

# **A G E N D A**

## **HICKORY CITY COUNCIL**

**October 18, 2016**



**7:00 p.m.**



**AGENDA**  
[www.hickorync.gov](http://www.hickorync.gov)

If you have any questions about any item on this agenda or if you need more information about any item in addition to the information contained in the agenda package, please call the City Manager at 323-7412. A "Citizen Comment Sheet", which explains the procedure to address the City Council, is located on the table outside Council Chambers. We also encourage you to complete the Comment Sheet and offer any suggestions or questions you have. For more information about the City of Hickory go to: [www.hickorync.gov](http://www.hickorync.gov).

Hickory City Council  
76 North Center Street

October 18, 2016  
7:00 p.m.

- I. Call to Order
- II. Invocation
- III. Pledge of Allegiance
- IV. Special Presentations
  - A. Presentation of the 20<sup>th</sup> Consecutive Certificate of Achievement for Excellence in Financial Reporting to the City of Hickory by the Government Finance Officers Association of the United States and Canada for its Comprehensive Annual Financial Report (CAFR).
  - B. Paula Hodges, Audit Partner with Martin Starnes & Associates, Presentation of the Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2016
  - C. Lisa Neal and Carole Dennis, Library Presentation of the 2016 Summer Reading Program.
  - D. Presentation of World Polio Day Proclamation. **(Exhibit IV.D.)**
- V. Persons Requesting to Be Heard
- VI. Approval of Minutes
  - A. Regular Meeting of October 4, 2016. **(Exhibit VI.A.)**
- VII. Reaffirmation and Ratification of Second Readings. Votes recorded on first reading will be reaffirmed and ratified on second reading unless Council Members change their votes and so indicate on second reading.
  - A. Acceptance of a Temporary Construction and Permanent Sanitary Sewer/Storm Drainage Easement for the Property of Hickory Springs Manufacturing Company, PIN 3703-19-50-1321 for Installation of Utilities Infrastructure. **(First Reading Vote: Unanimous)**
  - B. Acceptance of a Temporary Construction and Permanent Sanitary Sewer/Storm Drainage Easement for the Property of Hickory Springs Manufacturing Company, PIN 3703-19-50-2154 for Installation of Utilities Infrastructure. **(First Reading Vote: Unanimous)**

- C. Acceptance of a Temporary Construction and Permanent Sanitary Sewer/Storm Drainage Easement for the Property of Hickory Springs Manufacturing Company, PIN 3703-19-50-2310 for Installation of Utilities Infrastructure. **(First Reading Vote: Unanimous)**
  - D. Acceptance of the Bid and Award the Contract to General Services, Inc. in the Amount of \$78,300 for Repairs and Coating at the Water Treatment Facility. **(First Reading Vote: Unanimous)**
  - E. Approval of a Close Out Deductive Change Order Number 1 with Wilkie Construction Related to Phase II of the Planned Improvements to Hickory Optimist Park. **(First Reading Vote: Unanimous)**
  - F. Budget Revision Number 8. **(First Reading Vote: Unanimous)**
  - G. Consideration of Amending Chapter 4 Section 4-21(a) of the Hickory Code of Ordinances. **(First Reading Vote: Unanimous)**
- VIII. Consent Agenda: All items below are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests. In which event, the item will be removed from the Consent Agenda and considered under Item IX.
- A. Special Events Activities Application Lowes Foods Christmas Parade, and City of Hickory Christmas Tree Lighting, Lauren Townson, Senior Recreation Programmer, City of Hickory, Parks and Recreation Department, Friday, November 18, 2016 from 3:00 p.m. to 8:30 p.m., Downtown Hickory. **(Exhibit VIII.A.)**
  - B. Special Events Activities Application Mel's Jingle Run 5K, Sarah Prencipe and Leslie Knapp, Operation 300, Hickory Soup Kitchen, Mellow Mushroom Hickory (Peace-a-Pie Makers, LLC), December 3, 2016 6:00 a.m. to 12:00 p.m. Sails on the Square Stage and 5K Route. **(Exhibit VIII.B.)**
  - C. Special Events Activities Application Marine Corps League Cake Cutting Ceremony, Derek D. Dawson, Marine Corps League-Catawba Valley Chapter, November 10, 2016, 11:30 a.m. to 1:00 p.m. Union Square Common, north of the Southern Railway Tracks, East of Third Street NW and West of Second Street NW. **(Exhibit VIII.C.)**
  - D. Approval of a Contract with Wilkie Construction, in the Amount of \$63,700 for Remodeling of the Second Floor Public Restrooms at Patrick Beaver Memorial Library. **(Exhibit VIII.D.)**

*Library Staff requests approval of a contract with Wilkie Construction for remodeling of the second floor public restrooms at Patrick Beaver Memorial Library. Two valid bids were received for the project: Moss Marlow Building Co. - \$63,940 and Wilkie Construction - \$63,700. Wilkie Construction submitted the lower bid and their representative have discussed the project with the Library's Maintenance Coordinator Chad Lambert to ensure they understand the details of the project requirements. The Library's budget includes \$52,000 in capital funds for the project. An additional \$10,000 will be used from the Library Endowment. The remainder will be transferred from library building maintenance funds. Library Staff recommends Council's approval of the contract with Wilkie Construction in the amount of \$63,700.*

- E. Approval to Apply for a Walmart Community Grant in the Amount of \$2,500 for the Purchase of a Dedicated Computer with Video Editing Capability. **(Exhibit VIII.E.)**

*The police department currently uses a Facebook page, Twitter, and the City of Hickory website to reach out to the community. With the purchase of this specialized computer with video editing capability, the police department can increase community outreach with public service and safety messages that will improve communication with citizens and*

visitors of the City. The Walmart Community Grant Program has been utilized by Hickory Police Department in the past for supplies to support the Gang of One program. The grant program is a corporate wide program offered by Walmart to support efforts in local communities where their retail stores are located. There are no matching funds or City resources or obligations required if the grant is awarded. Hickory Police Department recommends Council's approval to apply for a Walmart Community Grant in the amount of \$2,500 for the purchase of a dedicated video editing computer for community outreach videos.

- F. Approval of the Application and Resolution for the North Carolina Industrial Development Grant Fund to Assist Development of Sanitary Sewer Infrastructure and Entrance at Park 1764. **(Exhibit VIII.F.)**

*Park 1764 was identified as the business park recognized in the bond projects to receive money from bond proceeds for development. The City and the Economic Development Corporation (EDC) worked on development of the project to a condition that is receptive to marketing. The City and the EDC submitted a pre-application for North Carolina Industrial Development Funds and were approved for \$671,920 in grant funds with a matching requirement of 100 percent. The grant proceeds are to be used for sanitary sewer outfall extension to the site in the amount of \$361,900 and entrance road development with landscaping off of Startown Road in the amount of \$310,020. The grant has a condition that the recipient will match the investment for a total of at least \$1,343,840. The City of Hickory and Catawba County entered into an agreement previously to equally cover the cost of development previously estimated at \$1,558,532 for this phase of development. This grant has a required equal match in funds prior to disbursement of the entire grant. The grant is a reimbursable grant with 50 percent of each request being funded up to a max of \$671,920. Staff recommends Council's approval of an application for North Carolina Industrial Development Grant Funds for Park 1764 to assist development of sanitary sewer infrastructure and entrance. Staff also requests approval of a Resolution approving provisions of required assistance and agreements and designating the authorized representative.*

- G. Approval of a Contract with Western Piedmont Council of Governments for Financial Administration of the North Carolina Industrial Development Fund Grant. **(Exhibit VIII.G.)**

*Park 1764 was identified as the business park recognized in the bond project to receive money from bond proceeds for development. The City and the Catawba County Economic Development Corporation (EDC) worked on development of the project to a condition that is receptive to marketing. The City and the EDC submitted a pre-application for North Carolina Industrial Development Funds (NCIDF) and were approved for \$671,920 in grant funds with a matching requirement of 100 percent. The grant proceeds are to be used for sanitary sewer outfall extension to the site in the amount of \$361,900 and entrance road development with landscaping off of Startown Road in the amount of \$310,020. The grant has a condition that the recipient will match the investment for a total of at least \$1,343,840. The City of Hickory and Catawba County entered into an agreement previously to equally cover the cost of development previously estimated at \$1,558,532 for this phase of development. The contract with Western Piedmont Council of Governments (WPCOG) will be for the WPCOG to perform all financial requirements and required quarterly/annual reported that is required by NCIDF. This will include review and preparation of pay requests for the Finance Department, prepare and submit reimbursement requests and prepare reports required by NCIDF for reimbursement. Staff recommends Council's approval of the contract, in the amount of \$15,000, with Western Piedmont Council of Governments for the financial administration of the North Carolina Industrial Development Fund Grant.*

