

MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
WEDNESDAY JUNE 15, 2022**

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.

Those present were Chairman William Lapsley, Vice-Chair Rebecca McCall, Commissioner J. Michael Edney, Commissioner Daniel Andreotta, Commissioner David Hill, County Manager John Mitchell, Assistant County Manager Amy Brantley, Attorney Russ Burrell, and Clerk to the Board Denisa Lauffer.

Also present were: Director of Business and Community Development Christopher Todd, Finance Director Samantha Reynolds, Budget Manager/Internal Auditor Sonya Flynn, Engineer Marcus Jones, Emergency Management/Rescue Coordinator Jimmy Brissie, Budget Analyst Jennifer Miranda, Planning Director Autumn Radcliff, Senior Planner Janna Bianculli, Planning Intern Landon Coley, Health Department Director Dr. Steve Smith, Environmental Health Supervisor Seth Swift, Register of Deeds Lee King, DSS Director Jerrie McFalls, IT Director Mark Seelenbacher, Human Resources Director Karen Ensley, Parks, and Recreation Director Carleen Dixon, Sheriff Lowell Griffin, Chief Deputy Vanesa Gilbert, Tax Collector Darlene Burgess, Library Director Trina Rushing, Captain Todd McCain, Assistant Engineer Deb Johnston, and PIO Kathy Finotti – videotaping, Deputies John Ashe and Chris Barber provided security.

CALL TO ORDER/WELCOME

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

INVOCATION

Commissioner Andreotta provided the invocation.

PLEDGE OF ALLEGIANCE

Chairman Lapsley led the Pledge of Allegiance to the American Flag.

INFORMAL PUBLIC COMMENTS

1. Doug Dolan spoke regarding the need for a dedicated space in the community for citizens to play pickleball.
2. Debra Romaine spoke in support of dedicated pickleball courts.
3. Al Jones spoke in support of additional facilities for pickleball.
4. William Vine spoke in opposition to the proposed Courthouse and Detention Center Project.
5. Christopher Berg spoke regarding the 2045 Comprehensive Plan.
6. Nancy Diaz spoke regarding the 2045 Comprehensive Plan.

DISCUSSION/ADJUSTMENT OF AGENDA

Consent Agenda Item J, Offer to Purchase Tax-Foreclosed Property, was removed from the Consent Agenda, and tabled to a future meeting.

Commissioner Andreotta made the motion to approve the consent agenda as presented, with the removal of Item J. All voted in favor, and the motion carried 5-0.

CONSENT AGENDA consisted of the following:

Approval of Minutes

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

June 5, 2022 - Regularly Scheduled Meeting

Motion:

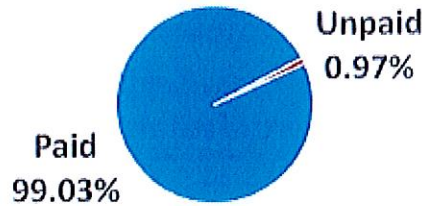
I move the Board approve the minutes of June 5, 2022.

Tax Collector’s Report

The report from the office of the Tax Collector was provided for the Board’s information.

Henderson County Annual Bills (Real and Personal Property):

2021 Beginning Charge:	\$88,218,513.92
Discoveries & Imm. Irreg.:	\$1,341,302.75
Releases & Refunds:	(\$1,131,163.62)
Net Charge:	\$88,428,653.05
Unpaid Taxes:	\$853,902.76
Amount Collected:	\$87,574,750.29



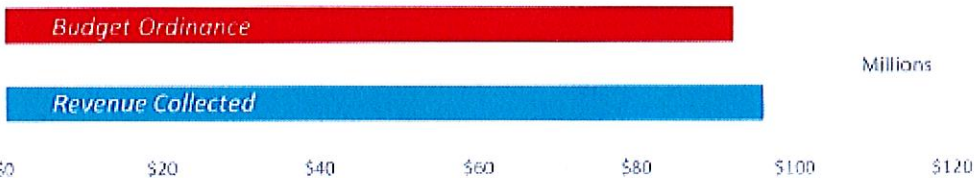
Henderson County Registered Motor Vehicles (As Collected by NC DMV):

Net Charge:	\$7,296,409.50
Unpaid Taxes:	\$16,668.26
Amount Collected:	\$7,279,741.24

99.77%

Henderson County FY22 Budget Analysis:

	<u>Budget Ordinance</u>		<u>Revenue Collected</u>
Ad Valorem:	\$91,127,728.00	Ad Valorem:	\$94,854,491.53
Prior Years:	\$980,000.00	Prior Years:	\$978,152.68
Budget Total:	\$92,107,728.00	YTD Revenue:	\$95,832,644.21



Request for Qualifications - Emergency Medical Services Base #6

Based on the scope presented to the Board of Commissioners during the February 16, 2022 meeting, the attached RFQ was presented for Board approval. The project location is on the Fletcher Elementary School parcel and is modeled after the Valley Hill Fire & Rescue substation on Crab Creek Road. The proposed RFQ is in accordance with NC General Statute 143-64.31 (Procurement of Architectural, Engineering, and Surveying Services). Staff will post the RFQ on the County’s procurement website in accordance with American Rescue Plan requirements. The proposed due date for responses to the RFQ is July 15, 2022.

The estimated project budget is \$3.2 million from American Rescue Plan funds.

Approved: July 20, 2022

Motion:

I move the Board approve the Request for Qualifications for Emergency Medical Services Base #6 and direct the County Engineer to release a Request for Qualifications for architectural services.

2022.73A GASB 87 - Leases

The Governmental Accounting Standards Board (GASB) has issued a new standard that is in effect for FY2022. The implementation of GASB Statement No. 87 – Leases requires recognition of certain lease assets and liabilities that previously were classified as operating leases based on payment provisions of the contract. Under this new Statement, a lessee is required to recognize a lease liability and an intangible right-to-use lease asset, and a lessor is required to recognize a lease receivable and a deferred inflow of resources.

This statement will not require any changes to County operations, nor will it impact any existing or future lease contracts. Rather, this Statement will result in new and comprehensive reporting and disclosure requirements in the County’s Annual Comprehensive Financial Report.

The Board was requested to approve the necessary budget amendment to appropriately budget for the revenue and expenditure accounts in accordance with GASB Statement No. 87.

Motion:

I move the Board approve the budget amendment to comply with GASB Statement No. 87.

2022.73 Budget Amendment – Capital Project Fund

The Board was requested to approve a Budget Amendment transferring appropriating Fund Balance to transfer funding from the General Fund into the Capital Project Fund for property acquisition.

Motion:

I move the Board approve the attached Budget Amendment as presented.

2022.74 Ratification of Agreements

Agreements that were preliminarily approved but subject to ratification by the Board were provided. (Attached to these minutes).

Motion:

I move that the Board approve the draft agreements with Brite Stars LLC and the Greater Asheville Regional Airport Authority.

2022.75 Budget Amendment – Fire Services/Capital Reserve Fund

The Board was requested to approve a Budget Amendment transferring \$250,000 from the Fire Services Budget into the Capital Reserve Fund. This appropriation within the FY22 Budget was for Worker’s Compensation Insurance the County pays for the volunteer fire departments. Staff has been informed that this cost will be covered by the State for the upcoming FY. Staff requests this transfer to allow these funds to still be used for the benefit of the volunteer fire departments.

Motion:

I move the Board approve the attached Budget Amendment as presented.

2022.76 Library Meeting Room Use Policy – Proposed Revisions

The Henderson County Public Library Meeting Room Use Policy has been revised to include the two newest meeting spaces available for community use, the Learning Lab at the Main Library and the Meeting Room at the Edneyville Library. Additionally, seated capacities at each space were reviewed and, if necessary, reduced to allow for a minimum of 3 feet aisles to accommodate the movement of individuals with mobility aids.

Motion:

I move the Board adopt the Meeting Room Use Policy as presented.

Use of Courtroom

A request was submitted by Henderson County Public Schools for use of the Commissioner’s Meeting Room (Courtroom) on Friday, July 1, 2022, at 8:45 am. Incoming School Superintendent Mark Garrett will be sworn in at that time by Judge Gasperson-Justice.

Motion:

I move that the Board approves the use of the Commissioners’ Meeting Room (Courtroom) as requested on Friday, July 1, 2022, at 8:45 am.

2022.77 Amendment to Lease – Hospital Corporation

In pursuing the financing approved by the Board at the June 6, 2022, meeting, the Hospital Corporation has determined that the best financial terms for them involve a 20-year maturity for the bonds. Since the ending date of the County’s lease with the Hospital Corporation, September 30, 2038, is less than 20 years out, an extension of the lease agreement is requested.

The lease agreement is the underlying document controlling the relationship between the Hospital Corporation and its owner, the County.

Motion:

I move that the Board approve the proposed "First Amendment to the Amended and Restated Lease Agreement."

2022.78 Resolution Authorizing Issuance of Hospital Corporation Bonds

This was the final resolution on the \$14.2 million taxable bonds by the Henderson County Hospital Corporation.

Motion:

I move the board adopt the proposed resolution.

Consent Agenda Item J – Offer to Purchase Tax-Foreclosed Property was pulled and tabled by Chairman Lapsley.

County Attorney Russ Burrell noted that Consent Agenda Item K – Amendment to Lease – Hospital Corporation had been revised since the item and its attachments were originally posted on the County’s website. The Board and the Clerk were provided the revised documents.

Chairman Lapsley made the motion to adopt the consent agenda as amended. All voted in favor, and the motion carried.

Approved: July 20, 2022

DISCUSSION

2022.79 FY2022.2023 Budget Ordinance

The Board was requested to continue discussions with regard to the FY 2022-2023 Budget. John Mitchell presented the Board with the following.

FY 2022-2023 Expenditures

FY 22-23 Recommended Budget \$ 178,365,545
 Revisions as of June 15, 2022 + \$ 1,029,766

TOTAL FY 22-23 Expenditures \$ 179,395,311

FY 2022-2023 Revenues

FY 22-23 Recommended Fund Balance Appropriated \$ 17,961,329
 Revisions as of June 15, 2022 + \$ 780,376

TOTAL FY 22-23 Fund Balance Appropriated \$ 18,741,705

Chairman Lapsley noted the Board had had a number of adjustments over the last couple of meetings; those adjustments were reflected on the FY 2022-2023 Budget Talley provided by the Budget Staff.

**Henderson County
 FY 2022-2023 Budget Tally**

FY 2022-2023 Manager Proposed Budget as Presented May 2, 2022						Total Budget	Fund Balance Appropriation				
						\$ 178,365,545	\$ 17,961,329				
Staff Recommendations in advance of 05.18.22 Discussions											
						REVENUE		EXPENDITURE			
						Reductions	Additions	Reductions	Additions		
1	Additional Ad Valorem Taxes based on updated Valuation					\$ 630,335					
2	Transfer to HCPS MRTS (3C TRE) - 3C increase = 533,708							\$ 33,708	\$ 178,399,253	\$ 17,364,702	
3	Transfer to BRCC MRTS (2C TRE) - 2C increase = 522,472							\$ 22,472	\$ 178,421,725	\$ 17,387,174	
4	Transfer to Capital Reserve Fund (1C TRE) - 1C increase = 511,236							\$ 11,236	\$ 178,432,961	\$ 17,398,410	
5	Economic Development - Partnership Match for EIF (Total \$77,500)							\$ 38,649	\$ 178,471,610	\$ 17,437,059	
6	Recommended funding for United Way (consistent with FY22 funding)							\$ 10,000	\$ 178,481,610	\$ 17,447,059	
7	Soil & Water Conservation Grants - Reduce grant revenue					\$ 81,000			\$ 178,481,610	\$ 17,528,059	
8	Health Department - Dogwood Health Trust Grant					\$ 300,000			\$ 178,481,610	\$ 17,828,059	
9	Health Department - COSSAP Grant							\$ 300,000	\$ 178,781,610	\$ 18,128,059	
Totals following Staff recommendations						\$ 381,000	\$ 630,335	\$ -	\$ 416,065	\$ 178,781,610	\$ 18,128,059

BOC Meeting held May 18, 2022						Total Budget	Fund Balance Appropriation				
						\$ 178,781,610	\$ 18,128,059				
Budget Revisions Based on 05.18.22 Discussions											
						REVENUE		EXPENDITURE			
						Reductions	Additions	Reductions	Additions		
1	Fund Non-Profit Aspire Youth & Family - Kids at Work! (McCall)						\$ 21,664		\$ 178,803,274	\$ 18,149,723	
2	Fund Non-Profit Aspire Youth & Family - Vocational Directions (McCall)						\$ 16,680		\$ 178,819,954	\$ 18,166,403	
3	Fund Non-Profit Open Arms Crisis Pregnancy Center (McCall)						\$ 20,000		\$ 178,839,954	\$ 18,186,403	
4	Fund Non-Profit Only Hope WNC - both applications (Edney)						\$ 14,000		\$ 178,853,954	\$ 18,200,403	
5	Fund Non-Profit Boys and Girls Club (Lapsley)						\$ 5,000		\$ 178,858,954	\$ 18,205,403	
6	Fund Non-Profit Children and Family Resource Center (Lapsley)						\$ 2,660		\$ 178,861,614	\$ 18,208,063	
7	Fund Non-Profit Council on Aging (Lapsley)						\$ 3,925		\$ 178,865,539	\$ 18,211,988	
8	Fund Non-Profit Interfaith Assistance Ministry (Lapsley)						\$ 15,000		\$ 178,880,539	\$ 18,226,988	
9	Fund Non-Profit Safelight (Lapsley)						\$ 2,500		\$ 178,883,039	\$ 18,229,488	
10	Fund Non-Profit St. Gerard House (Lapsley)						\$ 10,000		\$ 178,893,039	\$ 18,239,488	
11	Fund Non-Profit The Free Clinics (Lapsley)						\$ 2,355		\$ 178,895,394	\$ 18,241,843	
12	Fund HCSO Courthouse Deputy - Salary and Benefits (Edney)						\$ 62,572		\$ 178,957,966	\$ 18,304,415	
13	Fund HCSO Courthouse Deputy - Vehicle and Equipment (Edney)						\$ 54,738		\$ 179,012,704	\$ 18,359,153	
14	Fund HCSO Courthouse Deputy - Technology (Edney)						\$ 9,914		\$ 179,022,618	\$ 18,369,067	
15	Fund First Contact Ministries Contract in Detention Center (McCall)						\$ 150,000		\$ 179,172,618	\$ 18,519,067	
16	Fund HR Analyst Salary and Benefits (Edney)						\$ 72,905		\$ 179,245,523	\$ 18,591,972	
17	Fund HR Analyst Office Desk (Edney)						\$ 2,400		\$ 179,247,923	\$ 18,594,372	
18	Fund HR Analyst IT Equipment (Edney)						\$ 3,600		\$ 179,251,523	\$ 18,597,972	
19	Fund Rescue Squad Additional Operating Expenses (Hill)						\$ 76,390		\$ 179,327,913	\$ 18,674,362	
20	Fund Cooperative Extension Agriculture Program Assistant Salary (McCall)						\$ 51,253		\$ 179,379,166	\$ 18,725,615	
21	Add additional 2.5% to Cooperative Extension Salary - anticipated State raise July 1st (McCall)						\$ 16,145		\$ 179,395,311	\$ 18,741,760	
22	Revised Ad Valorem Tax Base (Revised June 3, 2022)							\$ 55	\$ 179,395,311	\$ 18,741,705	
As of June 6, 2022						\$ -	\$ 55	\$ -	\$ 613,701	\$ 179,395,311	\$ 18,741,705

Approved: July 20, 2022

Commissioner Hill proposed the creation of a Memorandum of Understanding (MOU) between the County and the City before releasing the allocation of funds for the school resource officers. This MOU would place the Sheriff's Department in command should any incident arise at one of the Henderson County Public Schools within city limits and suggested that SRO funds be allocated quarterly.

