements for each social services program based upon standardized metrics utilizing reliable data. The performance requirements are identified in Attachments I and II.
- (2) The Department shall provide supervision, program monitoring and technical assistance to the counties in the administration of social services programs.
- (3) The Department shall provide leadership and coordination for developing strategies that address system-level barriers to the effective delivery of social services programs, including but not limited to: the Administrative Office of Courts, the LME/MCO, Department of Public Instruction, and the Department of Public Safety.
- (4) The Department shall have the following administrative responsibilities:
 - a. Staff Training and Workforce Development:
 - i. Develop training requirements for county personnel and provide guidance for adequate staffing patterns related to the provision of social services programs. The Department will publish annually, a list of required and recommended trainings for county personnel directly involved in the administration of social services programs covered under this MOU.
 - ii. Develop training curricula and provide, timely, adequate access to statewide training opportunities for county personnel related to the provision of social services programs. Training opportunities may include in-person, self-guided, web-based and remotely facilitated programs.
 - iii. The Department will publish a training calendar, at least quarterly, notifying the counties of training opportunities.
 - iv. Provide timely written guidance related to new federal or state statutes or regulations. The Department will provide information in advance of the effective date of new policy to the extent possible, including interpretations and clarifications of existing policy.
 - v. Provide technical assistance and training in areas where quality control, monitoring or data indicates a lack of correct application of law, rule or policy.
 - b. Performance Monitoring:
 - i. Monitor and evaluate county compliance with applicable federal and state laws, rules and policies.

- ii. Provide feedback to counties with recommended changes when necessary.
 - iii. Monitor that all financial resources related to the provision of social services programs covered by this MOU are utilized by the county in compliance with applicable federal and state laws.
- c. Data Submission:
- i. Maintain and review data submitted by counties pursuant to the mandatory performance requirements.
 - ii. Provide counties with reliable data related to their performance requirements as well as accuracy and timeliness of programs in accordance with state and federal program guidelines. This includes but is not limited to processing applications and recertification, quality control standards, program statistics and fiscal information.
 - iii. The Department shall be responsible for the maintenance and functionality of its information systems utilized in the statewide administration of social services programs covered by this MOU.
- d. Communication:
- i. Provide counties with clarification or explanation of law, rule or policy governing social services programs when necessary or as requested.
 - ii. Disseminate policy on social services programs and provide counties with timely information on any updates to policy.
 - iii. Provide timely information to counties on any changes to federal law or policy made known to the Department.
 - iv. Provide counties with a timely response to requests for technical assistance or guidance.
 - v. Maintain all policies covering social services programs in a central, accessible location. Policies will be updated, to the extent possible, in advance of the effective date of any new policies or policy changes.
 - vi. Provide counties with an opportunity to submit questions, concerns and feedback related to the administration of social services programs to the Department and provide County a timely response to such communication.
 - vii. Communicate proactively with the County Director of Social Services on matters that effect social services programs covered under this MOU.
 - viii. Communicate directly with the County Manager, Governing Boards, and the County Director of Social Services on matters including but not limited to, corrective action, and significant changes to law, rule and policy that impact the administration of social services programs covered by this MOU.
- e. Inter-agency Coordination:
- i. Provide guidance to counties in the event they are unable to reach a resolution on a conflict of interest that arises related to the provision of social services programs covered by this MOU.
 - ii. Provide guidance for county DSS personnel on federal and state Emergency Management, mass shelter, Business Continuity Plan (BCP) and Continuity of Operations Plan (COOP) requirements.
 - iii. Coordinate with and communicate to county DSS agencies regarding available and required training opportunities associated with DSS Mass Shelter, BCP and COOP responsibilities.

- iv. Assist and support counties as needed in implementation of operational functions of mass shelter operations and as needed during other emergencies as they arise.
- (5) The Department shall timely meet all of its responsibilities contained in this MOU. "Timely" shall be defined consistent with timeliness requirements set forth in relevant statute, regulation, and policy. Where timeliness is not otherwise defined, "timely" shall mean within a reasonable time under the circumstances.

14.0 Responsibilities of the County

The County hereby agrees that its responsibilities under this MOU are as follows:

- (1) The County shall adhere to the mandated performance requirements for each social services program as identified in Attachment I. The County will ultimately work toward achievement of the Standard Measure for all performance requirements set forth in Attachments I and II.
- (2) The County shall comply with the following administrative responsibilities
 - a. Staff Requirements and Workforce Development:
 - i. The personnel, including new hires and existing staff, involved in the County's provision of social services programs covered by this MOU shall complete all required and necessary training, which is documented as required by federal and state law and policy.
 - b. Compliance:
 - i. Perform activities related to its social services programs in compliance with all applicable federal and State laws, rules, regulations and policies. Nothing contained herein is intended to, nor has the effect of superseding or replacing state law, rules or policy related to social services programs.
 - ii. Develop and implement internal controls over financial resources related to the County's social services programs to ensure that all financial resources are used in compliance with applicable federal and state laws.
 - iii. Provide and adhere to corrective action plans as required based on monitoring findings and the Single Audit.
 - c. Data Submission:
 - i. Maintain accurate, thorough records of all social services programs covered by this MOU, in particular, records related to the mandated performance requirements that can be accessed for the purpose of data collection, service provision, monitoring or consultation
 - ii. Ensure reliable data entry into state systems utilized for the administration of social services programs covered under this MOU.
 - iii. Provide, upon request, data to the state for the purpose of, but not limited to, conducting monitoring, case file reviews, error analysis and quality control.
 - iv. Utilize data to understand the performance of their county and to conduct analysis and implement changes where needed if performance measures are not being met.
 - d. Communication:
 - i. Respond and provide related action in a timely manner to all communications received from the Department.