- H. Approval of a Community Appearance Grant for Non-Residential Property Owned by Mark Tuttle Located at 104 2<sup>nd</sup> Avenue NW in the Amount of \$5,000. **(Exhibit VIII.H.)**

City Council created the Community Appearance Grant program in 1999 to provide economic incentives for property owners to improve the general appearance of properties located within the City's designated Urban Revitalization Area. The Community Appearance Commission reviews applications for the grant program and forwards a recommendation of approval or denial to City Council. The grants are designed as a reimbursement grant in which the City of Hickory will match the applicant on a 50/50 basis. The maximum grant amount from the City of Hickory is \$5,000. The grant proposal requested by Mark Tuttle involves the renovation of an existing non-residential building. The proposal involves the replacement of existing windows, and the painting of the building's exterior façade. The applicant provided two bids for the items listed above, which total \$14,850 and \$15,200. Since both estimates are in excess of \$10,000, the request qualifies for the full \$5,000 grant. The current tax value of the property is \$220,600. The value of the grant represents approximately 2.3 percent of the property's tax value. The application was reviewed by the Community Appearance Commission at its October 5, 2016 special called meeting. Upon review the Community Appearance Commission scored the application utilizing its grant scoring criteria. The Community Appearance Commission scored the application at 20 points out of a possible 30 points, which placed the application into the high category of scoring. Upon completion of the scoring exercise, the Community Appearance Commission voted unanimously (7-0) to recommend funding of the grant application in the amount of \$5,000.

- I. Approval of a Community Appearance Grant for Non-Residential Property Owned by Resource Recovery Company Located at 313 Main Avenue NE in the Amount of \$5,000. **(Exhibit VIII.I.)**

City Council created the Community Appearance Grant program in 1999 to provide economic incentives for property owners to improve the general appearance of properties located within the City's designated Urban Revitalization Area. The Community Appearance Commission reviews applications for the grant program and forwards a recommendation of approval or denial to City Council. The grants are designed as a reimbursement grant in which the City of Hickory will match the applicant on a 50/50 basis. The maximum grant amount from the City of Hickory is \$5,000. The grant proposal requested by Resource Recover Company involves the renovation of an existing non-residential building. The proposal involves the replacement of existing windows, kick plates, and moldings on the building's exterior façade. The applicant provided two bids for the items listed above, which total \$11,383.51 and \$16,610.62. Since both estimates are in excess of \$10,000, the request qualifies for the full \$5,000 grant. The current tax value of the property is \$90,600. The value of the grant represents approximately 5.5 percent of the property's tax value. The application was reviewed by the Community Appearance Commission at its October 5, 2016 special called meeting. Upon review the Community Appearance Commission scored the application utilizing its grant scoring criteria. The Community Appearance Commission scored the application at 25 points out of a possible 30 points, which placed the application into the high category of scoring. Upon completion of the scoring exercise, the Community Appearance Commission voted unanimously (6-0) to recommend funding of the grant application in the amount of \$5,000.

- J. Approval of a Community Appearance Grant for Non-Residential Property Owned by Schmidt Real Estate Investors Located at 1122 Highland Avenue NE in the Amount of \$3,500. **(Exhibit VIII.J.)**

City Council created the Community Appearance Grant program in 1999 to provide economic incentives for property owners to improve the general appearance of properties located within the City's designated Urban Revitalization Area. The Community Appearance Commission reviews applications for the grant program and forwards a recommendation of approval or denial to City Council. The grants are designed as a reimbursement grant in which the City of Hickory will match the applicant on a 50/50 basis. The maximum grant amount from the City of Hickory is \$5,000. The grant proposal requested by Schmidt Real Estate Investors involves the renovation of an existing non-residential building. The proposal involves the installation of windows, and a

garage door on the building's exterior façade. The applicant provided two bids for the items listed above, which total \$18,077 and \$29,919. Since both estimates are in excess of \$10,000, the request qualifies for the full \$5,000 grant. The application was reviewed by the Community Appearance Commission at its October 5, 2016 special called meeting. Upon review the Community Appearance Commission scored the application utilizing its grant scoring criteria. The Community Appearance Commission scored the application at 14 points out of a possible 30 points, which placed the application into the medium category of scoring. Upon completion of the scoring exercise, the Community Appearance Commission voted unanimously (7-0) to recommend funding of the grant application in the amount of \$3,500.

- K. Approval of an Agreement with Duke Energy in the Amount of \$137,296.97 for Utility Relocation Associated with the Replacement of the Bridge on Falling Creek Road. **(Exhibit VIII.K.)**

*The bridge on Falling Creek Road is structurally deficient and is functionally obsolete. The design of the replacement structure is complete. Duke Energy is the owner of the overhead utilities at the site and has provided a detailed cost estimate for the necessary relocation of their equipment to allow construction of the replacement structure. The original municipal agreement between the City of Hickory and North Carolina Department of Transportation (NCDOT) for the Falling Creek Road bridge replacement project did not include utility relocation costs. The cost of utility relocation could not be accurately predicted until the project plans were completed and approved. Upon NCDOT's approval of the bridge replacement construction plans, Duke Energy performed their design and provided a construction cost estimate for relocation of their facilities at the project site. Once approved, Duke Energy will begin their portion immediately. When Duke Energy is through with the relocation, the contract for the bridge replacement will be let to bid. Eighty percent of the cost will be borne by NCDOT and the City will be responsible for 20 percent of the costs. Upon approval of the contract, the City will be obligated to pay \$137,296.97 up front to Duke Energy for their work. NCDOT will reimburse the City 80 percent of that cost, amounting to \$109,837.58 leaving \$27,459.39 as the City's responsibility. Staff recommends Council's approval of the agreement with Duke Energy in the amount of \$137,296.97 for utility relocation associated with the replacement of the bridge on Falling Creek Road.*

- L. Approval of an Agreement with CenturyLink in the Amount of \$31,623.04 for Utility Relocation Associated with the Replacement of the Bridge on Falling Creek Road. **(Exhibit VIII.L.)**

*The bridge on Falling Creek Road is structurally deficient and is functionally obsolete. The design of the replacement structure is complete. CenturyLink is the owner of the overhead utilities at the site and has provided a detailed cost estimate for the necessary relocation of their equipment to allow construction of the replacement structure. The original municipal agreement between the City of Hickory and North Carolina Department of Transportation (NCDOT) for the Falling Creek Road bridge replacement project did not include utility relocation costs. The cost of utility relocation could not be accurately predicted until the project plans were completed and approved. Upon NCDOT's approval of the bridge replacement construction plans, CenturyLink performed their design and provided a construction cost estimate for relocation of their facilities at the project site. Once approved, CenturyLink will begin their portion immediately. When CenturyLink is through with the relocation, the contract for the bridge replacement will be let to bid. Eighty percent of the cost will be borne by NCDOT and the City will be responsible for 20 percent of the costs. Upon approval of the contract, the City will be obligated to pay \$31,623.04 up front to CenturyLink for their work. NCDOT will reimburse the City 80 percent of that cost, amounting to \$25,298.43 leaving \$6,324.61 as the City's responsibility. Staff recommends Council's approval of the agreement with CenturyLink in the amount of \$31,623.04 for utility relocation associated with the replacement of the bridge on Falling Creek Road.*

- M. Citizens' Advisory Committee Recommendations for Assistance through the City of Hickory's Housing Programs. **(Exhibit VIII.M.)**

*The following request was considered by the Citizens' Advisory Committee at their regular meeting on October 6, 2016.*

*The following applicants are being recommended for approval for assistance under the City of Hickory's 2016 Urgent Repair Program. This program provides qualified low income citizens with assistance for emergency-related repairs not to exceed \$8,000.*

- *T. Cozette Bean, 1365 4<sup>th</sup> Street NW, Hickory*
- *Franklin Propst Jr., 270 7<sup>th</sup> Street SE, Hickory*
- *Anita Rhoney, 477 14<sup>th</sup> Avenue Drive NE, Hickory*
- *Jimmy Ritter, 1633 1<sup>st</sup> Avenue Place NW, Hickory*

*The Citizens' Advisory Committee recommends approval of the aforementioned requests for assistance through the City of Hickory's housing assistance programs.*

- N. Approval of Modification of the Loan with Habitat for Humanity for the Glen at Green Park Subdivision. **(Exhibit VIII.N.)**