Chairman Lapsley made the motion the Board accept the proposed funding as outlined by the City of Hendersonville for FY 2022-2023, in the amount of \$234,938, for the cost of the School Resource Officers for Henderson County Public Schools that are located within the City of Hendersonville. He further moved that a formal memorandum of understanding between the City of Hendersonville and Henderson County be developed, establishing the chain of command should any situation arise at HCPS located within the city limits of Hendersonville. All voted in favor, and the motion carried.

Vice-Chair McCall requested the Board consider adjusting the budget to add one of the two Program Coordinator positions requested by the Parks and Recreation Department. She stated the non-profit organization, "Special Needs Sports," was founded, managed, and is currently operated by Donnie Jones. Mr. Jones does an excellent job in providing services to those with special needs in the community. Vice-Chair McCall envisions the Program Coordinator position would work alongside Mr. Jones to gain knowledge of the services his organization provides to the community and potentially manage the VFW site once renovations are complete.

Vice-Chair McCall made the motion that one of the two Program Coordinator positions for the Parks and Recreation Department, with an increase of \$58,308, be added to the FY2022-2023 budget. All voted in favor, and the motion carried.

Commissioner Edney stated that all Henderson County High Schools and Middle Schools have a yearbook except for one, Hendersonville High School. He asked Henderson County Public School Superintendent Dr. John Bryant what the Board could do to ensure that Hendersonville High School has a yearbook in the future. Dr. Bryant assured Commissioner Edney that this would be completed without allocating funds from the Board.

Commissioner Andreotta stated that he did not favor including the Flat Rock Playhouse in the FY22-23 Budget.

Commissioner Andreotta requested county staff audit specific non-profit organizations that receive significant allocations of funds, and any funds approved in the FY22-23 budget be withheld pending the positive outcome of the audit. Those organizations included: Open Arms, First Contact Ministries, Pisgah Legal Services, and the Mediation Center.

For clarity Assistant County Manager Amy Brantley informed the Board that each of the non-profits will have had outside audit firms complete an audit. County staff would look at practices, sustainability, and performance measures as opposed to what is traditionally a formal audit. The audit would be less financial and more operational.

Vice-Chair McCall added for the record that First Contact Ministries provides a service to the Henderson County Detention Center. The Detention Center sends clients to First Contact per a written agreement, and detailed reports are provided quarterly regarding clients that have been sent to work with the First Contact Ministries Program.

Commissioner Andreotta requested the Blue Ridge Literacy Council be allocated their total requested amount of \$15,000, an increase to the proposed budget of \$5,000.

Commissioner Andreotta requested the \$20,000 allocated to the Mills River Fire Department in the FY21-22 budget be matched in the FY22-23 budget.

Commissioner Andreotta made the motion that county staff audit Open Arms, First Contact Ministries, Pisgah Legal Services, and the Mediation Center and withhold allocation of funds pending a satisfactory result. All voted in favor, and the motion carried.

Commissioner Andreotta made the motion that the Blue Ridge Literacy Council be allocated an additional \$5,000 for a total of \$15,000 and that the Mills River Fire Department be allocated \$20,000 from PILT funds received. All voted in favor, and the motion carried.

Commissioner Andreotta made the motion that the Flat Rock Playhouse appropriation of \$30,000 be deleted from the FY22-23 Budget under any category. Chairman Lapsley, Vice-Chair McCall, and Commissioner Edney voted nay, and Commissioners Andreotta and Hill voted yay: the motion failed with a 3-2 vote.

Chairman Lapsley offered clarification regarding Consent Agenda Item E – Budget Amendment – Capital Projects Fund, which was passed as part of the consent agenda earlier in the meeting.

Chairman Lapsley stated that the 4.5 million appropriation from the Fund Balance for Economic Development and Capital Projects fund was an amendment to the current FY21-22 Budget and not the proposed FY22-23 Budget. Chairman Lapsley said the Board had taken “significant action” to make an appropriation, a budget amendment, of 4.5 million to the Capital Project fund toward an economic development project with the assistance of the Henderson County Partnership for Economic Development and the Economic Investment Fund to purchase property in Ferncliff Industrial Park and adjacent property owned by the Greater Asheville Airport Authority. This joint effort will combine those parcels to create an industrial site with approximately 125-130 acres of property and will provide a site for industrial development in Henderson County. This will be the only known industrial property site in North Carolina immediately adjacent to a major airport available for a “significant” industrial development.

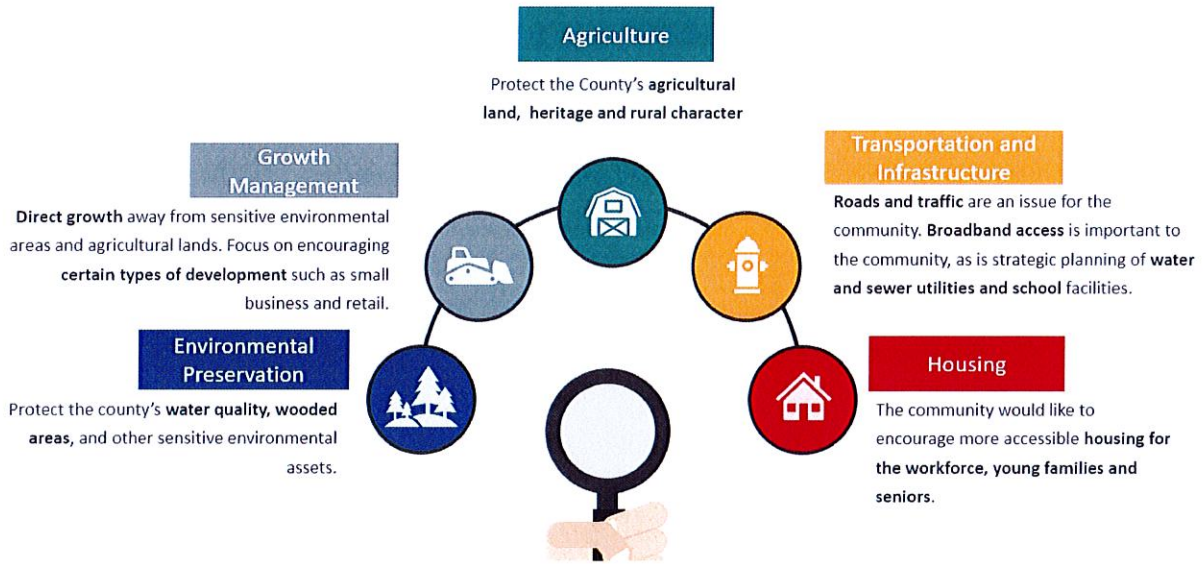
Assistant County Manager Amy Brantley stated for clarity that going into today’s meeting, the revised budget stood at \$179,395,311. The Board made four financial adjustments during budget discussions that included the addition of the City of Hendersonville SRO funds in the amount of \$234,948, the addition of a Recreation Program Coordinator in the amount of \$58,308, a Non-Profit funding increase in the amount of \$5,000 for the Blue Ridge Literacy Council, and PILT money in the amount of \$20,000. The adjusted amount with those additions would be \$179,713,557, and the fund balance appropriated would be \$19,059,951. Amy Brantley stated that she and the budget staff would amend the ordinance and present the revised Budget Ordinance to the Board for their final approval later in the meeting.

Henderson County 2045 Comprehensive Plan Update

Planning Director Autumn Radcliff and Senior Planner Janna Bianculli provided the Board with an update on the Henderson County 2045 Comprehensive Plan.

PUBLIC INPUT THEMES

What are we hearing from the public?



EFFORTS SO FAR

- 10** Stakeholder Focus Groups
- 2** Public Workshops
- 6** Staff-Led Open Houses
- 900+** Completed Surveys
- 4** Planning Board Meetings



PROJECT UPDATE

- Staff and Stewart **met with each Commissioner** in May to discuss the project progress and the Future Land Use Map
- The Planning Board and the Board of Commissioners held a **joint meeting** on May 25th to discuss the Future Land Use Map and provide input in prep for public meetings later this summer
- Stewart is currently **updating the Future Land Use Map** based on these meetings
- The **Henderson County Partnership** will discuss the Future Land Use Map at its meeting in late June
- Staff met with City of Hendersonville Engineering, Public Works and, Community Planning to discuss the **City of Hendersonville water and sewer service district**
- Staff met with **MSD** to discuss the Urban Services Area on the Future Land Use Map as it relates to current policies and identified sewer service district

Senior Planner Janna Bianculli said the next steps in the planning process would include the following:

- **June:** Stewart will provide draft chapters, goals, maps, and revised FLUM to staff for review
- **July:** Staff will review draft documents as received and work with Stewart on needed changes. 2nd joint workshop with the Planning Board and Board of Commissioners is tentatively scheduled for July 26th.
- **August:** Public Meetings
- **September:** Review public comment and work with Steering Committee to Finalize Draft Plan.

Soccer Field Update

Business and Community Development Director Christopher Todd provided the Board with an update on the search for property suitable to develop a multiuse sports complex.

The goals for the facility would include

- The ability to host all current uses supported in the county
- Design fields to be multi-use in design to accommodate multiple sports
- Develop the capacity to host larger tournaments
- Develop capacity for growing recreation requests in the county
- Synthetic turf material: this would reduce the number of days fields are unable to be used due to rain; plus, synthetic turf can withstand more consistent use

Four full fields are equivalent to approximately ten acres.



Property Considerations Include

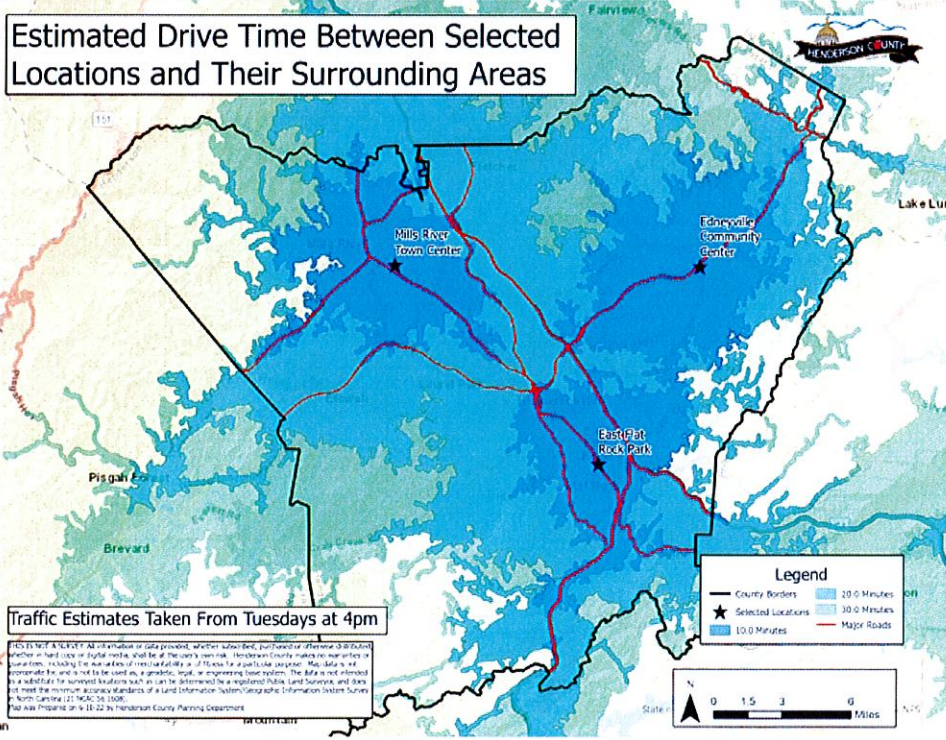
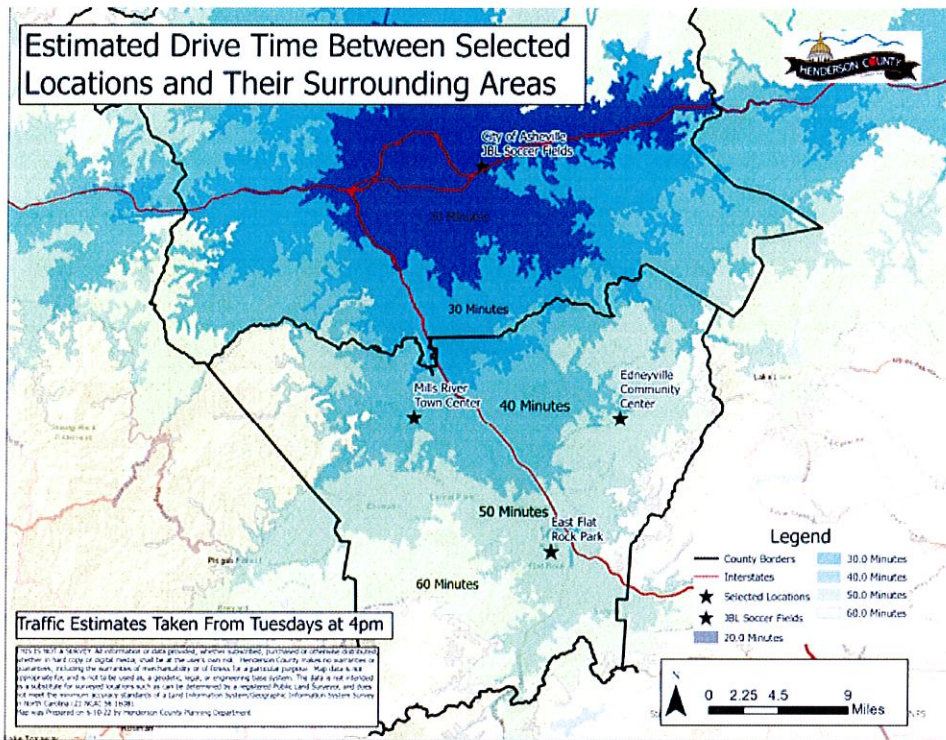
30+ acres

Served by water and sewer

Centrally located as possible

Less than 5% average slope

Out of the floodplain



Chairman Lapsley recessed for a ten-minute break at 11:21 a.m.