- ii. Provide timely information on all matters that have a potential negative impact on the social services programs they administer, including but not limited to, litigation risks (not including child welfare cases governed by Chapter 7B or adult services cases governed by Chapter 35A or 108A), network and computer issues, or data breaches.
 - iii. Provide timely information regarding temporary or permanent changes to the Social Services Governing Board. or the County Social Services Director, including retirements, separations, or any leaves of absence greater than two calendar weeks.
 - e. Inter-agency Cooperation:
 - i. Ensure that county social services personnel complete required training and are prepared to engage in Disaster Management, mass shelter, BCP and COOP operations.
 - ii. Ensure that all plans and systems are in place to meet potential disaster (natural, technical, otherwise) response requirements.
 - iii. Engage with DHHS, state Emergency Management and local leadership in associated efforts.
 - iv. Assist or operate mass shelter operations or other required disaster management responsibilities.
- (3) The County shall timely meet all its responsibilities contained in this MOU. "Timely" shall be defined consistent with timeliness requirements set forth in relevant statute, regulation, policy or as otherwise required by the Department. If timeliness is not otherwise defined, "timely" shall mean within a reasonable time under the circumstances.

15.0 Data Security and Reporting

Data Security: The County shall adopt and apply data privacy and security requirements to comply with all applicable federal, state, department and local laws, regulations, and rules. To the extent that the Department and the County have already entered into one or more data privacy agreements covering all or any portion of the work to be performed under this MOU, the Parties hereby adopt and incorporate such agreements by reference into this MOU as if fully set forth herein.

Duty to Report: The County shall report all privacy and security incidents related to the provision of social services programs covered by the MOU to the Department and the Privacy and Security Office within twenty-four (24) hours after the privacy and security incident is first discovered, provided that the County shall report a breach involving Social Security Administration data or Internal Revenue Service data within one (1) hour after the incident is first discovered. During the performance of this MOU, the County is to notify the Department of any contact by the federal Office for Civil Rights (OCR) received by the County related to the provision of social services programs covered by the MOU. In case of a privacy and security incident, the County, including any subcontractors or agents it retains, shall fully cooperate with the Department.

16.0 Miscellaneous

Choice of Law: The validity of this MOU and any of its terms or provisions, as well as the rights and duties of the Parties to this MOU, are governed by the laws of North Carolina. The Parties, by signing this MOU, agree and submit, solely for matters concerning this MOU, to the exclusive

jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this MOU and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

Amendment: This MOU may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Department and the County. The Parties agree to obtain any necessary approvals, if any, for any amendment prior to such amendment becoming effective. Also, the Parties agree that legislative changes to state law shall amend this MOU by operation of law to the extent affected thereby.

Effective Date: This MOU shall become effective January 1, 2021 and shall continue in effect until June 30, 2022.

Signature Warranty: Each individual signing below warrants that he or she is duly authorized by the party to sign this MOU and to bind the party to the terms and conditions of this MOU.

Henderson County

BY: Dea, Harkins
Name

BY: _____
Name

TITLE: Chairman

TITLE: _____

DATE: November 18, 2020

DATE: _____

North Carolina Department of Health and Human Services

BY: _____
Secretary, Department of Health and Human Services

DATE: _____

LINE-ITEM TRANSFER REQUEST
HENDERSON COUNTY



Department: SOIL AND WATER

Please make the following line-item transfers:

What expense line-item is to be increased?

Account	Line-Item Description	Amount
<u>115471-569931-9011</u>	<u>UNALLOCATED FUNDING</u>	<u>\$86,690</u>
<u>115471-569931-9012</u>	<u>UNALLOCATED FUNDING</u>	<u>\$240,000</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

Account	Line-Item Description	Amount
<u>114471-453034-9011</u>	<u>MISC REVENUES</u>	<u>\$5,090</u>
<u>114471-457001-9011</u>	<u>DIVISION OF WATER RESOURCES GRANT</u>	<u>\$71,600</u>
<u>114471-454019-9011</u>	<u>MISC LOCAL GRANT (DUKE ENERGY)</u>	<u>\$10,000</u>
<u>114471-458010-9012</u>	<u>NCDOJ - ENVIRONMENTAL ENHANCEMENT GRANT</u>	<u>\$90,000</u>
<u>114471-454802-9012</u>	<u>NCDEQ - NPS POLLUTION CONTROL GRANT</u>	<u>\$150,000</u>
_____	_____	_____
_____	_____	_____

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

TO BUDGET FOR GRANT AWARDS AND FUNDING RELATED TO THE EDNEYVILLE (9012) AND RUGBY (9011) STREAM BANK RESTORATION PROJECTS.

Authorized by Department Head

Date

Authorized by Budget Office

Date

Authorized by County Manager

Date

For Budget Use Only	
Batch #	_____
BA #	_____
Batch Date	_____