*In 2010, Habitat for Humanity of the Catawba Valley purchased the land from the City of Hickory that was to become the Glen at Green Park, an 11 lot single family subdivision. The land was sold for the price of \$60,500 to be financed by the City of Hickory. The promissory note stated that Habitat would make payments of \$5,454.54 to the City when each house was sold. In addition, the note stated, that the remaining amount would be due to the City in the spring of 2015 if any balance remained. Seven homes have been built to date, and four remain in Habitat's control. The loan balance is \$21,818.16. Habitat for Humanity has requested that the City set them up to make monthly payments on the remainder of the loan balance. If the balance is paid off over a five year period, the payments would be \$370 per month. Habitat would still need to pay the entire remaining balance when the final property is sold, provided that sale occurs prior to the payoff of the loan. If the arrangement is approved by City Council, the City Attorney would draft a revised promissory note, and modification to the deed of trust that would reflect the new payment arrangement. The Citizen's Advisory Committee reviewed the request and recommends approval. Staff recommends City Council's approval of the modifications to the loan with Habitat for Humanity for the Glen at Green Park that would permit monthly payments over a five year period to pay off the outstanding loan.*

- O. Acceptance of a Temporary Construction Easement and Permanent Easement for the Property of Carolotta K. Spruill Described as PIN 3702-06-47-8996. **(Exhibit VIII.O.)**

*Staff requests acceptance of a temporary construction easement and a permanent easement for the property of Carolotta K. Spruill described as PIN 3702-06-47-8996 for installation of utilities infrastructure. The easements are necessary for completion of the Geitner Basin Replacement/Rehabilitation Project. This project is completely funded through a loan to the City as a State Revolving Loan by NCDEQ-IFS in 2016 in the amount of \$3.5 million dollars. The easement was negotiated for a total sum of \$1,500 plus recording fees in exchange for the easement. Staff recommends acceptance of a temporary construction easement and a permanent easement for the property of Carolotta K. Spruill described as PIN 3702-06-47-8996 for installation of utilities infrastructure.*

- P. Approval of the Renewal Option of the Corporate Hangar Lease with CommScope, Inc. of North Carolina. **(Exhibit VIII.P.)**

*CommScope, Inc. of North Carolina entered into a Corporate Hangar Lease with the City of Hickory dated September 18, 2012 with an expiration date of December 31, 2016. The lease includes an option to extend said lease for one additional five year term upon the same terms and conditions with the exception of the annual rent. Said annual rent is*

currently \$72,000 with an increase of ten percent under the renewal option. CommScope wishes to continue to operate its corporate flight department from the Hickory Regional Airport and to retain its use of the hangar and office space currently being utilized under the Corporate Hangar Lease. CommScope has requested to exercise its right to said renewal period. The five year renewal period shall extend through December 31, 2021 and increase the annual rent to \$79,200. Renewing the lease option is in direct line with the Airport Task Forces' mission to develop and expand the future of the Hickory Regional Airport. Staff recommends Council's approval to renew the lease option with CommScope, Inc. of North Carolina for an additional five years and increase the annual rent to \$79,200.

- Q. Approval of the Renewal Option of the Lease Agreement with FMD Aviation, LLC. **(Exhibit VIII.Q.)**

FMD Aviation, LLC constructed a hangar located on the south side of the Hickory Regional Airport and entered into a fifteen year lease agreement with the City of Hickory in March 1996. The lease includes an option to extend for two five year terms. The lease was extended in March 2011 for five years and FMD desires to utilize their lease option for an additional five years. All original terms and conditions will remain in full force and effect. FMD Aviation LLC is currently paying \$1,364.31 per month to the City of Hickory as an operations fee for the airport. The Lease Agreement states every twelve month period following the initial twelve month period shall be adjusted by two percent or CPI, whichever is lower. The five year renewal period will expire in March 2021. Renewing the lease option is in direct line with the Airport Task Forces' mission to develop and expand the future of the Hickory Regional Airport. FMD Aviation, LLC continues to increase the number of aircraft and employees at the airport. Staff recommends Council's approval to renew the lease option with FMD Aviation, LLC for an additional five years.

- R. Approval of a Resolution Designating the City Manager and Chief Financial Officer as Authorized Officers to Reimburse Itself for Capital Expenditures Incurred in Connection with Tax-Exempt Obligations. **(Exhibit VIII.R.)**

From time to time the City of Hickory finances capital projects with tax-exempt obligations. The City sometimes must expend its own available funds for capital projects in advance of completing a tax-exempt financing. Under certain provisions of the Internal Revenue Code, in order for the City to reimburse itself for expenditures incurred before a tax-exempt financing is completed, the City must declare its intent to reimburse itself within 60 days from the date of such capital expenditure. The intent to reimburse itself does not obligate the City to complete the tax-exempt financing but allows the City to reimburse itself from an expected tax-exempt financing. Staff recommends approval of the Resolution designating the City Manager and the Chief Financial Officer of the City as authorized officers to declare the intention of the City to reimburse itself for capital expenditures incurred in connection with a tax-exempt financing.

- S. Acceptance of the Bid from Buckeye Bridge, LLC for the Construction of Random Woods Sewer Project in the Amount of \$948,873 and a Contingency in the Amount of \$47,444. **(Exhibit VIII.S.)**

The Public Utilities Department and Catawba County Environmental Health identified Random Woods Subdivision as one of three areas of concern in 1998 as a part of the future service areas for the City of Hickory sanitary sewer system. Staff originally applied for a State Revolving Grant funds for completion of this project April 1, 1999. An updated preliminary engineers report was resubmitted in 2009. NCDENR Division of Water Quality and NC Construction Grants and Loans issued final approval of the preliminary engineers report on May 10, 2010. In July of 2010 City Council approved the Resolution accepting the application for grant funds. McGill Associates were responsible for design and bidding of the project. Construction bids were received from two perspective bidders as follows: Hickory Sand Company, Inc. - \$987,825 and Buckeye Bridge, LLC - \$948,873. McGill Associates evaluated the bid packages and found Buckeye Bridge,

LLC to be the lowest responsible bidder. Staff recommends Council's acceptance of the bid with the responsible low bidder Buckeye Bridge, LLC in the amount of \$948,873. Staff also requests approval of a contingency in the amount of \$47,444, for a total of \$996,317.

T. Budget Revision Number 9. (Exhibit VIII.T.)

1. To recognize \$4,000.00 in sponsorship/donations revenue from Lowe's Foods for the 2016 Christmas Parade.
2. To appropriate \$3,379.00 from State Unauthorized Substance Tax Funds for emergency care of a Police K-9.
3. To recognize and appropriate \$600.00 in revenue received from a rebate on the Parks & Recreation Department's recent purchase of eight (8) Automatic External Defibrillators.
4. To recognize \$94,340.00 in grant funds initially received and deposited into the General Fund for street lighting enhancements through the NC Department of Commerce Downtown Revitalization Grant. The funds will be moved into a new Grant Project Ordinance to be established under item #6 below.
5. To recognize \$4,663.00 in revenue received from Catawba County for materials for Public Utilities to install a fire hydrant at Mountain View Fire Department.
6. To establish Grant Project Ordinance #545005, "Downtown Lighting", for streetlight enhancement through the North Carolina Department of Commerce Downtown Revitalization Grant in the amount of \$94,340.00.
7. To transfer and appropriate \$31,624.00 from General Fund Balance to the Falling Creek Road Bridge Capital Project Ordinance for Centurylink utility relocation. The City will pay this total up front, with NCDOT reimbursing the City 80% of that cost. This ultimately leaves the City's responsibility at \$6,324.61.
8. To transfer and appropriate \$137,297.00 from General Fund Balance to the Falling Creek Road Bridge Capital Project Ordinance for Duke Energy's utility relocation. The City will pay this total up front, with NCDOT reimbursing the City 80% of that cost. This ultimately leaves the City's responsibility at \$27,459.39.
9. To transfer and appropriate \$15,000.00 from General Fund Balance into the Business Park 1764 Capital Project Ordinance to contract with Western Piedmont Council of Governments for the financial administration of an Industrial Development Fund Grant. The contract is for WPCOG to perform all financial reporting and required quarterly/annual reporting to the NCIDF.

IX. Items Removed from Consent Agenda

X. Informational Item

A. Budget Transfer Report.

Under Section 22 (b) of the Fiscal Year 2016-2017 Budget Ordinance, the City Manager is authorized to transfer appropriations with a report to City Council as follows:

**Section 22 (b):** "He may transfer amounts up to \$50,000 between functional areas including contingency appropriations, within the same fund. He must make an official report on such transfers at the next regular meeting of the Governing Board."

The following transfer recently occurred under this provision:

- To expedite the availability of insurance-claims revenue to the appropriate department, in lieu of a Budget Amendment the City has budgeted specific funds within the Risk Management division which, upon the case-by-case receipt of said revenues, may be transferred as necessary for making repairs and/or replacements in a timely manner.
- September 30, 2016 (BT #15): \$22,841.00 insurance-claims revenue transferred to Traffic Department for damages sustained to a Traffic Signal

cabinet due to an auto accident at the intersection of Sweetwater Road and McDonald Parkway on 6-30-16.