95 Courthouse/Detention Center Contract

On January 26th, 2022, a Request for Qualifications for architectural services for the Courthouse Expansion and Detention Center Annex was posted. The overall project scope included designs that address all necessary repairs and replacements of all building systems components, including but not limited to HVAC, plumbing, electrical, structural, interior, and exterior finishes, and parking, associated with a yet-to-be finalized design criteria and scope. Also included in the scope of the project was the necessary programming with Henderson County to provide a proposed design with cost estimates and schedules for approval, as well as the necessary Construction Administration once the project is bid and awarded, to ensure project success. Proposals were due February 10th, 2022, and subsequently received and reviewed by Staff. At the March 7th meeting of the Board of Commissioners, the Board approved the selection of Fentress Architects as the most qualified firm and directed to Staff to negotiate an agreement. Fentress Architects proposed a fee of 8.87%, based on the proposed construction cost at a total of \$11,320,010 during the June 6th, 2022 meeting. The Board of Commissioners requested staff and the architects review the cost proposal for potential savings.

Chris Todd was pleased to report to the Board that Fentress Architects had reduced the percentage fee of construction cost versus architect fee from 8.87% to 8.54%. The revised fee is \$10,905,558, a \$414,452 savings from the fee previously presented. Chairman Lapsley reiterated that this was a fixed fee for the amount of \$10,905,558 for the duration of this project.

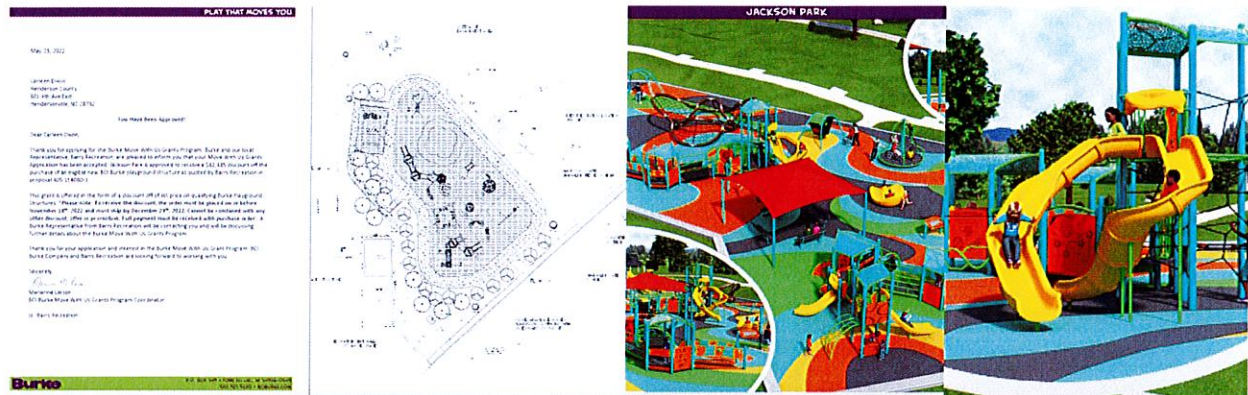
Vice-Chair McCall shared that the proposed costs for this project do include projected inflation costs and noted that this project is a possible two-phase project.

Chairman Lapsley made the motion to accept the proposal from Fentress Architects as presented. All voted in favor, and the motion carried.

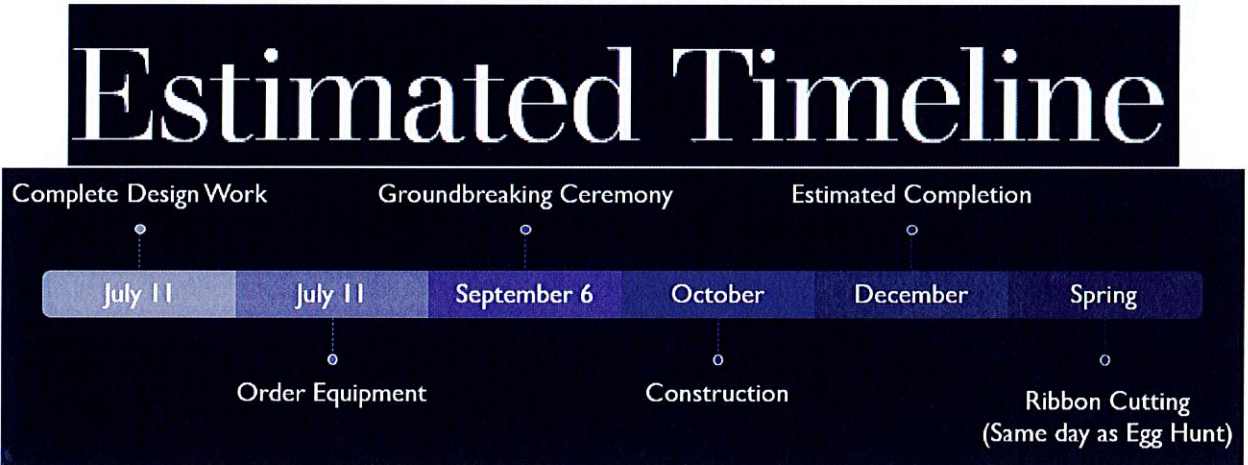
Inclusive Playground Update

Chris Todd provided the Board with an update on the inclusive playground project. Chris invited Tommy Laughter, with the Hendersonville Elks Club, to share with the Board the progress of fundraising efforts for the Inclusive Playground project. Tommy Laughter said what started as a small group of people expressing the need to do more for their community has turned into a committee of over one hundred people working hard to make the dream of an all-inclusive playground a reality. Core fundraising members Tommy Laughter, Bruce Gilliam, Carleen Dixon, Donnie Jones, Connie Stewart, and Mike Pace started this effort with \$50,000 and are now approaching \$500,000.





Where we're at: Funds Achieved \$ 455,000
Plus the following:
 1. Received Burke Move With Us Grant for \$82,485 discount towards playground structure purchase
 2. Waiting to hear on \$50,000 grant application



The next steps include finalizing the budget, taking the design to the Youth and Parent Committee for review, and finalizing the design with RVE. Next, the equipment order will be placed, the bid process will begin, and finally, the construction of the new playground.

NOMINATIONS AND APPOINTMENTS

1. Environmental Advisory Committee - 4 vacs.

Vice-Chair McCall nominated Samuel Henderson for appointment to position #1, Nancy Diaz for position #2, Shane J. Laughter for position #7, and Chairman Lapsley nominated Christopher Berg for reappointment to position #5. All voted in favor, and the motion carried.

2. EMS Peer Review Committee – 2 vac.

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

3. Fire and Rescue Advisory Committee – 2 vacs.

Commissioner Hill nominated John Cudd for reappointment to position #3 and Justin Blythe for reappointment to position #4. All voted in favor, and the motion carried.

4. Greater Asheville Regional Airport Authority – 1 vac.

Commissioner Edney nominated Nathan Kennedy for position #2. All voted in favor, and the motion carried.

5. Henderson County Board of Health – 3 vacs.

Commissioner Andreotta nominated Dr. Scott Prechter for position #9, and Vice-Chair McCall nominated Dr. Jennifer Hensley for position #11. All voted in favor, and the motion carried.

There were two nominations for position # 2.

Commissioner Andreotta nominated Dr. Alison Cartwright Reid for position #2, and Chairman Lapsley nominated Dr. Patrick W. Garrison for position # 2. The Clerk polled the Board, and Commissioners Andreotta, Hill, and Edney voted for Dr. Reid, Chairman Lapsley, and Vice-Chair McCall voted for Dr. Garrison. Dr. Alison Cartwright Reid was appointed with a 3-2 vote.

6. Henderson County Historic Courthouse dba/Heritage Museum – 4 vacs.

Commissioner Hill nominated Sheila Justice Kelly for reappointment to position # 3. Andrew Brannon for reappointment to position # 7, Jim Toms for reappointment to position # 9, and Cecil Bailey for appointment to position #8. All voted in favor, and the motion carried.

7. Henderson County Rail – Trail Advisory Committee – 3 vacs.

Chairman Lapsley nominated Brent Detwiler for reappointment to position # 1, Chris Burns for reappointment to position # 4, and Doug Moon for reappointment to position # 7. All voted in favor, and the motion carried.

8. Hendersonville City Zoning Board of Adjustment – 2 vacs.

Commissioner Edney nominated Ernest Mowell for reappointment to position # 1. All voted in favor, and the motion carried.

9. Historic Resources Commission – 3 vacs.

Chairman Lapsley nominated Christy Thompson for reappointment to position # 8. All voted in favor, and the motion carried.

10. Home and Community Care Block Grant Committee – 2 vacs.

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

11. Juvenile Crime Prevention Council – 2 vacs.

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

12. Library Board of Trustees – 5 vacs.

Vice-Chair McCall nominated Rachel Poller for appointment to position #1, Anthony J. Baltiero for appointment to position #7, Katrina McGuire for appointment to position #9, Noreen Quinn for reappointment to position #5, and Jean McGrady for reappointment to position #6. All voted in favor, and the motion carried.

Vice-Chair McCall nominated Jean McGrady for appointment as Chairman of the Library Board of Trustees. All voted in favor, and the motion carried.

13. Mountain Area Workforce Development Board – 5 vacs.

Commissioner Edney nominated Robin Paulison for reappointment to position #3 and Dr. Laura Leatherwood for reappointment to position #4. All voted in favor, and the motion carried.

14. Nursing/Adult Care Home Community Advisory Committee – 11 vacs.

Vice-Chair McCall nominated Leigh Ann Angel for reappointment to position # 3. All voted in favor, and the motion carried.

15. Social Services Board – 1 vac.

Commissioner Edney nominated Vice-Chair McCall for appointment to position #1. All voted in favor, and the motion carried.

16. Tourism Development Board – 1 vac.

Vice-Chair McCall nominated Travis Bonnema for appointment to position # 1. All voted in favor, and the motion carried.

FY2022-2023 Budget Ordinance (continued)

Budget Manager/Internal Auditor Sonya Flynn provided the Board with copies of the amended Budget ordinance.

Amy Brantley informed the Board that the total budget was \$180,163,557 and noted that it does include full funding for the Henderson County Public Schools request for \$31,378,000 for the current expense, the Capital Expense at \$1.5 million, and the transfer to the City of Hendersonville for the School Resource Officers at \$234,238 as advised by the Board. This budget continues a flat tax rate of \$0.5610 cents. She noted that in Appendix C -Section G, per Vice-Chairman McCall's request, budget Staff has broken out MRTS funding for Henderson County Public Schools to reflect \$4.8 million for Maintenance, Repair, and Security and \$300,000 for Technology costs.

Amy Brantley asked the Board to consider adopting the Budget, the Tax Rate, and the Fire District Tax Rates as laid out in Appendix B.

Vice-Chair McCall made the motion to adopt the Fiscal Year 2022-2023 Budget for \$180,163,557, and the Tax Rate remain at \$0.5610 cents, and the Fire District Tax Rates as presented in the draft Ordinance.

Chairman Lapsley asked the clerk to call the role. The vote went as follows:

Commissioner Andreotta – yes, Commissioner Hill – yes, Chairman Lapsley – yes, Vice-Chair McCall – yes, and Commissioner Edney – yes. The motion passed with a unanimous vote.

COMMISSIONER UPDATES

Commissioner Andreotta offered his congratulations to all recent graduates.

Commissioner Hill thanked the citizens of Henderson County for their participation in helping Henderson County thrive.

Vice-Chair McCall did not have any comments to add.

Commissioner Edney believes Henderson County is a great place to live, work, and learn. He echoed Commissioner Hill's comments in thanking the citizens of the county.

Chairman Lapsley did not have any comments to add.

GENERAL ASSEMBLY REPORT

County Manager John Mitchell said the General Assembly is back in session, but they are expected to convene before July 1, 2022. He said the County had received its second disbursement of ARPA Funds and the first disbursement of Opioid Settlement Funds.

COUNTY MANAGER'S REPORT

County Manager John Mitchell wished Vice-Chair McCall a Happy Birthday. He reminded everyone that the July 4th celebration was coming up and mentioned there would be two bluegrass bands providing music for the event.

IMPORTANT DATES

CLOSED SESSION

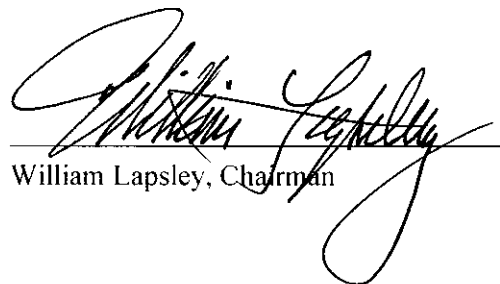
Commissioner Edney made the motion that the Board go into closed session pursuant to N.C. Gen. Stat. §143-318.11(a)(3)(4).

- 1. Pursuant to N.C. Gen. Stat. § 143-318.11(a)(3) to consult with an attorney employed or retained by the Board in order to preserve the attorney-client privilege between the attorney and the Board.*
- 2. Pursuant to N.C. Gen. Stat. § 143-318.11(a)(4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.*

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

ADJOURN


Denisa A. Lauffer, Clerk to the Board


William Lapsley, Chairman

During the June 15, 2022, regular meeting, the Board enacted the following:

- 2022.73A Budget Amendment – GASB87 Leases**
- 2022.73 Budget Amendment – Capital Project Fund**
- 2022.74 Ratification of Agreements**
- 2022.75 Budget Amendment – Fire Services/Capital Reserve Fund**
- 2022.76 Library Meeting Room Use Policy – Proposed Revisions**
- 2022.77 Amendment to Lease – Hospital Corporation**
- 2022.78 Resolution Authorizing Issuance of Hospital Corporation Bonds**
- 2022.79 FY2022.2023 Budget Ordinance**

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: June 15, 2022

SUBJECT: GASB 87 Implementation - Leases

PRESENTERS: Samantha R. Reynolds, Finance Director

ATTACHMENTS: Yes

1. Budget Amendment
2. GASB 87 - Department of State Treasurer Memo

SUMMARY OF REQUEST:

The Governmental Accounting Standards Board (GASB) has issued a new standard that is in effect for FY2022. The implementation of GASB Statement No. 87 – Leases, requires recognition of certain lease assets and liabilities that previously were classified as operating leases based on payment provisions of the contract. Under this new Statement, a lessee is required to recognize a lease liability and an intangible right-to-use lease asset, and a lessor is required to recognize a lease receivable and a deferred inflow of resources.

This statement will not require any changes to County operations nor will it impact any existing or future lease contracts. Rather, this Statement will result in new and comprehensive reporting and disclosure requirements in the County's Annual Comprehensive Financial Report.

The Board is requested to approve the necessary budget amendment to appropriately budget for the revenue and expenditure accounts in accordance with GASB Statement No. 87.

BOARD ACTION REQUESTED:

The Board is requested to approve the budget amendment to comply with GASB Statement No. 87.

Suggested Motion:

I move the Board approve budget amendment to comply with GASB Statement No. 87.

REQUEST FOR BOARD ACTION

**HENDERSON COUNTY
BOARD OF COMMISSIONERS**

MEETING DATE: June 15, 2022

SUBJECT: Budget Amendment –Capital Project Fund

PRESENTER: John Mitchell, County Manager

ATTACHMENTS: Yes
1. Budget Amendment

SUMMARY OF REQUEST:

The Board is requested to approve a Budget Amendment transferring appropriating Fund Balance to transfer funding from the General Fund, into the Capital Project Fund for property acquisition.

BOARD ACTION REQUESTED:

The Board is requested to approve the attached Budget Amendment as presented.

Suggested Motion(s):

I move the Board approve the attached Budget Amendment as presented.

**LINE-ITEM TRANSFER REQUEST
HENDERSON COUNTY**



Department: Capital Project Fund

Please make the following line-item transfers:

What expense line-item is to be increased?

Account	Line-Item Description	Amount
<u>405400-554001-2062</u>	<u>Capital Outlay - Land & Improv</u>	<u>\$4,500,000</u>
<u>115980-598040</u>	<u>Transfer to Capital Project Fund</u>	<u>\$4,500,000</u>

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

Account	Line-Item Description	Amount
<u>114990-401000</u>	<u>Fund Balance Appropriated</u>	<u>\$4,500,000</u>
<u>404400-403500-2062</u>	<u>Transfer from General Fund</u>	<u>\$4,500,000</u>

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

To provide funding for the Capital Purchase of land related to Economic Development. Approved by the Board June 15, 2022.

Authorized by Department Head

Date

Authorized by Budget Office

Date

Authorized by County Manager

Date

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

PURCHASE AGREEMENT

THIS AGREEMENT ("Agreement") is executed by and between BRITE STARS, LLC, a North Carolina limited liability company (the "Seller") and COUNTY OF HENDERSON, a body corporate and politic of the State of North Carolina (the "Purchaser") in consideration of the mutual covenants contained in this Agreement, Ten and no/100 Dollars (\$10.00) paid by Purchaser to Seller, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Seller.

STATEMENT OF AGREEMENT

1. Real Estate. Seller hereby agrees to sell and convey to Purchaser and Purchaser agrees to purchase from Seller certain real estate located in the Ferncliff Industrial Park in Mills River, North Carolina, such real estate being a portion of the parcel identified as 9643-23-9462 (PIN); 10007823 (REID) and consisting of approximately 39.7 acres of land (the "Real Estate"), all as more particularly shown on Exhibit A attached hereto. For purposes of this Agreement, the term "Real Estate" shall include all easements and other rights and privileges appurtenant to the land described above, including any development approvals or permits relating to that land, and all improvements and fixtures located on that land. The legal description of the Real Estate to be used in the Deed (defined below) shall be taken from the Survey (defined below).

2. Purchase Price. The total purchase price for the Real Estate (the "Purchase Price") to be paid to the Seller for the Real Estate shall be the sum of Four Million One Hundred Seventy Thousand Dollars, \$4,170,000.00 and shall be payable by Purchaser to Seller at the closing of this transaction (the "Closing") by cashier's check, certified check, wire transfer or other means acceptable to Seller and Purchaser. Purchaser shall deposit with Romeo, Harrelson and Coiner P.A. (the "Escrow Agent") the sum of Fifty Thousand and No/100 Dollars (\$50,000.00), in cash (the "Earnest Money") within five (5) days after the Effective Date (defined below). The Earnest Money shall be applied to the Purchase Price at the time of Closing. The Purchaser shall, within 5 days of delivery of funds to the Escrow Agent, cause Escrow Agent to notify Seller of its receipt of funds and a copy of this Agreement and its willingness to hold said funds in accordance with this Agreement.

3. Title and Survey. Within ten (10) days after the Effective Date, Seller shall provide to Purchaser a copy of Seller's survey relating to the Real Estate, if applicable. Purchaser shall obtain at its expense a preliminary title insurance commitment for the Real Estate (the "Preliminary Commitment"). Purchaser, at its expense, shall cause a surveyor or engineer licensed in the State of North Carolina to prepare an accurate survey of the Real Estate (the "Survey") and shall deliver a draft of same to Seller. Purchaser shall have the right to make objections to title, including any objection to acreage as set forth in Section 2 above, based upon the Survey as provided in Section 6.

4. Representations and Warranties. Seller represents and warrants to, and agrees with, Purchaser that to the best of its actual knowledge and belief:

(a) Seller has good, marketable and insurable fee simple title to the Real Estate and there is no pending, threatened or contemplated public or private proceeding affecting the Real Estate, and Seller has not received any notice of and has knowledge that any such proceedings are contemplated. The uses presently being made of the Real Estate conform to existing zoning laws. Seller has complied with all laws, ordinances, rules and regulations of any governmental agency or body having or asserting jurisdiction over the Real Estate. The Real Estate complies with all health and environmental codes and requirements and no changes in such laws, ordinances, rules and regulations are pending or contemplated. There is no hazardous waste, toxic substance, pollutant or contaminant of any kind at, or in the Real Estate and Seller has no knowledge of any latent or concealed defect with the Real Estate. Seller has full right, power and authority to enter into this Agreement and to consummate the transaction contemplated hereby without the consent or joinder of any other party. The execution and delivery of this Agreement and the consummation of the transaction contemplated hereby have been duly and validly authorized by Seller, and no other proceedings on the part of Seller is necessary to authorize this Agreement or to consummate the transaction contemplated hereby.

(b) Seller will deliver to Purchaser copies of any notices sent to such Seller relating to the Real Estate, including but not limited to notices relating to zoning, taxes, assessments, the availability or use of utilities, and condemnation.

(c) At Closing there will be no liens or claims against the Real Estate except the Permitted Exceptions, hereinafter defined.

(d) Provided that Purchaser complies with the Ferncliff Park Design Guidelines (a copy of which has been provided to Purchaser), all building and land use restrictions and all recorded covenants affecting the Property including, but not limited to those certain Land Use Restrictions set forth as Exhibit C to Deed Book 1492, page 135 of the Henderson County North Carolina Registry, Seller has no knowledge of any other matters that would interfere with the development of the Real Estate by Purchaser after Closing.

(e) Within ten (10) days after the Effective Date, Seller shall deliver to Purchaser all documentation and other information, in whatever format, known to either Seller and within either Seller's possession and/or control, which materially affects the Real Estate, including, but not limited to:

- (i) the last three (3) years of property tax bills and property appraisals;
- (ii) all entitlement applications, reports, permits, tract map information, and conditions approval related to the Real Estate;
- (iii) all agreements, covenants, conditions and/or restrictions related to the Real Estate;
- (iv) existing surveys, topographical contour maps, and/or wetlands delineations;

(v) all title policies, searches or reports, and copies of all easement and other exception documents;

(vi) plat map for the surrounding area, including the 100-year floodplains;

(vii) tax parcel maps;

(viii) aerial photos (including historical aerial imagery);

(ix) verification of zoning and any materials submitted by Seller to applicable governmental authorities in connection with the rezoning of the Real Estate, or in connection with Seller's application for any development approvals or permits relating to the Real Estate;

(x) all geotechnical, subsurface, and other soils or environmental materials or reports for or affecting the Real Estate;

(xi) any site plans or civil engineering drawings previously prepared by or on behalf of Seller, and relating to the Real Estate; and

(xii) any other relevant documentation reasonably required by Purchaser.

(f) To the best of Seller's knowledge, the Real Estate has never been used as a landfill of any type, or as a garbage dump.

(g) As of the Effective Date, the Real Estate has not been in violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to the environmental conditions on, under or about the Real Estate including, but not limited to, soil and groundwater conditions. During the time in which Seller controlled the Real Estate, neither Seller nor, to the best of Seller's knowledge, any third party has used, generated, manufactured, produced, stored, or disposed of on, under, or about the Real Estate or transported to or from the Real Estate any flammable explosives, asbestos, radioactive materials, hazardous wastes, toxic substances or related injurious materials, whether injurious by themselves or in combination with other materials (collectively "Hazardous Materials") other than typical farm chemicals, such as weed killer or fertilizer, used in compliance with applicable environmental law. Furthermore, no proceeding or inquiry by any governmental authority has been or is being made with respect to the presence of such Hazardous Materials on the Real Estate or the migration thereof from or to other property. Hazardous Materials, for purposes of this Agreement, shall also include, but not be limited to, petroleum products, waste materials or debris, "PCB's", underground storage tanks, asbestos, and any substances defined as "hazardous substances," hazardous materials," or "toxic substances" in the Comprehensive Environmental Response Compensation and Liability Act of 1980 (and as amended), the Hazardous Materials Transportation Act (and as amended), or the Resource Conservation and Recovery Act (and as amended).

(h) The execution and performance of this Agreement by Seller will not conflict with any provision of law applicable to Seller or result in the breach of any provision of,

or constitute a default under, Seller's organizational documents or any agreement or instrument to which Seller is a party or by which the Real Estate is bound.

(i) Seller has not (i) made any commitments to any governmental agency or other third party relating to the Real Estate that would impose any obligation on Purchaser to make contributions of money or land, or to install or maintain any improvements, or (ii) executed or caused to be executed any document with or for the benefit of any governmental authority restricting the use, development or occupancy of the Real Estate.

(j) Seller has not received notice of any action, litigation, pending or threatened condemnation or other proceeding of any kind against the Seller or that relates to or affects the Real Estate.

Survival. The foregoing representations and warranties shall terminate entirely and shall have no further force or effect as of the Closing. If any of the representations or warranties are incorrect in any respect, Purchaser, as its sole and exclusive remedy shall be entitled to terminate this Agreement.

5. Closing Conditions. The obligation of Purchaser to purchase the Real Estate at Closing pursuant to this Agreement is subject to the following conditions:

(a) The conveyance to Purchaser at Closing of good, marketable and insured fee simple title to the Real Estate as evidenced by an ALTA or equivalent owner's policy of title insurance in the full amount of the Purchase Price with endorsements for comprehensive coverage, same-as survey, subdivision, single tax parcel, environmental lien, access and zoning, issued by the Escrow Agent and showing fee simple title vested in Purchaser, subject only to the Permitted Exceptions and the items contained in Section 7 (a) below.

(b) The timely performance by Seller of each and every undertaking and obligation of Seller under this Agreement, including all covenants, agreements, representations and warranties of Seller hereunder.

(c) The delivery to Purchaser of the Seller Closing Documents, as defined below.

(d) The Real Estate is in compliance with local zoning regulations.

6. Purchaser's Due Diligence.

(a) Purchaser shall have a period of forty five (45) days from the Ratification Date to satisfy contingencies set out in (i) through (ii) below (the "Due Diligence Period"). Purchaser may notify Seller of any condition that is not satisfied within the Due Diligence Period. Upon receipt of any such notice, Seller shall have fifteen (15) days to notify Purchaser that Seller will satisfy all such conditions. If Seller determines that it is unable to satisfy any condition, or if Seller fails to respond during such fifteen (15) day period, Purchaser shall have fifteen (15) days to determine if it elects to waive the condition or terminate this Agreement and the Earnest Money shall be paid to Seller as set forth below. Title matters disclosed in the

Preliminary Commitment to which Purchaser waives or does not object are referred to as "Permitted Exceptions." In the event any condition specified in subsections (i) through (vi) below is not satisfied or waived by Purchaser as provided herein, or if the Real Estate is not acceptable to Purchaser for any reason, then Purchaser may terminate this Agreement by delivery of written notice to Seller on or prior to the expiration of the Due Diligence Period. In the event of any termination of this Agreement under this Section 6, Purchaser shall be released from the obligation to purchase the Real Estate and all other obligations hereunder. Purchaser's Due Diligence Period conditions are as follows:

(i) Purchaser's satisfaction with its due diligence in connection with the Real Estate including but not limited to engineering, feasibility and environmental analysis to determine, among other things, if the availability of utilities and their costs are acceptable to Purchaser, and if soil conditions and topography are acceptable to Purchaser in all respects.

(ii) The receipt by Purchaser of the Preliminary Commitment, the Plat, and the Survey in form and content containing only such exceptions as are acceptable to Purchaser in all respects. Notwithstanding anything to the contrary set forth in this Agreement, Purchaser hereby objects to all liens evidencing monetary encumbrances (other than liens for current, non-delinquent ad valorem real estate taxes) and any leasehold or other possessory interests, and Seller agrees to cause all such liens, leaseholds and possessory interests to be eliminated at Seller's sole cost and expense on or before Closing.

(b) If Purchaser terminates this Agreement, Purchaser shall, within 10 days after such termination, deliver to Seller copies of Purchaser's non-proprietary due diligence studies, examinations, tests, surveys, investigations or reports prepared by independent contractors.