XI. New Business:

A. Public Hearings

B. Departmental Reports:

1. Branding/Marketing Update
2. Approval of the Application for the North Carolina General Assembly and Acceptance of the Authorized Grant-In-Aid Allocation of \$250,000. **(Exhibit XI.B.2.)**

*The City of Hickory is collaborating with North Carolina Department of Transportation (NCDOT) to repair/replace a failed 96-inch storm drainage pipe that is causing storm water to backup and flood US 70 in Hickory. The NCDOT and the City are currently paying for emergency pumping to keep water flowing. The City and NCDOT are taking action to remedy the problem for the safety of the general public and businesses in the area. During the 2016-2017 State fiscal year, the North Carolina General Assembly appropriated \$250,000 in grant-in-kind funds to mitigate structural damage to Highway 70. The cost of the repair is estimated at \$3.2 million dollars. NCDOT has agreed to pay \$1 million dollars as well as handle design and construction oversight towards the repair while the City of Hickory has agreed to pay \$1.2 million dollars. The North Carolina General Assembly has appropriated \$250,000 in grant-in-kind funds to the City of Hickory to mitigate the structural damage to Highway 70 caused by the failed 96-inch storm drainage pipe. The City of Hickory and NCDOT have entered into a contract for the repairs with construction scheduled to begin before the end of the 2016 year. Staff has prepared the documents for submission to receive the \$250,000 from the State Grant. Staff recommends Council's approval for the submission of the North Carolina General Assembly's authorized grant-in-kind allocation of \$250,000 and to accept the funds allocated to the City of Hickory to mitigate structural damage to Highway 70.*

3. Quarterly Financial Report

4. Appointments to Boards and Commissions

**BOND IMPLEMENTATION COMMISSION**

(Terms Expiring 2-1; 3 Year Terms) (Appointed by City Council)

Alderman Tarlton's Appointment

(Unexpired Term of Blake "Bee" Watts Jr. (2-2-17) who resigned 10-6-2017)

**CITIZENS ADVISORY COMMITTEE**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

At-Large (Council Appoints)

VACANT

At-Large (Council Appoints)

VACANT

**COMMUNITY APPEARANCE COMMISSION**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

Ward 3 (Seaver Appoints)

VACANT

Ward 4 (Guess Appoints)

VACANT

At-Large (Outside City but within Hickory Regional Planning Area)

(Council Appoints)

VACANT

At Large (Council Appoints)

VACANT

**COMMUNITY RELATIONS COUNCIL**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

Other Minority (Council Appoints) VACANT  
Other Minority (Council Appoints) VACANT

**HICKORY REGIONAL PLANNING COMMISSION**

(Terms Expiring 6-30; 3-Year Terms With Unlimited Appointments)  
(Appointed by City Council)  
Burke County (Mayor to Nominate) VACANT

**INTERNATIONAL COUNCIL**

(Appointed by Mayor with the Concurrence of City Council)  
(5) Positions VACANT

**LIBRARY ADVISORY BOARD**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)  
Ward 4 (Guess Appoints) VACANT  
At-Large (Mayor Appoints) VACANT

**PARKS AND RECREATION COMMISSION**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)  
At-Large (2) (Council Appoints) VACANT  
At-Large (3) (Council Appoints) VACANT

**Mayor Wright to nominate James Rogers as At-Large (2) Representative for the Parks and Recreation Commission**

**PUBLIC ART COMMISSION**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)  
At-Large (Mayor Appoints) VACANT

**Mayor Wright to nominate Lise Swensson as an At-Large Representative for the Public Art Commission**

**PUBLIC HOUSING AUTHORITY**

(Terms Expiring 6-30; 5-Year Terms) (Appointed by the Mayor)  
Position 9 VACANT

**RECYCLING ADVISORY BOARD**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)  
Ward 2 (Tarlton Appoints) VACANT  
Ward 3 (Seaver Appoints) VACANT  
Ward 4 (Guess Appoints) VACANT  
At-Large (Council Appoints) VACANT  
At-Large (Council Appoints) VACANT

**YOUTH COUNCIL**

(Terms Expiring 6-30; 1-Year Terms) (Appointed by City Council)

***The Youth Council Applicant Review Committee Makes the Following Recommendation for Appointment to the Youth Council:***

***Liam Watts (St. Stephens High School Representative)***

St. Stephens High School Representatives 2 Positions VACANT  
At-Large Representatives 2 Positions VACANT  
Challenger High School Representative 1 Position VACANT

C. Presentation of Petitions and Requests

XII. Matters Not on Agenda (requires majority vote of Council to consider)

- XIII. General Comments by Members of Council, City Manager or City Attorney of a Non-Business Nature
- XIV. Closed Session Per NC General Statutes 143-318.11(a)(1) to consult with the attorneys regarding the following: (Action on these items, if any, will occur in Open Session)
  - 1. Approval of Closed Session Minutes of July 29, 2016, August 2, 2016, August 16, 2016, August 24, 2016, September 15, 2016, September 20, 2016, September 27, 2016 - NCGS §143-318.11(a)(1)
- XV. Adjournment

**\*Hickory City Code Section 2-56. Public Address to Council:**

**“When conducting public hearings, considering ordinances and otherwise considering matters wherein the public has a right to be heard, when it appears that there are persons present desiring to be heard, the Mayor shall require those opposing and favoring the proposed action to identify themselves. Each side of the matter shall be given equal time. Those opposing the proposed action shall be allowed 15 minutes for presentation, followed by 15 minutes for those favoring the action, with the opponents then to have five minutes for rebuttal and the proponents to then have five minutes for surrebuttal. Those persons on either side shall have the right to divide their allotted time among them as they may choose. The Council, by majority vote, may extend the time for each side equally. On matters in which the person desiring to address the Council does not have a legal right to speak, the Council shall determine whether it will hear the person. The refusal to hear a person desiring to speak may be based upon grounds that the subject matter is confidential, that its public discussion would be illegal, that it is a matter not within the jurisdiction of the Council or for any other cause deemed sufficient by the Council. Any person allowed to speak who shall depart from the subject under discussion or who shall make personal, impertinent or slanderous remarks, or who shall become boisterous while addressing the Council shall be declared out of order by the Mayor, or by vote of the Council, and barred from speaking further before the Council unless permission to continue shall be granted by a majority vote of the Council, under such restrictions as the Council may provide.”**

**The City of Hickory holds all public meetings in accessible rooms.  
Special requests for accommodation should be submitted by individuals  
with disabilities at least 48 hours before the scheduled meeting.  
Phone Services (hearing impaired) – Call 711 or 1-800-735-2962**



Life. Well Crafted.

Office of the Mayor

Exhibit IV.D.

City of Hickory

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## PROCLAMATION

### WORLD POLIO DAY

- WHEREAS,** World Polio Day is observed on October 24. This observance was established by nongovernmental organization Rotary International in order to commemorate the birth of Jonas Salk, the developer of a vaccine against polio; and
- WHEREAS,** the virus struck the developed countries at the end of the 19<sup>th</sup> century, and at the beginning of the 20<sup>th</sup> century it appeared in the USA and Europe; and
- WHEREAS,** in June 1944, polio swept across North Carolina's western Piedmont region, centering around Catawba County. The citizens of Hickory built a hospital in 54 hours to save their children from the worst polio outbreak that had ever hit the United States, the feat was known as "The Miracle of Hickory"; and
- WHEREAS,** the disease reached its peak during the 1950s when it started to shift from infants to children aged from five to nine; and
- WHEREAS,** the first efficient attempts to fight the virus were made by Jonas Salk in 1955; who lead the first team to develop and test the inactivated vaccine; and
- WHEREAS,** the oral polio vaccine was developed by Albert Sabin and came into commercial use in 1961; and
- WHEREAS,** the two vaccines have eliminated polio from most of the world and reduced the number of cases each year from an estimated 350,000 in 1988 to 74 in 2015.

**NOW, THEREFORE,** I, Rudy Wright, Mayor of the City of Hickory, on behalf of Hickory City Council, do hereby proclaim October 24, 2016, as:

### "World Polio Day"

In Hickory, North Carolina and urge the citizens of Hickory to support the Hickory Rotary Club's newly formed "Post Polio Syndrome Support Group" which has begun meeting in Hickory.

This the 18<sup>th</sup> day of October, 2016

Mayor Rudy Wright

A Regular Meeting of the City Council of the City of Hickory was held in the Council Chamber of the Municipal Building on Tuesday, October 4, 2016 at 7:00 p.m., with the following members present:

Brad Lail	Rudy Wright	Hank Guess
Vernon Tarlton	Aldermen	David P. Zagaroli
Danny Seaver		Jill Patton

A quorum was present.