7. Closing.

(a) Upon the expiration of the Due Diligence Period, if Purchaser has not otherwise terminated this Agreement, the Closing shall be conducted through an escrow established with the Escrow Agent on a date selected by Purchaser (the "Closing Date") on or before the date ten (10) days after the expiration of the Due Diligence Period. The closing may occur on an earlier date if agreed to by Seller and Purchaser. The title to the Property transferred to Purchaser at Closing shall be free and clear of all liens, claims, and encumbrances, but shall be transferred subject to all: (a) zoning ordinances, (b) building and land use restrictions, including the Ferncliff Park Design Guidelines, (c) recorded covenants affecting the Property including, but not limited to those certain Land Use Restrictions set forth as Exhibit C to Deed Book 1492, page 135 of the Henderson County North Carolina Registry, attached as Exhibit B, (d) matters of record that are not objected to by Purchaser prior to the end of the Examination Period, and (e) the lien of real estate taxes not yet due and payable. With Respect to all aspects of the physical condition of the Property, including those relating to Hazardous Materials, the Property shall be sold without any warranty whatsoever, even as to fitness, condition, quality or habitability, all as more fully provided in the As Is addendum annexed hereto and to be incorporated in the special warranty deed and marked as Exhibit C. Additionally, Purchaser agrees to accept the Real Estate under the conditions set forth in Exhibit D.

(b) Ad valorem real estate taxes for the Real Estate shall be prorated between the Purchaser and the Seller as of the date of the Closing. All personal property taxes and any special assessments or roll-back taxes against the Real Estate shall be paid by Seller on or prior to the Closing Date. All state and local transfer taxes, deed stamps, and documentary fees shall be paid by the Seller. Seller shall pay for (i) the preparation of the Deed (as defined below), (ii) the payment of the revenue stamps on the Deed, (iii) the cost of curing any title defects that Seller elects to cure under Section 6, and (v) costs to release any liens on the Real Estate. Purchaser shall pay for title insurance and survey costs, the recording costs related to the Deed, its due diligence costs and expenses and any costs or expenses of the Escrow Agent. Each party shall pay their own attorney fees.

(c) Exclusive possession of the Real Estate shall be delivered to Purchaser at Closing.

(d) At Closing, Seller shall execute and deliver to Purchaser the following (the "Seller Closing Documents"):

(i) Good, marketable and insurable fee simple title to the Real Estate shall be transferred to Purchaser at Closing by special warranty deed on the most current North Carolina Bar Association form (the "Deed") by legal description approved by Purchaser, which deed shall include all of the items referenced in Section 7 (a) above but shall otherwise be free of all liens, encumbrances, easements and other matters except for the Permitted Exceptions and shall be signed by Seller without warranty of title except for Seller's own acts.

(ii) An owner's affidavit affirming that to the best of its actual knowledge and belief there are no outstanding possessory rights, liens or rights to claim liens against the Real Estate. The affidavit shall not include any indemnity language.

(iii) An affidavit in a form complying with law that Seller is not a "foreign person" within the meaning of the Foreign Investment in Real Property Tax Act, and information necessary to complete an IRS Form 1099.

(iv) All other documents necessary to transfer or assign to Purchaser any zoning approvals, permits, or other development rights with respect to the Real Estate.

(v) Documents evidencing the authority of Seller to execute and deliver the Closing Documents.

8. Condemnation. If any portion of the Real Estate is condemned, threatened to be condemned, taken or threatened to be taken by eminent domain proceedings by any public authority (collectively, a "condemnation"), then, at the option of the Purchaser, this Agreement shall terminate, and this Agreement shall be canceled with no further liability of either party to the other and the Earnest Money returned to Purchaser. In the event of any such threatened or actual condemnation, Purchaser shall have the option to extend the Closing for up to ten (10) days to evaluate the effect of the proceedings.

9. Brokers. Purchaser and Seller agree that no broker or finder has been involved in the transaction described in this Agreement. Further, Purchaser and Seller agree that in the event any broker, salesman or other person that is not otherwise covered by this Agreement makes any claim for any commission or fee based upon the transfer to Purchaser of the Real Estate or any other items or interests contemplated by this Agreement that is not otherwise covered by this Agreement the party through whom said broker, salesman or other person makes its claims shall indemnify and hold harmless the other party from said claim and all liabilities, costs and expenses relating thereto, including reasonable attorney's fees, which may be incurred by such other party in connection with such claims.

10. Assignment. This agreement is not assignable without the consent of the other party. In the event that an assignment is allowed, the assignor shall not be released from its obligation to perform hereunder.

11. Notices and Calculation of Time Periods. All notices, requests and other communication under this Agreement shall be in writing and shall be sent by United States mail, registered or certified, return receipt requested, recognized overnight courier prepaid in accordance with the following instructions:

To Seller: 812 Gravier Street, Suite 360
New Orleans, LA 70112
Email: Vfitzpatrick@belltec.com

with a copy to: Marc M. Livaudais, A Professional Corporation
812 Gravier Street, Suite 360
New Orleans, LA 70112
Email: marc@lblawno.com

To Purchaser: County of Henderson
c/o William Lapsley
1 Historic Courthouse Square

Hendersonville, North Carolina 28792

with a copy to: Charles Russell Burrell
County Attorney
1 Historic Courthouse Square, Suite 5
Hendersonville, North Carolina 28792

or such other person or address which Seller or Purchaser shall designate upon notice as herein provided. All such notices, requests, and other communications shall be deemed to have been sufficiently given for all purposes hereof on the date such notice was deposited in the manner

hereinabove required. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed shall be included, unless such last day is a Saturday, Sunday or legal holiday for national banks in the location where the Real Estate is located, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday.

12. Access to the Real Estate. Purchaser and its agents, employees and contractors shall have access to the Real Estate at all reasonable times prior to the Closing for the purpose of conducting any inspections, examinations or inquiries that Purchaser may deem appropriate in order to satisfy Purchaser under this Agreement. Purchaser shall indemnify and hold Seller harmless as to any damage caused by Purchaser or its agents, employees or contractors in making any such inspection, examination or testing; provided, however, this indemnity shall not extend to claims or liabilities arising out of the discovery of any existing condition regarding the Real Estate.

13. Miscellaneous.

(a) This Agreement may be signed in counterparts and transmitted by e-mail, which counterparts together shall constitute one and the same instrument.

(b) This Agreement and all matters arising out of or relating to this Agreement shall be governed by and construed in accordance with the laws of North Carolina, excluding all choice of law provisions.

(c) Time is of the essence of this Agreement.

(d) In the event any provision of this Agreement shall be held to be invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

(e) If Seller breaches any condition or obligation in this Agreement and fails to cure such breach within ten (10) days after receiving written notice from Purchaser of such breach, then Purchaser as its sole and exclusive remedies may (a) terminate this Agreement and receive a full refund of the Earnest Money or (b) Purchaser may seek to enforce specific performance of Seller's obligations hereunder. If Purchaser breaches any condition or obligation in this Agreement and fails to cure such breach within ten (10) days after receiving written notice from Seller of such breach, then Seller, as its sole and exclusive remedy, may terminate this Agreement and the Earnest Money shall be delivered to Seller as full, fixed and liquidated damages.

14. Seller shall not use Purchaser's name or logotype in any press release without Purchaser's prior written consent in each instance. Purchaser shall not use Seller's name or logotype in any press release without Seller's prior written consent in each instance.

15. Offer and Acceptance. This Agreement shall become effective upon the date that it is last executed by Purchaser and Seller (heretofore referred to as the "Effective Date"). However, the initial execution of this document by the Purchaser is preliminary, and subject to ratification by the Board of Commissioners of Henderson County at their next public meeting (the "Ratification Date"). If the Ratification Date does not occur on or before June 20, 2022 then this Agreement shall become null and void unless extended by the parties hereto.

16. Seller's Obligations. Seller shall use reasonable efforts to assist Purchaser in obtaining all necessary Approvals from regulatory authorities in such form as requested by Purchaser, prior to Closing, to allow Purchaser to design, construct, develop, operate and extend all public utilities to the Real Estate. Seller shall cooperate with Purchaser in filing and joining in any applications related to such Approvals, and, if available, at the request of Purchaser shall attend and participate in any meetings or hearings of administrative officials and legislative bodies with respect to Purchaser's obtaining all such approvals and permits.

17. Tax-Free Exchange. If either party desires to have this transaction constitute a like-kind exchange of properties utilizing the provisions of Section 1031 of the Internal Revenue Code of 1986, as amended, each party agrees to cooperate with the other party in order to effectuate and facilitate such an exchange, provided that: (i) the exchange does not delay the Closing under this Agreement, (ii) the non-exchanging party does not incur any additional liability as a result of its cooperation, and (iii) the non-exchanging party is not required to enter into any contract to purchase any other property, or take title to any property other than the Property. In particular, either party may assign its rights under this Agreement prior to Closing to a "Qualified Intermediary," as that term is defined in applicable Treasury Regulations, and that Purchaser will, upon request of Seller, pay the balance of the Purchase Price to the Qualified Intermediary designated by Seller.

[Signatures begin on the following page.]

IN WITNESS WHEREOF, this Agreement has been executed by Seller and Purchaser.

Seller:

BRITE STARS, LLC

By: Vaughan Fitzpatrick
Name: Vaughan Fitzpatrick
Title: Manager
Date: 6/16/22

STATE OF North Carolina
COUNTY OF Henderson

I, a Notary Public for the State of North Carolina, do hereby certify that Vaughan Fitzpatrick, Manager of Brite Stars, LLC personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 16th day of June, 2022.



JoAnne Martin Hinson
Official Signature of Notary

JoAnne Martin Hinson
Notary's printed or typed name

My Commission Expires:
May 23, 2023

[Signatures continue on the following page.]

Purchaser:

COUNTY OF HENDERSON

By: *William G. Lapsley*
Name: William G. Lapsley
Title: Chairman, Board of Commissioners

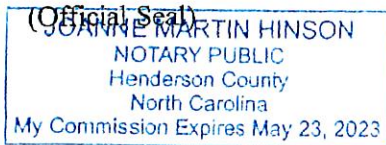
Date: 6/16/2022

STATE OF North Carolina

COUNTY OF Henderson

I, a Notary Public for the State of North Carolina, do hereby certify that William G. Lapsley, Chairman of the Board of COUNTY OF HENDERSON, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 16th day of June, 2022



Joanne Martin Hinson
Official Signature of Notary

Joanne Martin Hinson
Notary's printed or typed name

My Commission Expires:

May 23, 2023

The initial execution of this Agreement was ratified this 16th date of June, 2022 by the Board of Commissioners of Henderson County.

Clerk to the Board of Commissioners of Henderson County:

By: *Dorcas L. Jaffer*



Attached Exhibits:

Exhibit A – Property Description

Exhibit B – Land Use Restrictions

Exhibit C - As Is Addendum

Exhibit D - Additional Conditions

EXHIBIT A

Property Description

That certain parcel of real estate located in the Ferncliff Industrial Park in Mills River, North Carolina, such real estate being a portion of the parcel identified as 9643-23-9462 (PIN); 10007823 (REID) and consisting of approximately 39.7 acres of land.

EXHIBIT B

LAND USE RESTRICTIONS

[ATTACHED]

Land Use Restrictions

WHEREAS, Grantor and Grantee have invested substantial time and resources in the acquisition, planning, and development of the Property described on Exhibit A ("Grantee's Property"); and

WHEREAS, the parties have agreed as hereinafter set forth to these mutually reciprocal covenants and restrictions that will protect the value of Grantee's investments in the acquisition, planning, and development of the Grantee's Property, and Grantor's and Brite Stars, LLC's investments in the property described on Exhibit B ("Remaining Industrial Property");

WHEREAS, Grantor and Brite Stars, LLC may execute and record a set of covenants and restrictions on the Remaining Industrial Property (the "Ferncliff Covenants") and Grantor desires that said additional covenants are consistent with the restrictions set forth in this Exhibit C; and

WHEREAS, Brite Stars, LLC joins in this instrument to consent to the portion of the Remaining Industrial Property owned by said entity being encumbered by the hereinafter described covenants;

NOW THEREFORE, the conveyance of the Grantee's Property is made, executed and delivered upon the following conditions, reservations and restrictions which are intended to be covenants running with the Grantee's Property and the Remaining Industrial Property, to wit:

1. **Use Restriction:** The Grantee's Property and Remaining Industrial Property (both tracts collectively being the "Burdened Property") shall only be used for appropriate uses in an industrial business park, and in compliance with all applicable zoning ordinances, including the Town of Mills River Zoning Ordinance. Notwithstanding the above, under no circumstances shall any portion of the Burdened Property be used for trailer parks, junkyards, adult establishments, or mining purposes. Provided that said uses are allowed by all applicable ordinances (including zoning) of the County of Henderson and the Town of Mills River, the following uses shall be permitted and shall be deemed consistent with this Section:

- a. Manufacturing, processing, bottling, and distribution of beer and beer products;
- b. Restaurants, tasting rooms, gift shops, pubs, indoor, outdoor and waterfront recreation; nature, walking and bike paths and trails, indoor or outdoor entertainment venues and events; business conferences; catering; rental facilities for social events such as weddings and reunions; boat and kayak production, docking and outdoor storage, small cabin lodging, gardens which shall include, but not be limited to gardens or fields for produce to be used onsite, agricultural fields, which shall include but not be limited to fields for barley and hops, livestock; biodiesel processing for the recycling of oils used onsite, timbering, and
- c. Customary accessory uses to those listed in paragraphs 1a and 1b above.
- d. Roads and driveways.

2. Minimum Construction Standards: Except as otherwise expressly noted below, all development on the Burdened Property shall conform to the following minimum construction standards:

a. LEED Certification: Provided that said standards exist at the time of development, any developing party must use its best efforts to insure that all construction on the Burdened Property be certified, at a minimum, as LEED Silver by a licensed and qualified engineer and shall conform, at a minimum, to the LEED Silver standards set forth by the U.S. Green Building Code Council. For purposes of determining compliance with these requirements, certification for the Grantee's Property shall not be required until December 31, 2015. In the event that LEED certification no longer exists at the time of development, any developing party must use its best efforts to insure that any construction on the Burdened Property conforms, at a minimum, to what is generally accepted in the green building industry as the equivalent or replacement for LEED Silver. If such a standard cannot be ascertained and agreed upon, then any developing party must use its best efforts to insure that any construction on the Burdened Property conforms, at a minimum, to the LEED Silver standards as they existed as of the date of execution of this agreement.

b. Storm Water and Water Retention Standards: All owners of the Burdened Property will be required to manage the storm water from their respective parcels in compliance with all laws, ordinances and regulations of the State of North Carolina, the County of Henderson and the Town of Mills River (collectively, the "Governing Authorities"). To the extent that any fine, civil penalty or other action (including remediation) is assessed or required by any of the Governing Authorities against an owner (the "First Owner") because of storm water that originated on another owner's (the "Second Owner") property due to the Second Owner's construction or operations, the Second Owner shall indemnify, defend and hold the First Owner harmless for any and all costs and expenses that the First Owner incurs, including without limitation reasonable attorney's fees, arising out of or related to the Second Owner's storm water.

c. Setbacks: Except as provided below, all owners of the Burdened Property will be required to comply with all setback requirements set forth in the Town of Mills River Zoning Ordinance. Unless expressly waived in writing by Grantor, each owner of the Burdened Property shall setback all Structures 100' from the pavement of Ferncliff Park Drive, maintain said setback area, except for publicly maintained right of way, and provide a buffer or landscaping with two rows of native trees, at 40 foot intervals.