Also present were: Interim City Manager Andrea Surratt, Assistant City Manager Rodney Miller, Deputy City Attorney Arnita Dula, City Attorney John W. Crone, III, Governmental Affairs Manager Yaidee Fox and City Clerk Debbie D. Miller

I. Mayor Wright called the meeting to order. All Council members were present.

II. Invocation by Rev. Bill Garrard, Retired United Methodist Pastor

III. Pledge of Allegiance

IV. Special Presentations

A. Presentation of Fire Prevention Week Proclamation.

Mayor Wright read and presented a Fire Prevention Week Proclamation to Fire Education Coordinator Terri Byers and Fire Battalion Chief Matthew Hutchinson. He commented the City had only one fire related death in approximately 17 years.

B. Presentation of National Physical Therapy Month Proclamation.

Mayor Wright read and presented a proclamation for National Physical Therapy Month to Pam Elske-Leonetti, Physical Therapy Inpatient Supervisor, Nancy Hosterman, Therapy Services Manager, and Lea Posey, of Frye Regional Medical Center.

C. Presentation of the Catawba County Strategic Plan from Catawba County Manager Mick Berry.

Mayor Wright asked Catawba County's Assistant County Manager Dewey Harris to the podium. Mr. Harris was filling in for Catawba County's Manager Mick Berry.

Catawba County's Assistant Manager Dewey Harris presented City Council with a PowerPoint presentation. He advised that he had been in Hickory for eight years. He mentioned that his neighbor, John Watts, had said that Hickory was the best kept secret in North Carolina. He had had a great experience in Hickory and looked forward to many more years here. He introduced Mary Furtado, Assistant Catawba County Manager and advised that County Manager Mick Berry had a conflict and was unable to attend.

Mr. Harris advised the County wanted to collaborate with the City in ways that had not ever been done before. The Board of Commissioners adopted a strategic planning process approximately a month ago. He referenced Inspiring Spaces, and the fact that Hickory had taken the lead in the region and making the business case for keeping young people. We know that we are losing population in the 18-44 age population group. That is really vital to any community success, to be able to retain that population and to attract other people. When the Board of Commissioners thought about moving forward and collaborating, they wanted to work with the City of Hickory and other municipalities to turn that around. He pointed out on a graph a gap in terms of the number of jobs in the County. There was a 5.1 percent unemployment rate. The skills gap often cited dealt with all types of professions. We are going to have to grow in each of those categories to be successful and to compete regionally. They are looking to recruit individuals who have software background and work in technology. He advised those were just examples that they have heard from employers that they can't find employees to fill those positions. He noted the success of County jobs and announcements. He commended Scott Millar, and the Economic Development Corporation and the partnerships with the City of Hickory and others for the success over the years. He displayed a graph which had resulted in quite a bit of investments in the community as well. He advised the problem that Scott Millar had talked about was, in an ideal situation we would grow jobs within the County by 500 per year. In the course of 2015-2035 that would be 10,000 jobs. That would be ideal. That is not realistic. They know that from the fact that we are losing population. Even if we could garner one percent of that per year that would only yield 5,167 workers by the year 2035. He showed an illustration which demonstrated the loss of population growth. He stated that the point is ideally we should be growing a lot faster. There are ways to make that happen, but the impact is something that we need to deal with around the community. He gave Scott Millar credit for some of the graphs on the PowerPoint. He reemphasized that we are losing population. Our growth in population is not stagnant, we are actually losing people. The Board of Commissioners want to turn that around. The case that Mr. Millar made was that if we were to grow the population in the County, which is approximately 154,000-155,000 people, by 60,000 people, that would mean we would be growing approximately 18 percent per year. They know that is not the case. He advised

Mecklenburg County was not too much ahead of that, they are at 19.2 percent. Cabarrus County 19 percent, Union County 18.9 percent, etc. Catawba County was at the bottom. The projection according to the census bureaus, from 2020-2030 was actually 2.2 percent. We would not be able to fill that gap that he mentioned previously. However there is some opportunity. He showed a map of North Carolina which had a clock face on it. He referenced 12 o'clock on the map which represented 77, a lot of roads around 77 are in our region. He referenced 9 o'clock which represented Highway 85, lots of growth in that corridor as well. He advised that one opportunity that Catawba County has is Highway 16, he referenced 10:30 on the clock. They had been working with the State closely, the City of Hickory and other municipalities had supported that effort in growing that corridor. They would like expansion on Highway 16 so they can get going on some economic development opportunities and recruit businesses. Even if we can grow 60,000, not all of those people would be working age people; that would be approximately 20,000 workers. He advised there had been tremendous growth in the area around NC150, the southwestern part of the County around Sherrills Ford. NC 16 and Charlotte is expected to grow. He questioned if the Bond Referendum that the City had worked so hard on would make a difference. He commented there was tremendous collaboration within our community in terms of the community colleges, and working relationships in local government. Does this result in a skills gap or a people(s) gap? The Board of Commissioners felt that we have a human capital gap within the County. According to Mr. Millar that is a resource nationally which is going to win economic wars. We are in a competitive situation not just regionally, but across the State and the country. That has an impact on worker agility, worker supply, and work opportunities. Their proposition was there is a human capital gap. One of the County Board's goals was to attract human capital. If there is a shortage of workers, one of the things that they need to do is to find ways to attract human capital. He thanked his counterpart, and Assistant Catawba County Manager Mary Furtado for her work last year as she lead the effort to survey the Board of Commissioners about assets and opportunities, strengths, weaknesses, etc. that they sought at that time. They actually reaffirmed that with the Board before they began this process. They also compared that to the survey that was done with the Hickory Young Professionals. He noted the good response in terms of the demographic within that group. They looked at the Board of Commissioner's perspectives against the Young Professionals perspectives. He displayed a graph and explained with regard to people the Board felt that there was good work ethic. He had heard that from several Council members as well. We also have good community for families, and faith-based organizations that are very engaged in the community. We also have a great degree of community involvement, schools, community college, municipalities and non-profits. He referenced the challenges in terms of the inability to attract and retain young adults. In terms of the aging population the services had not kept up with the rate of aging of our population. The Young Professionals felt that we do have a family friendly environment and proximity to family. Another key category that the Board of Commissioner's wanted to focus on in terms of jobs, was the inability to fill currently available jobs, lack of upper level employment opportunities, and lack of workforce development training. They know that folks are working very hard to close that gap. Jobs are a key issue. Mr. Harris discussed amenities. The Board of Commissioners' felt that we do have an asset in terms of being close to Charlotte and I40. We have the potential to be a bedroom community for Charlotte and be accessible to other areas. We also have rich arts, cultural, and recreation community, for example the Green Room, the Hickory Community Theatre, etc. We have a lot of assets in terms of arts, so that is positive. The Young Professionals felt that social activities were a challenge. Over 50 percent of the survey respondents felt that they have to leave Catawba County for entertainment, activities and events. They know that has changed because of the work that Hickory had done for example with the Sails. You can't go downtown on a Friday or Saturday night without seeing people enjoying themselves, which is really a great thing. They also felt that we could be doing more in the area of arts, culture, and recreation. Mr. Harris discussed education, another pillar for the strategy of the Board's strategic plan. They felt that there is some good educational opportunities here. We are challenged that the educational attainment is low, especially in comparison with our MSAs. One of the Young Professionals commented that Catawba County is an okay place to raise a family, but they rarely encounter other young educated people in social or recreational settings. They know that diversity is important because those young people want to be around young people like themselves. The areas that the Board wants to work with the City of Hickory on are economic development, water and sewer infrastructure, healthy and safe communities, and community branding, which the City of Hickory had done a lot of work in as well. The County was to follow the City's lead on that and make sure that they are branding the County as well and telling their story. Also Pre-K and K-12 education are very important, post-secondary education, and broadband. When you think about broadband technology that is an area that benefits not just schools but small businesses. He knew that Mayor Wright had talked a lot about the importance of small business development in this area as well. He commented that arts, culture and parks are also very important. In terms of engaging the public, the Board put together a very aggressive schedule. He advised that County Manager Mick Berry had reminded the Board that this was very aggressive and they may have to push it back a month or so. Their goal is to wrap-up this process by the spring of next year. They kicked it off in September, talking about the process with the Board. They also followed up with expectations. They wanted