3. Site Improvement Review and Approval:

a. Construction on the Burdened Property. Except as provided for below, no Structure shall be commenced, erected or maintained upon the Burdened Property, nor shall any exterior addition to any existing Structure or change or alteration therein, nor shall any site preparation work be done until complete final construction plans and specifications showing the nature, kind, shape, height, materials, basic exterior finishes and colors, location, floor plan, front, side and rear elevations,, topography, drives, walks, parking areas, culverts, and landscaping have been submitted to and approved in writing by a Design Review Board (herein "DRB"), the make-up of which will be as set forth below. "Structure" shall mean any building (including, but not limited to storage facilities and garages), parking lot, parking lot lights, fence,

wall, receivers/transmitters, mailboxes, fuel tanks, septic systems, or any other thing artificially erected or installed on or under the property, except underground utility lines, roads and driveways. It is the owner's responsibility to insure that all development performed by said owner conforms to all applicable federal, state and local laws and regulations. The DRB may, but shall not be required to, from time to time, in its sole discretion adopt, amend, and repeal rules and regulations to be known as "DRB Rules" which shall establish policies for the preparation, submission, and determination of applications for any Structure construction or alteration or landscaping work.

b. Approval of Plans and Enforcement. The DRB's refusal or approval of plans, specifications, or location of any Structure may be based upon any grounds including purely aesthetic considerations which at the sole discretion of the DRB, shall be deemed sufficient. In passing upon construction plans, specification plans, or landscaping plans, and without any limitation of the foregoing, the DRB shall have the right to take into consideration the suitability of the proposed building or other Structure, and of the materials of which it is to be built, the site upon which it is proposed to be erected, the harmony thereof with the surroundings and the effect of the building or other Structure on the appearance from neighboring property. Notwithstanding that improvements meet or exceed specified minimum construction standards, the quality and attractiveness of every Structure must meet the standards imposed by the DRB.

The DRB is presumed to have approved any plans referenced above, upon failure to respond within one hundred twenty (120) days after receipt of each duly completed application and particular plan. In the event any owner violates the terms of this Section 3, the DRB shall give written notice to the owner or responsible party to cure such violation within thirty (30) days. The DRB or its agents shall be entitled to enter upon the property of the owner and remedy such defect including removal of any Structure built in violation hereof, all at the expense of the owner. This right of the DRB shall be in addition to all other general enforcement rights which the DRB may have for a breach or violation of the terms of these covenants and restrictions and shall not be deemed a trespass. Notwithstanding, any owner of the Burdened Property shall have standing to enforce the DRB provisions in this Section 3.

c. DRB Occupancy Permit. At the completion of all construction in accordance with the plans submitted, the owner shall request an on-site inspection by the DRB. No building may be occupied until a DRB Occupancy Permit has been issued by the DRB. Approvals will not be unreasonably withheld, but in addition to the above, the following will be required:

- i. Final as-built plans must be submitted in conformance with plans approved by the DRB for the construction of the Structure, unless waived in writing by the DRB;
- ii. Exterior lighting must be approved;
- iii. All clean-up must be completed; and
- iv. A copy of the Henderson County occupancy permit must be given to the DRB.

d. Organization of the DRB

i. Composition. The composition of the DRB shall at all times consist of three members, two members designated by the Grantor (or its Related Parties) and one member designated by the Grantee (or its Related Parties). In the event that any member of the DRB can no longer serve, Grantor (or its Related Parties) shall appoint a replacement for any member appointed by Grantor and Grantee (or its Related Parties) shall appoint a replacement for any member appointed by Grantee. At the point at which Grantor (or its Related Parties) no longer owns any of the Burdened Property, then the seats of the two members on the DRB previously designated by Grantor (or its Related Parties) shall be elected by a Majority of the Landowners, as defined below. At the point at which Grantee (or its Related Parties) no longer owns any of the Burdened Property, then the seat of the member on the DRB previously designated by Grantee (or its Related Parties) shall be elected by a Majority of the Landowners, as defined below.

As used in these Restrictions, "Related Parties" shall mean: any party who is controlled by or under common control with Grantor or Grantee, as applicable.

As used in these Restrictions, "Majority of the Landowners" shall mean the owners of 51% of the acreage constituting the Burdened Property. So, by way of illustration, if the Burdened Property is, for example, 10 acres, and an owner owns 6 of those acres, then that particular owner has 60% of the vote.

ii. Duties. It shall be the duty of the DRB to consider and act upon any and all proposals or plans submitted to it pursuant to the terms set forth herein, and to adopt appropriate rules establishing policies for site improvements

iii. Meetings. The DRB shall meet from time to time as necessary to perform its duties hereunder. The DRB shall keep and maintain a written record of all actions taken by it at such meetings or otherwise.

iv. Voting. The vote or written consent of a majority of the members of the DRB shall constitute the act of the DRB.

v. Waiver. The approval by the DRB of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the DRB, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specifications or matter subsequently submitted for approval.

vi. Liability. Neither the DRB nor any member thereof shall be liable to any owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of: The approval or disapproval of any plans, drawings, specifications, whether or not defective, the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, the development of any property, including, but not limited to, defective construction of Structures, the execution and filing of any estoppel certificate, whether or not the facts therein are correct.

e. Exemption from this Section 3, Section 2(c), and 5(c). Grantee has already developed a site plan and an architect's rendering of the facilities for Grantee's Property, which plans have been prepared by Design Workshop dated 3-9-10, and which plans include plans

for a facility for manufacturing and distribution of beer and beer products, tasting room, gift store, restaurant, pub, outdoor music venue, indoor music venue, waterfront activities including boating, kayaking, swimming, socializing, nature trails, remote beer sales, boat dock and buildings for watercraft, small cabin lodging, founders' room, bike trails, walking paths, special events and gardens ("Sierra Nevada Facilities"). Provided that Grantor has reviewed and approved in writing the plans for the Sierra Nevada Facilities, said plans and related construction will not be subject to the Site Improvement Review and Approval and other restrictions stated in this Section 3, the setback restrictions in Section 2(c) above, or the fencing and signage restrictions stated in Section 5(e) below. Any material alterations to said plans together with any other facilities that are constructed on the Grantee's Property shall be subject to the Site Improvement Review and Approval restrictions stated above in Section 3 of these restrictions.

4. Public Utility Easements.

All current and future owners of the Burdened Property acknowledge that the development of the Remaining Industrial Property will require the extension of certain public utilities to serve the development parcels. Extension of such utilities may require specific easements across the Grantee's Property. The Grantee's approval of such easements shall not be unreasonably withheld.

5. Development and Use Restrictions:

a. Construction of Improvements. Once commenced, construction of all improvements shall be diligently prosecuted to completion. The owner of the parcel on which improvements are being constructed shall at all times keep the streets contiguous to the parcel clean and free from any dirt, mud, dust, garbage, refuse, trash or other debris which might occasioned by construction of the improvements.

b. Maintenance of Improvements. All improvements located on the Burdened Property shall be maintained so as to preserve a well-kept appearance of a first class industrial park. Both before and after the installation of such improvements, each owner shall keep its parcel free from rubbish, debris, fire hazards or any unsanitary, unsightly, or offensive conditions and to conduct such weed abatement, rubbish and debris removal and other maintenance to the extent required by applicable federal, state, and/or local laws, rules, regulations, and ordinances. Each owner shall be required, at its sole cost and expense, to maintain its parcel in a clean, safe, and orderly manner and to cause all weeds, rubbish, and debris to be removed from its parcel. Each owner shall be responsible for the exterior and interior maintenance of any and all buildings and any and all improvements, including sidewalks, parking lots and driveways, located on said owner's parcel.

c. Utilities. All new utilities lines, connections, and installations must be underground. Any external transformers, motors, heating, and/or air conditioning equipment or other similar apparatus must be screened so as to eliminate visibility from ground level from the streets or other parcels.

d. No Subdivision of Parcel. No parcel shall be further subdivided without the prior written consent of the DRB.

e. Fencing and Signage. Fencing and Signage is only permitted after review and approval from the DRB. Owners may be restricted with respect to the height, material, color, design or other aspect of the fence or sign.

6. Enforcement: All covenants, restrictions and affirmative obligations set forth herein shall run with the land and shall be binding on and enforceable by all parties and persons claiming under them. Enforcement of these covenants and restrictions shall be by any proceeding at law or equity against any person or persons violating or attempting to violate or circumvent any covenant or restriction, either to restrain or enjoin violations, or to recover damages, or by any appropriate proceeding at law or equity against the land or owners. The remedies given herein are distinct, cumulative remedies and the exercise of any of them shall not be deemed to exclude the rights to exercise any or all of the others or those which may be permitted by law or equity. The failure to enforce any rights, restrictions or conditions contained herein, however long continued, shall not be deemed a waiver of this right to do so hereafter as to the same breach, or as to a breach occurring prior to or subsequent thereto and shall not bear or affect its enforcement. Any prevailing party shall be entitled to the recovery of reasonable attorney's fees as a part of such action.

7. Amendment: To the extent that both Grantor and Grantee (or their Related Parties) still own portions of the Burdened Property, these restrictions may be amended only by the written agreement of both Grantor and Grantee (or their Related Parties, if applicable). Thereafter, to the extent that either Grantor or Grantee (or their Related Parties, if applicable), but not both, still own portions of the Burdened Property, then the written consent of a Majority of the Landowners, and the written consent of whichever of the Grantor or the Grantee (or their Related Parties) remain as landowners, shall be required for any amendment. If neither Grantor nor Grantee, nor any of their Related Parties, own any portion of the Burdened Property, then the written consent of a Majority of the Landowners shall be required for any amendment.

Any amendments to these restrictions must be recorded in the Henderson County, North Carolina Registry.

8. Severability. Should any covenant, restriction, article, paragraph, subparagraph, sentence, clause, phrase or term herein contained be declared to be void, invalid, illegal or unenforceable, for any reason whatsoever, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect any other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

9. Construction of this Declaration. These restrictions and the provisions contained herein shall be construed in accordance with the laws of the State of North Carolina.

10. Notices. Grantor and Grantee, together with all successors and/or assigns of Grantor and Grantee shall provide written notice to DRB of such parties address for purposes of furnishing notices in connection with this Exhibit C. The DRB shall maintain a record of the notice addresses furnished by the parties. The addresses provided by the parties shall be used for any notice to be given under this Exhibit C and if no such address shall have been provided, then the address used by Henderson County for the mailing of real property tax statements shall be used for such notice. All notices to be given pursuant to this Exhibit C shall be sufficient if given by personal service, by guaranteed overnight delivery service, or by being mailed postage prepaid,

certified or registered mail, return receipt requested, to the prescribed address. Any time period provided in the giving of any notice hereunder shall commence upon the date of personal service, the date after delivery to the guaranteed overnight delivery service, or two (2) days after mailing by certified or registered mail.

11. Duration. The covenants and restrictions of this Exhibit C shall run with the land and bind the Burdened Property for a term of seventy five (75) years from the date this agreement is recorded. No such termination shall terminate any easement granted herein and all such easements shall survive any termination of this agreement and may be extinguished only in the manner provided by law for the termination of an easement.

12. Joint Venture. Nothing herein shall be construed to create any sort of joint venture or joint enterprise between or among the Grantor, Grantee and any successors and or assigns of Grantor or Grantee.

Brite Stars, LLC, joins in the making of this deed for the purpose of subjecting its property to the land use restrictions described in this Exhibit C.

BRITE STARS, LLC
By: [Signature]
Vaughan Fitzpatrick

Title: manager and member

.....

STATE OF LOUISIANA
COUNTY OF Orleans
Parish

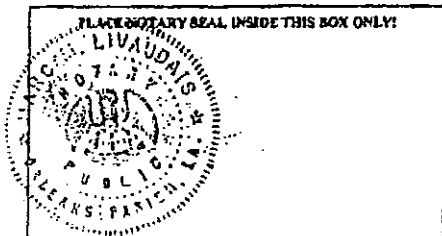
I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose state therein and in the capacity indicated: Vaughan Fitzpatrick

Date: 4-3-12

[Signature]
Notary Public

(Printed Name of Notary)

My Commission Expires: _____



MARC M. LIVAUDAIS
NOTARY PUBLIC (BAR NO. 01839)
PARISH OF ORLEANS, STATE OF LOUISIANA
MY COMMISSION IS ISSUED FOR LIFE

EXHIBIT C

AS-IS ADDENDUM

Buyer declares and acknowledges (a) that Seller does not warrant that the within conveyed property is free from redhibitory or latent defects or vices or any environmental conditions, including, but not limited to asbestos, lead based-paint or any "Hazardous Substances" (Hazardous Substances is hereby defined and shall mean any chemical, substance, toxic, a pollutant, or a contaminant, under any current or future federal, state, or local law, ordinance, rule, regulation, or judicial or administrative order of decision relating to protection of public health, safety, or the environment, and includes, without limitation, any material or substance that is (i) defined as a hazardous substance under any law of the State of North Carolina, (ii) petroleum or petroleum containing, (iii) asbestos or asbestos-containing, (iv) designated as a "hazardous substance" under the Federal Water Pollution Control Act, 33 U.S.C. Section 1321 et. seq., (v) defined as a "hazardous waste" under the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et. seq., (vi) defined as a "hazardous substance" under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et. seq., (vii) defined as a "regulated substance" pursuant to Chapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks), 42 U.S.C. Section 6991 et. seq., (viii) lead-based paints, (ix) flammables, (x) explosives, (xi) radioactive materials, (xii) chemicals known to cause cancer or reproductive toxicity, and (xiii) medical wastes or contaminated medical by-products) and Buyer hereby releases Seller from any and all liability for redhibitory or latent defects or vices (b) that Buyer has had full, complete and unlimited access to the property herein conveyed for all tests and inspections which Buyer, in its sole discretion, deemed sufficiently diligent for the protection of its interests; (c) that Buyer does hereby waive the warranty of fitness for intended purposes or guarantee against hidden or latent redhibitory defects or vices, as well as any rights it may have in redhibition for the reduction or return of all or any portion of the purchase price by reason of any such defects or vices under any applicable local, state or federal law, and the jurisprudence thereunder; (d) that this express waiver shall be considered a material and integral part of this sale and consideration thereof; (e) that this waiver has been brought to its attention and explained in detail and that Buyer had voluntarily and knowingly consented to this waiver of (i) warranty of fitness, (ii) warranty against redhibitory vices and defects, and (iii) any rights it may have to the reduction or return of any portion of the purchase price for the herein conveyed property, and (f) that by its signature, Buyer expressly acknowledges all such waivers and the exercise of his right to waive warranty pursuant to Chapter 47E of the NCGS or other applicable law. Further, Buyer agrees that the immovable property herein conveyed and all improvements and component parts, all plumbing, electrical systems, mechanical equipment, heating and air-conditioning systems, built-in appliances, and all

other items located thereon are conveyed by Seller and accepted by Buyer "AS IS, WHERE IS", without any warranty of any kind whatsoever, and without regard to the presence of apparent or hidden defects and with Buyer's full and complete waiver of any and all rights for the return of all or any part of the purchase price by reason of any such defects. Except as contained in the attached Purchase and Sale Agreement between the Buyer and Seller and the Special Warranty Deed, Buyer acknowledges and declares that neither Seller nor any party whomsoever, acting or purporting to act in any capacity whatsoever on behalf of Seller, has made any direct, indirect, explicit or implicit statement, representation or declaration, whether by written or oral statement or otherwise, and upon which Buyer has relied, concerning the existence or non-existence or any quality, characteristic or condition of the property herein conveyed.

EXHIBIT D

Additional Conditions

Provided that Purchaser complies with all of the provisions set forth in Section 7(a) and Exhibit B of this Agreement, Purchaser shall complete the following post-closing items:

- 1) Purchaser will attempt to subdivide the Real Estate and exchange a portion thereof (a maximum of approximately 15 acres) to the Greater Asheville Regional Airport Authority (the "Authority"). In the event that Purchaser is unable to acquire the Authority parcels, as defined below, Purchaser agrees that it shall not convey any portion of the Real Estate to the Authority.

- 2) That in return, the Authority will convey to the Purchaser three parcels located in Henderson County to the north and west of the Real Estate, identified as (i) PIN 9643-14-9129 REID 9926912; (ii) PIN 9643-14-9766 REID 701405; and (iii) PIN 9643-15-9128 REID 700490 (together, the three parcels are the "Authority parcels"). All the Authority parcels are subject to a Greenway Easement encumbering the 8.74 acres closest to the French Broad River as shown in the plat recorded at Plat Slide 10093 of the Henderson County Registry.

- 3) That the Authority parcels are currently titled in the City of Asheville, but the Authority is the equitable owner of them by virtue of the session law creating the Authority, North Carolina Session Law 2012-121, section 1.7.(b). The Authority is responsible for obtaining title to the Authority parcels (subject to the Greenway Easement referred to above).

- 4) That upon obtaining title to the Authority parcels from the Authority, the Purchaser shall subject the Authority parcels (except for the portions thereof subject to the Greenway Easement referred to above) to the restrictive covenants and other building and land use restrictions affecting the Real Estate as set forth in Exhibit B

- 5) That upon obtaining title to the Authority parcels from the Authority, the Purchaser shall attempt to combine some or all of the Authority parcels with the portion of the Real Estate not to be conveyed to the Authority (the combined parcels the "Combined Area").

If Purchaser is successful in obtaining all necessary approvals and creating the Combined Area, the Purchaser may also attempt to subdivide the Combined Area into parcels for industrial use consistent with the provisions set forth in Exhibit B.

REQUEST FOR BOARD ACTION

**HENDERSON COUNTY
BOARD OF COMMISSIONERS**

MEETING DATE: June 15, 2022

SUBJECT: Budget Amendment – Fire Services/Capital Reserve Fund

PRESENTER: John Mitchell, County Manager

ATTACHMENTS: Yes
1. Budget Amendment

SUMMARY OF REQUEST:

The Board is requested to approve a Budget Amendment transferring \$250,000 from the Fire Services Budget, into the Capital Reserve Fund. This appropriation within the FY22 Budget was for Worker's Compensation Insurance the County pays for the volunteer fire departments. Staff has been informed that this cost will be covered by the State for the upcoming FY. Staff requests this transfer to allow these funds to still be used for the benefit of the volunteer fire departments.

BOARD ACTION REQUESTED:

The Board is requested to approve the attached Budget Amendment as presented.

Suggested Motion(s):

I move the Board approve the attached Budget Amendment as presented.



LINE-ITEM TRANSFER REQUEST
HENDERSON COUNTY

Department: Fire Services/Capital Reserve Fund

Please make the following line-item transfers:

What expense line-item is to be increased?

Account	Line-Item Description	Amount
<u>115980-598021</u>	<u>Transfer to Capital Reserve Fund</u>	<u>\$250,000</u>
<u>215400-555000</u>	<u>Cap Outlay - Bldgs & Imprvmt</u>	<u>\$250,000</u>
_____	_____	_____

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

Account	Line-Item Description	Amount
<u>115434-518600</u>	<u>Worker's Compensation</u>	<u>\$250,000</u>
<u>214400-403500</u>	<u>Transfer from General Fund</u>	<u>\$250,000</u>
_____	_____	_____

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

To transfer funding for the benefit of the volunteer fire departments. Approved by the Board June 15, 2022.

Authorized by Department Head

Date

Authorized by Budget Office

Date

Authorized by County Manager

Date

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

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

**FIRST AMENDMENT TO
AMENDED AND RESTATED LEASE AGREEMENT**

This FIRST AMENDMENT TO AMENDED AND RESTATED LEASE AGREEMENT (the *Amendment*) is dated as of June 15, 2022, and is entered into by and between the COUNTY OF HENDERSON, a body corporate and politic of the State of North Carolina (the *County*), and the HENDERSON COUNTY HOSPITAL CORPORATION, a nonprofit corporation organized under the provisions of Chapter 55A of the North Carolina General Statutes, as amended (the *Hospital Corporation*), the sole shareholder of which is the *County*;

WITNESSETH:

WHEREAS, the *County* and the *Hospital Corporation* have previously entered into an Amended and Restated Lease Agreement, dated as of September 4, 2013 (the *Lease Agreement*); and

WHEREAS, the *Lease Agreement* by its terms ends not later than September 30, 2038; and

WHEREAS, it has become convenient to the *Hospital Corporation* and the *County* for the *Lease Agreement* to be extended to a date later than September 30, 2038; and

WHEREAS, the *Hospital Corporation* and the *County* wish to amend the *Lease Agreement* by extending the same as stated below.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein and the *Lease Agreement*, the parties hereby agree that paragraph 3.2(b) of the *Lease Agreement* is modified by striking the same, and inserting in lieu thereof the following:

“(b) September 30, 2043; or”

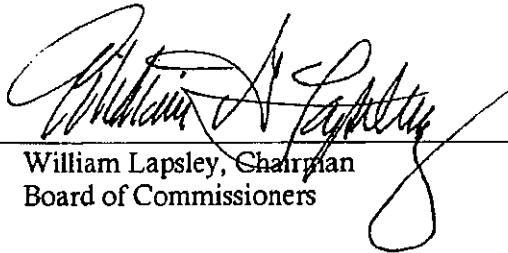
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It is expressly understood and agreed that except as specifically amended herein, the *Lease Agreement* remains intact and in full force and effect.

IN WITNESS WHERE, the parties have caused this First Amendment to Amended and Restated Lease Agreement to be executed as a document under seal, by their duly authorized officers, all as of the date first above written.

COUNTY OF HENDERSON

[SEAL]

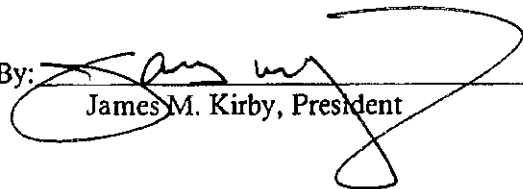
By: 
William Lapsley, Chairman
Board of Commissioners

Attest:


Clerk to the Board of Commissioners

HENDERSON COUNTY HOSPITAL CORPORATION

[SEAL]

By: 
James M. Kirby, President

Attest:


Corporate Secretary

A regular meeting of the Board of Commissioners of the County of Henderson, North Carolina, was duly held on June 6, 2022 at 9:30 a.m. in the Commissioners' Meeting Room, Henderson County Historic Courthouse, 1 Historic Courthouse Square, Hendersonville, North Carolina.

* * *

The following members were present:

Chairman William Lapsley
Vice Chairwoman Rebecca McCall
Commissioner Daniel Andreotta
Commission David Hill

The following members were absent:

Commissioner J. Michael Edney

Also present:

County Manager John Mitchell
Assistant County Manager Amy Brantley
Clerk to the Board Denisa Lauffer
Finance Office Samantha Reynolds
County Attorney Charles Russell Burrell

* * *

Commissioner Lapsley moved that the following resolution (the "*Resolution*"), a copy of which was available with the Board and which was read by title:

RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA DIRECTING THE APPLICATION TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF A HOSPITAL REVENUE BOND; REQUESTING LOCAL GOVERNMENT COMMISSION APPROVAL OF THE COUNTY'S TAXABLE HOSPITAL REVENUE BOND (MARGARET R. PARDEE MEMORIAL HOSPITAL PROJECT) AND CERTAIN RELATED MATTERS

WHEREAS, Henderson County Hospital Corporation (the "*Corporation*") wishes to reimburse itself for the expenditures related to the following capital projects for Margaret R. Pardee Hospital (the "*Hospital*"): the (1) acquisition and/or updates to the O-Arm O2 Base System, (2) acquisition and/or capital expenditure for the following structures: three buildings on Fleming Street in Hendersonville, the Hawk Brown Building, a modular building in Brevard and the Brevard UC/PC/PT facilities, (3) relocations and updates to various specialist suites and buildings, (4) the purchase of various equipment, including, without limitation, nuclear med camera and a spine robot, and (5) various other capital expenditures (collectively, the "*Projects*"), all for use by the Hospital; and

WHEREAS, the Board of Commissioners (the "*Board*") of the County of Henderson, North Carolina (the "*County*") is considering the issuance of a not to exceed \$14,100,000 Tax Hospital Revenue Bond (Margaret R. Pardee Memorial Hospital Project) Series 2022A (the "*2022A Bonds*") to (1) reimburse for amounts previously paid for the cost of capital expenditures relating to the Projects and (2) pay the costs of issuing the 2022A Bonds; and

WHEREAS, the Board wishes to retain Hawkins Delafield & Wood LLP, Raleigh, North Carolina, as bond counsel; retain First Tryon Advisors, as financial advisor for the 2022A Bonds; and retain Prince, Youngblood & Massagee, PLLC, as counsel to the Corporation; and

WHEREAS, the Board desires that the Finance Director or the County Manager of the County or the President and Chief Executive Officer of the Corporation (such officers being herein called the "Authorized Officers") file with the Local Government Commission of North Carolina (the "Commission") an application for its approval of the 2022A Bonds, on a form prescribed by the Commission, and (1) request in such application that the Commission approve (A) the negotiation of the sale of the 2022A Bonds to a purchaser to be determined through a private placement and (B) the County's use of Hawkins Delafield & Wood LLP, as bond counsel for the County, First Tryon Advisors, as financial advisor for the 2022A Bonds; and Prince, Massagee & Alexander, PLLC, as counsel to the Corporation and (2) state in such application such facts and to attach thereto such exhibits in regard to the 2022A Bonds and to the County, the Corporation and their respective financial condition as may be required by the Commission, and to take all other action necessary to the issuance of the 2022A Bonds; and

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

Section 1. That the 2022A Bonds are to be issued by the County for the purpose of providing funds to (1) pay, and to reimburse for amounts previously paid for, the cost of capital expenditures relating to the Projects and (2) pay the costs of issuing the 2022A Bonds, all as set out fully in the document attached to the County's application to the Commission.

Section 2. That Hawkins Delafield & Wood LLP; First Tryon Advisors and Prince, Massagee & Alexander, PLLC are hereby retained and approved.

Section 3. That the Authorized Officers are hereby authorized, directed and designated to file an application with the Commission for its approval of the issuance of the 2022A Bonds. Any applications and communications previously undertaken with the Commission are hereby ratified, approved and affirmed.

Section 4. That the Board finds and determines, and asks the Commission to find and determine, from the County's application and supporting documentation the following:

- (a) that the issuance of the 2022A Bonds is necessary or expedient;
- (b) that the not to exceed stated principal amount of the 2022A Bonds will be adequate but is not excessive, when added to other money available to the County or Corporation, for the purposes set forth above;
- (c) the Projects are feasible;
- (d) that the County's and the Corporation's debt management procedure and policies are excellent; and
- (e) that the 2022A Bonds can be sold at a reasonable interest cost to the County.

Section 5. That the Authorized Officers, Chairman, Vice-Chairman and Secretary of the Board are hereby authorized to do any and all other things necessary to complete the steps necessary for the issuance of the 2022A Bonds.

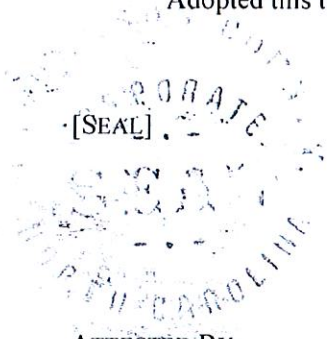
Section 6. That this Resolution is effective on the date of its adoption.

On motion of Chairman Lapsley, the foregoing resolution entitled **“RESOLUTION OF THE COUNTY OF HENDERSON, NORTH CAROLINA DIRECTING THE APPLICATION TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF A HOSPITAL REVENUE BOND; REQUESTING LOCAL GOVERNMENT COMMISSION APPROVAL OF THE COUNTY’S TAXABLE HOSPITAL REVENUE BOND (MARGARET R. PARDEE MEMORIAL HOSPITAL PROJECT) AND CERTAIN RELATED MATTERS”** was passed by the following vote:

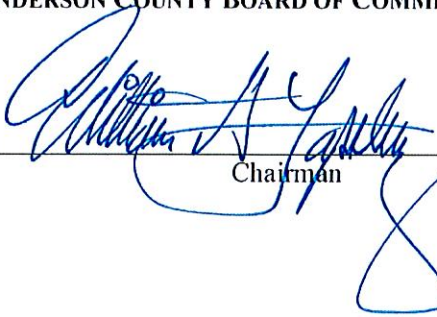
AYES: All present

NAYS: None

Adopted this the 6th day of June, 2022.