to make sure, as staff, they are in sync with their expectations for this process. On October 3<sup>rd</sup> they discussed economic development. They have a work session planned on October 10<sup>th</sup> to talk about water and sewer infrastructure. Before being brought to the respective boards, they will discuss, at the staff level, revamping the relationship with water and sewer so they may be more responsive to business opportunities. November will be followed up by Pre K, K-12, and post-secondary education, which will speak to the K to 64 initiative that they had all heard about. December will be followed up by broadband and healthy and safe communities. January will be arts and culture, parks and February community branding. He noted the areas they felt they could work most closely with the towns and cities: economic development, water and sewer infrastructure, healthy and safe communities, parks, and community branding/marketing. He advised this was the schedule that the Board had adopted. It was very aggressive, and they had shared with the Board that it might take them at least until the spring to wrap this process up. He concluded his presentation on how all of this comes together. They had received input from the Board of Commissioners and will continue to get that over the next several weeks and months. They had also spent some time talking with managers, and had met with Yaidee Fox, Rodney Miller, Andrea Surratt and other managers and assistance last week to talk about their willingness to be liaisons between this process and their respective boards and councils, and they are willing to do that. The direction that they receive from City Council in terms of the governing body is very important. The Board of Commissioners will provide input, City Council would provide input, and lots of discussions with managers. They would like to be able to bring recommendations to the respective councils to get their buy-in, tweaking and support so they can finalize the plan. The message was they are here to collaborate in ways that they have not collaborated before. They know that Hickory had done a lot of work in terms of moving the needle forward and making this a very desirable community. There are also good efforts going on in Conover and Newton as well as other places and they would like to capitalize on that as well. He commented that Mr. Berry wished he could be there. He asked for questions.

Mayor Wright thanked Mr. Harris and commented that even though they didn't have any questions they are excited about it.

V. Persons Requesting to Be Heard

VI. Approval of Minutes

A. Regular Meeting of September 20, 2016

Alderman Tarlton moved, seconded by Alderman Seaver that the Regular Meeting Minutes of September 20, 2016 be approved. The motion carried unanimously.

Mayor Wright announced that the motion was made by Alderman Tarlton seconded by Alderman Seaver and the motion carried unanimously.

B. Special Meeting of September 15, 2016

Alderman Zagaroli moved, seconded by Alderwoman Patton that the Special Meeting Minutes of September 15, 2016 be approved. The motion carried unanimously.

Mayor Wright announced that the motion was made by Alderman Zagaroli seconded by Alderwoman Patton and the motion carried unanimously.

C. Special Meeting of September 26, 2016

Alderman Seaver moved, seconded by Alderman Tarlton that the Special Meeting Minutes of September 26, 2016 be approved. The motion carried unanimously.

Mayor Wright announced that the motion was made by Alderman Seaver seconded by Alderman Tarlton and the motion carried unanimously.

D. Special Meeting of September 27, 2016

Alderwoman Patton moved, seconded by Alderman Guess that the Special Meeting Minutes of September 27, 2016 be approved. The motion carried unanimously.

Mayor Wright announced that the motion was made by Alderwoman Patton seconded by Alderman Guess and the motion carried unanimously.

VII. Reaffirmation and Ratification of Second Readings. Votes recorded on first reading will be reaffirmed and ratified on second reading unless Council Members change their votes and so indicate on second reading.

Alderman Zagaroli moved, seconded by Alderman Lail that the following be reaffirmed and ratified on second reading. The motion carried unanimously.

October 4, 2016

Mayor Wright announced that the motion was made by Alderman Zagaroli seconded by Alderman Lail and the motion carried unanimously.

Mayor Wright explained to the Hickory 101 group, under the City Charter and by practice there are certain items that require a second reading. Which gives Council two weeks to change their mind, or get additional input from the citizenry.

- A. Approval of the Purchase of a 2017 Rosenbauer Commander Pumper from C.W. Williams in the Amount of \$475,990. (First Reading Vote: Unanimous)
  - B. Acceptance of the Bid and Award of the Construction Contract to Iron Mountain Construction Company, Inc. in the Amount of \$278,172. (First Reading Vote: Unanimous)
  - C. Acceptance of Two Easements, a 25 Foot Temporary Construction Easement and a 25 Foot Permanent Easement for the Properties of Cynthia Williams Huffman Described as PIN 3724-18-40-6417 and PIN 3724-18-40-4654. (First Reading Vote: Unanimous)
  - D. Approval of Easements for Property of the City of Hickory to Piedmont Natural Gas for the Replacement of a Natural Gas Line Along 1<sup>st</sup> Avenue SW. (First Reading Vote: Unanimous)
  - E. Budget Revision Number 7. (First Reading Vote: Unanimous)
  - F. Consideration of Vacant Building Demolition Grant for Jerry Lee Pruitt, LLC for Property Located at 212 12<sup>th</sup> Avenue NE, the former Regal Manufacturing Building. (First Reading Vote: Unanimous)
  - G. Approval of a Joint Economic Development Agreement with Corning Optical Communications LLC. (First Reading Vote: Unanimous)
- VIII. Consent Agenda: All items below are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests. In which event, the item will be removed from the Consent Agenda and considered under Item IX.

Alderman Tarlton requested "Item K" be removed from the Consent Agenda due to a conflict that he had with this item. He advised he would not be voting on this item.

Mayor Wright requested "Item L" be removed from the consent agenda.

Alderman Guess moved, seconded by Alderwoman Patton approval of the Consent Agenda with the exception of Items K and L. The motion carried unanimously.

Mayor Wright announced that the motion was made by Alderman Guess seconded by Alderwoman Patton and the motion carried unanimously.

- A. Accepted the Grant Agreement and Approved the Resolution for Project 36244.33.12.1 from the North Carolina Department of Transportation.

North Carolina Department of Transportation (NCDOT) awarded the City of Hickory a grant for this project which City Council accepted May 19, 2015. By letter dated August 30, 2016, the NCDOT has approved the City's request for aid and requires approval of the Grant Agreement. This grant has a State share of 90 percent equal to \$180,000 and a local share of 10 percent equal to \$20,000. Said grant funds are allocated for the use of land acquisition and obstruction removal at the Hickory Regional Airport. Land acquisition and obstruction removal are needed to allow for a safe glide path for a 600 foot extension of Runway 6. This grant will assist in the continuation of the airfield improvement program as recommended by the Airport's Task Force. Land acquisition is an important part to the future of the airport's growth and continued economic vitality. Staff recommends Council's acceptance and approval of the Grant Agreement and Resolution for Project 36244.33.12.1 from the North Carolina Department of Transportation.

#### RESOLUTION NO. 16-29

WHEREAS, a Grant in the amount of \$180,000 has been approved by the Department based on total estimated cost of \$200,000; and

WHEREAS, an amount equal to or greater than 10 percent of the total estimated project cost has been appropriated by the Sponsor of this Project.

NOW THEREFORE, BE IT RESOLVED THAT THE Mayor of the Sponsor by and he hereby is authorized and empowered to enter into a Grant Agreement with the

Department, thereby binding the Sponsor to the fulfillment of its obligation incurred under this Grant Agreement or any mutually agreed upon modification thereof.

- B. Approved the Special Events Activities Application EmergeOrtho's Oktoberfest 5K Footrace and Fun Run, Robin Lutz, Marketing Director, Carolina Orthopaedic Specialists, now EmergeOrtho, PA, October 8, 2016 5:00 a.m. to 11:30 a.m., 76 North Center Street.
- C. Approved the Vacation Days to Give as Prizes for the 2016 United Way Campaign and for the 2016 Coworker Appreciation Event.

Human Resources requests vacation days to give as prizes for the 2016 United Way Campaign and also for the 2016 Coworker Appreciation Event to be held on November 3, 2016. Historically Council has granted vacation days to use as prizes. For the United Way Campaign, it increases participation and for the Coworker Event, it is a big hit each year. Staff request two vacation days for a drawing for all fair share givers, and one vacation day for a drawing for all coworkers who pledged at least \$8 per month. Staff request eight vacation days in total to use for door prizes, three one-day vacation winners and the grand prize of a five-day vacation package. Staff recommends approval of this annual request.

- D. Approved the "Food for Fines" Amnesty Weeks at the Libraries from November 7-21, 2016.

Staff requests approval of the waiver of overdue fines for library customers who donate canned, boxed, or bagged food items at either Patrick Beaver Memorial Library or Ridgeview Branch Library during the two-week period of November 7-21, 2016. One item of food will cancel one dollar in overdue fines, and donated items will be given to Greater Hickory Cooperative Christian Ministry. The program was successfully carried out in past years, resulting in thousands of items collected to help feed the hungry in our community during the holidays. This is the fourth year in a row that Hickory Public Library and Catawba County Library System will partner to sponsor "Food for Fines" event during the same period. The annual event receives strong support from library users, and many donate items whether or not they have fines. This year's event is scheduled to coincide with National Hunger and Homelessness Awareness Week. Library Staff recommend Council's approval of the annual "Food for Fines" Amnesty Weeks.