HENDERSON COUNTY BOARD OF COMMISSIONERS

By:  _____
Chairman

ATTESTED BY:


Clerk to the Board

* * *

Thereupon, Chairman Lapsley moved that the following resolution (the “Resolution”), a copy of which was available with the Board and which was read by title:

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA DECLARING ITS INTENT TO REIMBURSE ITSELF OR MARGARET R. PARDEE HOSPITAL FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH IMPROVEMENTS TO THE HOSPITAL’S FACILITIES FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS TO BE EXECUTED AND DELIVERED IN CALENDAR YEAR 2022

WHEREAS, the Board of Commissioners of the County of Henderson, North Carolina (the “County”) has determined that it is in the best interests of Margaret R. Pardee Hospital (the “Hospital”) to incur capital expenditures in connection with various improvements to Hospital's property including but not limited to the following: (1) renovation of Carolina Spine & Neurosurgery facility on Mission Pardee campus, , (2) upgrades to the catheterization laboratory on the main Pardee campus, (3) Mission Pardee 2775, PFMA Arden, (4) upgrading two procedure rooms to operating room equivalents, (5) facility elevator

modernizations, (6) Hawk Brown top floor & suite, (7) AHU, (8) renovation of examination rooms at the Southeast Sports Medicine facility in Hendersonville, (9) hazardous substance abatement and demolition of the building at 2029 Asheville Highway in Hendersonville, (10) renovation of Renovate Lampley, all for the Hospital's use (collectively, the "Projects");

WHEREAS, the County presently intends, at one time or from time to time, to finance all or a portion of the costs of the Projects with proceeds of tax-exempt obligations and reasonably expects to execute and deliver its tax-exempt obligations on behalf of the Hospital (the "Obligations") to finance, or to reimburse itself or the Hospital for, all or a portion of the costs of the Projects; and

WHEREAS, the County desires to proceed with the Projects, and the Hospital or the County will incur and pay certain expenditures in connection with the Projects prior to the date of execution and delivery of the Obligations (the "Original Expenditures"), such Original Expenditures to be paid for originally from a source other than the proceeds of the Obligations, and the County intends, and reasonably expects, to reimburse itself or to have the Hospital reimbursed for such Original Expenditures from a portion of the proceeds of the Obligations to be executed and delivered at a date occurring after the dates of such Original Expenditures;

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

Section 1. **Official Declaration of Intent.** The County presently intends, and reasonably expects, to reimburse itself or have the Hospital reimbursed for the Original Expenditures incurred and paid by the County or the Hospital on or after the date occurring 60 days prior to the date of adoption of this Resolution from a portion of the proceeds of the Obligations. The County reasonably expects to execute and deliver the Obligations to finance all or a portion of the costs of the Projects and the maximum principal amount of Obligations expected to be executed and delivered by County to pay for all or a portion of the costs of the Projects is \$17,500,000.

Section 2. **Compliance with Regulations.** The County adopts this Resolution as a declaration of official intent under Section 1.150-2 of the Treasury Regulations promulgated under Section 103 of the Internal Revenue Code of 1986, as amended, to evidence the County's intent to reimburse itself or have the Hospital reimbursed for the Original Expenditures from proceeds of the Obligations.

Section 3. **Itemization of Capital Expenditures.** The Finance Officer of the County, with advice from special counsel, is hereby authorized, directed and designated to act on behalf of the County in determining and itemizing all of the Original Expenditures incurred and paid by the County or the Hospital in connection with the Projects during the period commencing on the date occurring 60 days prior to the date of adoption of this Resolution and ending on the date of execution and delivery of the Obligations.

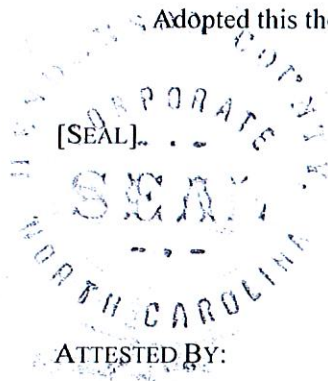
Section 4. **Effective Date.** This Resolution is effective immediately on the date of its adoption.

On motion of Chairman Lapsley, the foregoing resolution entitled "RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF HENDERSON, NORTH CAROLINA DECLARING ITS INTENT TO REIMBURSE ITSELF OR MARGARET R. PARDEE HOSPITAL FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH IMPROVEMENTS TO THE HOSPITAL'S FACILITIES FROM THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS TO BE EXECUTED AND DELIVERED IN CALENDAR YEAR 2022" was duly adopted by the following vote:

AYES: All present


NAYS: None

Adopted this the 6th day of June, 2022.



HENDERSON COUNTY BOARD OF COMMISSIONERS

By: 
Chairman

ATTESTED BY:

Clerk to the Board



Henderson County, North Carolina
Budget Ordinance
Fiscal Year July 1, 2022 – June 30, 2023

BOARD OF COMMISSIONERS ENACTMENT 2022.79

Preamble

The County Manager’s proposed budget for the Fiscal Year beginning July 1, 2022 and ending June 30, 2023 (“FY2023”) was presented to the Henderson County Board of Commissioners on May 2, 2022, pursuant to the North Carolina Local Government Fiscal Control and Budget Act, Article 3 of Chapter 159 of the General Statutes. The Board of Commissioners considered the proposal, deliberated concerning it in a public budget workshop held May 18, 2022, and then held a public hearing on the budget pursuant to N.C. Gen. Stat. §159-12 on June 6, 2022.

At the Board’s meeting held June 15, 2022, the following Ordinance was offered by Vice-Chair McCall who moved its adoption. The vote on this motion is shown below.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF HENDERSON COUNTY, NORTH CAROLINA, THIS 15th DAY OF JUNE, 2022:

Section 1 – General Fund

A. Terms of Appropriation

The General Fund amounts noted in the Appendices, below, incorporated by reference, are hereby appropriated for the operation of the Henderson County Government and its departments and agencies for FY2023. Other fund amounts as set forth in this Ordinance are also appropriated as presented in this section. Appropriations for land and new buildings included in this Ordinance may be expended only after release by the Board of Commissioners.

1. Operations

The County Manager or the Manager’s designee is hereby authorized to execute all necessary agreements within funds included in the Budget Ordinance in departments subject to his control for the following purposes, and on the following terms and conditions:

- A) Grant agreements with public and non-profit agencies;
- B) Leases of normal and routine business equipment;
- C) Consultant, professional, or maintenance service agreements up to a projected contract amount of \$50,000;
- D) Purchase of supplies and materials when formal bids are not required by law, pursuant to the Manager’s purchasing policy;
- E) Agreements for acceptance of State and Federal grant funds;
- F) Construction or repair work where formal bids are not required by law; and
- G) County departments shall not enter into contracts requiring formal bid procedures without having met with and received written approval from the County Manager.
- H) The Finance Director is hereby directed to release board-approved non-profit grants in quarterly installments upon the execution of and compliance with the funding agreement required by the County.

- I) The Finance Director may advance funds with the permission of the County Manager to the Sheriff's Department for their use in drug enforcement activities, for ultimate return by the Sheriff's Department.
- J) The County Manager may authorize pilot programs for the County's departments and evaluate such programs for effectiveness and efficiency.
- K) In addition to the foregoing, the Sheriff may execute contracts that require no financial expenditure and have no fiscal impact on the county government budget (for example, a grant contract requiring no county match in personnel or funding). Contracts or agreements that require any type of County match outside of the Sheriff's approved budget must be approved by the Board of Commissioners. Further, in the absence of express authority from Federal or State Court, all seizure transactions shall comply with N.C. Gen. Stat. §15-11.1.
- L) For purposes of the County Personnel Policies, Employee and Retiree Benefits, years of service to Henderson County government shall include all prior years of service, whether consecutive or not.
- M) All procurement of goods and services shall be in accord with applicable Federal and State laws and policies, including but not limited to 2 C.F.R. Part 200, Subpart D, and N.C. Gen. Stat. §143-131, and the County Purchasing Policy. Notwithstanding, however, and in accordance with 2 C.F.R. §200.320(a)(1)(iv) and the applicable provisions of North Carolina law, the County hereby self-certifies the following micro-purchase thresholds, each of which is a "higher threshold consistent with State law" under 2 C.F.R. §200.320(a)(1)(iv)(C):
 - 1) \$30,000, for the purchase of "apparatus, supplies, materials, or equipment"; and
 - 2) \$30,000, for the purchase of "construction or repair work"; and
 - 3) \$50,000, for the purchase of services not subject to competitive bidding under North Carolina law; and
 - 4) \$50,000, for the purchase of services subject to the qualifications-based selection process in the Mini-Brooks Act; provided that such threshold shall apply to a contract only if the Unit has exercised an exemption to the Mini-Brooks Act, in writing, for a particular project pursuant to N.C. Gen. Stat. §143-64.32. If such exemption is not authorized, the micro-purchase threshold shall be \$10,000.

2. Construction Changes

The County Manager or the Manager's designee is hereby authorized to execute necessary agreements with regard to ongoing construction projects undertaken by the County, without the requirement of consultation with the Board of Commissioners, in the following circumstances:

- A) The Manager may approve any and all non-emergency change orders which do not increase the construction budget for the project by more than 25% of the then-unallocated budgeted amount for "contingencies" in the particular project budget.
- B) Any change order approved by the County Manager involving a change of more than \$10,000 to the construction budget shall be reported to the Board of Commissioners, as an information-only item within the County Manager's monthly report.
- C) In emergencies, change orders greater than those authorized above may be approved by the County Manager after consultation with and with the approval of the Chairman of the Board of Commissioners. In any such case, a report of the same shall be made to the Board of Commissioners at their next regularly scheduled meeting.

3. Operational Changes

The County Manager is hereby authorized to transfer appropriations within a fund as contained herein under the following conditions:

- A) The Manager may transfer amounts between objects of expenditure within a department without limitation and without a report being required.
- B) The Manager may transfer amounts up to \$50,000 between departments within the same fund with an official report on such transfers provided to the Board of Commissioners.

- C) The Manager may transfer amounts up to \$50,000 from any appropriation within the general fund to a separate fund with an official report on such transfers provided to the Board of Commissioners.
- D) The Manager may modify the budget for pass-through monies, additional funding, or any Federal or State program prior approved by the Board, without a report being required.
- E) The total of all amounts encumbered for outstanding purchase orders and contracts as of the end of June 30, 2022, shall be carried forward in fund balance as the amount Reserved for Encumbrances and the corresponding appropriations for these encumbrances shall not lapse in order to properly account for the payment in the fiscal year paid.

The County's authorized general fund appropriations are as shown on Appendix A hereto, which is incorporated herein by reference.

B. Revenues

For the operation of the Henderson County's government and its subdivisions for FY2023, it is estimated that the revenues and fund balances of the General Fund will be available to meet the appropriations as set forth herein. All fees, commissions, and sums paid to or collected in any fund by any County official, officer, or agent for any service performed for such official, officer, or agent in his official capacity shall accrue solely to the benefit of the County and become County funds.

The County's estimated general fund revenues are as shown in Appendix A hereto, which is incorporated herein by reference.

1. Ad Valorem Tax Levy

That there is hereby levied for FY2023 an *ad valorem* property tax at the rate shown in Appendix A hereto, which is incorporated herein by reference, for the purpose of raising the revenue for current year's taxes as set forth in the foregoing estimates of revenues, and in order to finance the foregoing appropriations, pursuant to and in accordance with the North Carolina Machinery Act (codified within Chapter 105 of the North Carolina General Statutes) and other applicable laws. This rate is based on an estimated total valuation of \$17,457,233,668 of taxable property and a collection rate of ninety-eight percent (98%). The Budget Ordinance also names ad valorem property taxes as the specific revenue source to fund the Tax Revaluation Reserve Fund as shown in Appendix C hereto, which is incorporated herein by reference.

2. Fees, Licenses and Other Taxes

There is hereby levied all County Privilege License Taxes as authorized by North Carolina General Statutes, and such other taxes and fees, as provided in the ordinances, resolutions, and fee schedules duly adopted by the Board of Commissioners. Fee schedules used in the development of this budget and adopted by the Board of Commissioners are set forth and a copy of such is maintained in the Office of the County Manager.

C. Based on the Annual Budget

The appropriations, schedules of expected revenues, and taxes levied, as stated herein, are based on the annual Budget as hereby approved, a summary of which Budget is attached as Schedule No. 1 to Appendix A, and the terms of which Budget are hereby specifically incorporated by reference. The expenditures for general economic development activities are by appropriation to the Henderson County Partnership for Economic Development, for purposes which include advertisement of economic climate, recruitment of appropriate industries and businesses, and other actions to assist in increasing the employment, industrial output, taxable property, or business prospects of the County.

Section 2 – Fire Districts Fund

There are hereby appropriations and revenues estimated to be available in the Fire Districts Fund for FY2023 for payment to the appropriate corporation providing fire protection within each district as shown in Appendix B hereto, which is incorporated by reference.

Section 3 – Other Funds

There are hereby appropriations and revenues estimated to be available in special County budget funds as shown in Appendix C hereto, which is incorporated herein by reference.

Section 4 – Public Schools

The Henderson County Finance Director is hereby directed to remit the appropriation to the Henderson County Public Schools for local current expense in monthly installments equivalent to one-tenth (1/10) of the total county appropriation, during the months of July through April, and by not later than the thirtieth (30th) of each month.

Of the funds appropriated in Appendix C, Section G, \$300,000 shall be designated for technology expenditures.

Section 5 – Elected Officials

Henderson County elected officials shall be compensated as shown in Appendix D, which is incorporated herein by reference.

Section 6 – Use of Budget

This Ordinance and the budget shall be the basis for the financial plan for the County of Henderson, North Carolina, during FY2023. The County Manager shall administer the budget and ensure that operation officials are provided guidance and information in sufficient detail to implement their portions of the budget.

The Finance Director shall establish records, which are in consonance with the budget, this Ordinance and regulating statutes of the State of North Carolina.

Notwithstanding other Ordinances, Resolutions or other adoptions of this Board, all County citizens shall have the right to use Henderson County's parks and other recreation facilities free of any admission charge, subject to regularly adopted and customary facility rental fees, scheduling, participation fees, and other regulations.

Section 7 – Effective Date

This Ordinance shall be effective by its terms for FY2023 upon adoption.

VOTING:

AYES: Lapsley, McCall, Andreotta, Hill, Edney

NAYS:

Adopted this the 15th day of June, 2022.

HENDERSON COUNTY BOARD OF COMMISSIONERS

By: 
WILLIAM LAPSLEY, Chairman

Attest:


DENISA A. LAUFFER, Clerk to the Board