- E. Approved on First Reading Acceptance of a Temporary Construction and Permanent Sanitary Sewer/Storm Drainage Easement for the Property of Hickory Springs Manufacturing Company, PIN 3703-19-50-1321 for Installation of Utilities Infrastructure.

Staff requests acceptance of a temporary construction easement and permanent sanitary sewer/storm drainage easements for the property of Hickory Springs Manufacturing Company described as PIN 3703-19-50-1321 for installation of utilities infrastructure. The easements are necessary for completion of the Central Business District infrastructure replacement and rehabilitation project. This project is partially funded by Public Utilities Department Fund Balance and all sanitary sewer improvements are to be funded through a loan to the City as a State Revolving Loan by NCDEQ-IFS in 2016 in the amount of \$1.3641 million dollars. These easements are necessary for the construction of the infrastructure required to serve this area and will not increase the cost of this construction project. The easements were negotiated for a total sum of recording fees in exchange for the easements. Staff recommends acceptance of a temporary construction easement and permanent sanitary sewer/storm drainage easements for the property of Hickory Springs Manufacturing Company described as PIN 3703-19-50-1321 for installation of utilities infrastructure.

- F. Approved on First Reading Acceptance of a Temporary Construction and Permanent Sanitary Sewer/Storm Drainage Easement for the Property of Hickory Springs Manufacturing Company, PIN 3703-19-50-2154 for Installation of Utilities Infrastructure.

Staff requests acceptance of a temporary construction easement and permanent sanitary sewer/storm drainage easements for the property of Hickory Springs Manufacturing Company described as PIN 3703-19-50-2154 for installation of utilities infrastructure. The easements are necessary for completion of the Central Business District infrastructure replacement and rehabilitation project. This project is partially funded by Public Utilities Department Fund Balance and all sanitary sewer improvements are to be funded through a loan to the City as a State Revolving Loan by NCDEQ-IFS in 2016 in the amount of \$1.3641 million dollars. These easements are necessary for the construction of the infrastructure required to serve this area and will not increase the cost of this construction project. The easements were negotiated for a total sum of recording fees in exchange for the easement. Staff recommends acceptance of a temporary construction easement and permanent sanitary sewer/storm drainage easements for the property of Hickory Springs Manufacturing Company described as PIN 3703-19-50-2154 for installation of utilities infrastructure.

October 4, 2016

- G. Approved on First Reading Acceptance of a Temporary Construction and Permanent Sanitary Sewer/Storm Drainage Easement for the Property of Hickory Springs Manufacturing Company, PIN 3703-19-50-2310 for Installation of Utilities Infrastructure.

Staff requests acceptance of a temporary construction easement and permanent sanitary sewer/storm drainage easements for the property of Hickory Springs Manufacturing Company described as PIN 3703-19-50-2310 for installation of utilities infrastructure. The easements are necessary for completion of the Central Business District infrastructure replacement and rehabilitation project. This project is partially funded by Public Utilities Department Fund Balance and all sanitary sewer improvements are to be funded through a loan to the City as a State Revolving Loan by NCDEQ-IFS in 2016 in the amount of \$1.3641 million dollars. These easements are necessary for the construction of the infrastructure required to serve this area and will not increase the cost of this construction project. The easements were negotiated for a total sum of recording fees in exchange for the easement. Staff recommends acceptance of a temporary construction easement and permanent sanitary sewer/storm drainage easements for the property of Hickory Springs Manufacturing Company described as PIN 3703-19-50-2310 for installation of utilities infrastructure.

- H. Approved a Proclamation for Dyslexia Awareness Month.

- I. Approved a Proclamation for Constitution Week 2016.

- J. Approved on First Reading Acceptance of the Bid and Award the Contract to General Services, Inc. in the Amount of \$78,300 for Repairs and Coating at the Water Treatment Facility.

Staff requests Council's acceptance of the bid and award of the contract for exterior clear well renovations including repairs and coating at the water treatment facility to General Services Inc., in the amount of \$78,300. The water treatment facility was last upgraded in 1993 with major components being constructed and the capacity being expanded to 32 million gallons per day. The City added a four million gallon, a two million gallon and a renovated one million gallon clear well. These tanks are concrete tanks and have required minimal maintenance other than cleaning. The existing exterior coatings have been in place for approximately 23 years and are starting to show significant signs of degradation. This project is identified as normal maintenance to improve aesthetic appearance of the facility as well as protect the concrete structures. Staff evaluated the submittal packages which included: General Services, Inc. \$78,300; Southern Painting & Maintenance Specialist \$130,500; Carolina Coating Solutions \$138,867, and Charlotte Paint Company, Inc., no bid. Staff recommends award of the project to General Services, Inc. as the properly licensed and insured responsible low bidder. This project is budgeted in the Public Utility/Water Treatment Facility Operational Budget for FY 2016/2017.

- K. Removed from Consent Agenda and Considered under "IX. Items Removed from Consent Agenda". Approved the Resolution Accepting the Offer of Dedication for Public Street Right of Way for 42<sup>nd</sup> Avenue Drive NW, as Shown on Plat Book 46, at Pages 90-92 of the Catawba County Registry.

Staff requests Council's consideration of the acceptance of the offer of public dedication of street right of way, being 1.1 acres of land area, known as 42<sup>nd</sup> Avenue Drive NW, as shown on Plat Book 46, Pages 90-92 of the Catawba County Registry. In 1998, the developers of the Landing at Moore's Ferry Phase VII made an offer of public dedication for the street rights of way within the development. The City accepted the offer of dedication for the streets, but was unable to accept 42<sup>nd</sup> Avenue Drive NW, as at the time this street was not inside the corporate boundaries of the City of Hickory. Since this time the street right of way for 42<sup>nd</sup> Avenue Drive NW has been annexed. In order to provide for public use and maintenance of this street, the offer of public dedication originally offered must be formally accepted by the City of Hickory by means of a duly executed Resolution. This requirement is outlined in the North Carolina General Statutes, as well as the City's Land Development Code. The street has recently been repaired and resurfaced as instructed by the City of Hickory, and been found to meet the minimum design requirements necessary for public maintenance. Staff recommends Council's approval of the Resolution accepting the offer of dedication for 42<sup>nd</sup> Avenue Drive NW, as shown on Plat Book 46, Pages 90-92 of the Catawba County Registry.

#### RESOLUTION NO. 16-30

A RESOLUTION OF THE HICKORY CITY COUNCIL ACCEPTING THE OFFER OF PUBLIC DEDICATION OF LANDS AND IMPROVEMENTS KNOWN AS 42ND AVENUE DRIVE NW, WHICH IS DESCRIBED IN EXHIBIT A AS 60 FOOT RIGHT-OF-WAY, AND RECORDED IN PLAT BOOK 46, PAGES 90, 91, AND 92 OF THE CATAWBA COUNTY REGISTRY.

WHEREAS, NCGS §160A-374 and Article 2, Section 2.3.4(D) of the Land Development Code provide that City Council may, by resolution, accept offers of public dedication made to the public of lands and facilities for streets, sidewalks, open spaces and public utilities after verification from the City Engineer such properties and improvements are in a manner acceptable for acceptance; and

WHEREAS, the City of Hickory has been provided with an offer of public dedication of lands and improvements known as 42nd Avenue Drive NW, which are described Exhibit A as 60 foot right-of-way, and recorded in Plat Book 46, Pages 91, 91, and 92 of the Catawba County Registry; and

WHEREAS, the City of Hickory has reviewed the land and improvements placed upon them provided as part of the offer of public dedication, and such land and improvements have been found to be in compliance with standards in place for such land and improvements; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of Hickory, North Carolina, the offer of public dedication for 42nd Avenue Drive NW, which is described in Exhibit A as 60 foot right-of-way, and recorded in Plat Book 46, Pages 90, 91, and 92 of the Catawba county Registry, is accepted, subject to the following terms and conditions:

SECTION 1. Terms and Conditions of Acceptance:

1. The sub-divider shall guarantee all materials and workmanship for a period of 18 months from the date of official acceptance by the City Council;
2. The acceptance by the City Council shall not be interpreted in any way to relieve any developer, contractor, subcontractor, insurance company, owner, or other person of his individual or several obligations under any ordinance, policy, or contract or to otherwise reduce or eliminate the rights of the city, its agents and employees against any other party connected with or in any way related to the development of the subdivision and facilities. The acceptance shall not be interpreted as a waiver of any defense or immunities that the city, its agencies or employees may assert or be entitled to;
3. All rights, privileges and warranties of whatsoever nature and kind, for equipment, supplies, materials, goods, and services shall be assigned to the city and any and all benefits derived there from shall inure to the city, its agents, and employees. The acceptance of the lands and facilities shall be conditioned upon the owners covenanting and warranting that they are lawfully seized and possessed of all the lands and facilities dedicated to the public; that they have good and lawful authority to dedicate the same to the public for the stated purpose; that the lands and facilities are free and clear of any deed of trust, mortgage, lien or assessments and that the dedicators for their heirs, successors, executors, administrators, and assigns, covenant that they will warrant and defend the dedication of such land and facilities against any and all claims and demands whatsoever; and
4. Acceptance of dedication of lands and facilities shall not obligate the city to construct, install, maintain, repair, replace, extend, improve, build or operate any public facilities or utilities which are not in existence as of the date of the acceptance of the lands and facilities. Such acceptance shall not obligate the city to construct any main, line, pipe, lateral, or other extension or permit connection to the city's water, sanitary sewer, storm sewer, drainage or other public utilities systems.

SECTION 2. This Resolution shall become effective immediately upon adoption.

- L. Removed from Consent Agenda and Considered under "IX. Items Removed from Consent Agenda". Approved on First Reading a Close Out Deductive Change Order Number 1 with Wilkie Construction Related to Phase II of the Planned Improvements to Hickory Optimist Park.

Wilkie Construction was the low bidder with a bid of \$290,800 for the Phase II improvements to Hickory Optimist Park. Phase II of the project involved the demolition of an existing storage building and the construction of a new pre-engineered community building with restrooms. This project has been funded with Community Development Block Grant Funds and Rental Rehab Program Income. Change order number one represents value engineering items discussed with the contractor to reduce the final price of the project and modify and improve the electrical service at the park site. The overall result of the change order will be a reduction in the final contract amount of \$7,645 and make the final contract amount \$283,155. Staff recommends approval of the deductive close out change order number one related to Phase II if the planned improvements to Hickory Optimist Park.

M. Approved on First Reading Budget Revision Number 8.

ORDINANCE NO. 16-42  
BUDGET REVISION NO. 8

BE IT ORDAINED by the Governing Board of the City of Hickory, that pursuant to N.C. General Statutes 159.15 and 159.13.2, the following revision be made to the annual budget ordinance for the fiscal year ending June 30, 2017 and for the duration of the Project Ordinances noted herein.

SECTION 1. To amend the General Fund within the FY 2016-17 Budget Ordinance, the expenditures are to be changed as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Economic and Community Development	250	-
TOTAL	250	-

To provide funding for the above, the General Fund revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Miscellaneous Revenues	250	-
TOTAL	250	-

SECTION 2. To adopt Grant Project Ordinance #G51110T, "2016 JAG Grant", the expenditures shall be established as follows for the duration of the life of the project:

FUNCTIONAL AREA	INCREASE	DECREASE
Public Safety	31,020	-
TOTAL	31,020	-

To establish the Project revenues for the above, the revenues will be budgeted as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Restricted Intergovernmental Revenue	31,020	-
TOTAL	31,020	-

SECTION 3. To adopt Grant Project Ordinance, "2016 Urgent Repair Program", the expenditures shall be established as follows for the duration of the life of the project:

FUNCTIONAL AREA	INCREASE	DECREASE
Economic and Community Development	80,000	-
TOTAL	80,000	-

To establish the Project revenues for the above, the revenues will be budgeted as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Restricted Intergovernmental Revenue	75,000	-
Miscellaneous Revenues	5,000	-
TOTAL	80,000	-

SECTION 4. Copies of the budget revision shall be furnished to the Clerk of the Governing Board, and to the City Manager (Budget Officer) and the Finance Officer for their direction.

IX. Items Removed from Consent Agenda – Items K and L

Alderman Tarlton advised in regards to Item K, he had an ownership interest in Moore's Ferry Associates.

City Attorney John Crone ask Alderman Tarlton if he was requesting to be excused from voting for that reason.

Alderman Tarlton responded yes.

Alderman Lail moved, seconded by Alderman Guess that Alderman Tarlton be excused from voting for direct conflict of interest. The motion carried unanimously.

Mayor Wright announced that the motion was made by Alderman Lail seconded by Alderman Guess and the motion carried unanimously.

Alderman Lail moved, seconded by Mayor Wright, approval of Item K. The motion carried unanimously.

October 4, 2016

Mayor Wright pointed out on Item L that some of the Council members had a longstanding aversion against change orders, but he proudly moved to approve the deductive change order which reduced the amount that was originally estimated that the City would pay. Alderman Lail seconded the motion. The motion carried unanimously.

Mayor Wright advised the Hickory 101 group that he always takes a chance, when he can, to point out they don't like change orders, except deducting, they like that.

X. Informational Item

XI. New Business:

A. Public Hearings

1. Approved a Voluntary Contiguous Annexation of Realty Income Properties 28, LLC, Located at 2173 13<sup>th</sup> Avenue Drive SE, Containing 6.25 Acres.

Realty Income Properties 28, LLC submitted a petition for the voluntary contiguous annexation of 6.25 acres of property, which consists of a newly created tract of property located at 2173 13<sup>th</sup> Avenue Drive SE. The annexation is being requested so that the property can be connected to the City's water and sewer system. The newly created tract has yet to be mapped or assessed by the Catawba County Tax Department. The properties from which the newly configured tract was created have tax values in the vicinity of \$250,000 per acre of property. Given the size of the annexation area, the subject property (undeveloped land) could realistically have an assessed value of \$1.5 million. This would be in addition to the value of the retail facility once it has been completed. Staff determined the petition meets the statutory requirements for voluntary contiguous annexation, and adequate public services are available. Staff recommends Council's approval of the Voluntary Contiguous Annexation of the property located at 2173 13<sup>th</sup> Avenue Drive SE, containing 6.25 acres.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on September 23, 2016.

Interim City Manager Andrea Surratt asked the City's Principal Planner Cal Overby to the podium to present Council with a voluntary contiguous annexation of property located right off of I40 at exit 126.

Principal Planner Cal Overby presented City Council with a PowerPoint presentation. He advised Council for their consideration was a voluntary contiguous annexation for property located at 2173 13<sup>th</sup> Avenue Drive SE. The property was owned by Realty Income Properties 28, LLC, which was located in San Diego, California. The annexation area was approximately 6.25 acres of property, the closest adjacent ward was Ward 3. Currently the property is vacant, under construction of a facility. The facility is a 55,000 square foot retail building which will be a Hobby Lobby retail store. The request was to annex the property in order to obtain connection to the City's utility system. He pointed out on a map the subject property. He advised that the maps had not been updated for the parcel data layer from Catawba County as of yet. The property had been combined into one single parcel. He pointed out the property in the City limits area, and the extra-territorial area (ETJ). He advised the property was zoned C-3 which was regional commercial as was a large area of property along US70 from Fairgrove Church Road to US 321. He pointed out the property to the north across I40 which was industrial property, Martin Marietta, Corning, and some other industries in the area. He showed a 2014 aerial photo and pointed out the subject property, the Sheets convenient store/gas station which was constructed on the property, and one or two additional pad sites which were located on the road. He advised after reviewing the application and standards Staff found that it met applicable statutes regarding voluntary annexation, adequate services are available and the annexation will not cause those services to fall below acceptable levels. Staff recommended approval. He asked if Council had any questions.

Mayor Wright explained the rules for conducting the public hearing. He declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal. No one appeared. He asked if there was anyone present to speak in favor of the proposal. No one appeared. Mayor Wright closed the public hearing.

Alderman Seaver moved, seconded by Alderwoman Patton approval of the voluntary contiguous annexation for the property located at 2173 13<sup>th</sup> Avenue Drive SE. The motion carried unanimously.

Mayor Wright announced that the motion was made by Alderman Seaver seconded by Alderwoman Patton and the motion carried unanimously.

Mayor Wright commented that they all had a chance to watch that property out there and expected that it would eventually be annexed.

ANNEXATION ORDINANCE NO. 436

VOLUNTARY ANNEXATION ORDINANCE (CONTIGUOUS)

Realty Income Properties 28, LLC

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF HICKORY, NORTH CAROLINA, PURSUANT TO GENERAL STATUTES 160A-31, AS AMENDED (CONTIGUOUS)

WHEREAS, the City Council of the City of Hickory has been petitioned under G.S. 160A-31, as amended, to annex the area herein described; and

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of said petition; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held in the Council Chambers of the Julian G. Whitener Municipal Building at 7:00 p.m. on the 4th day of October, 2016, after due notice by publication on September 23, 2016; and

WHEREAS, the City Council does find as a fact that said petition meets the requirements of G.S. 160A-31, as amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HICKORY, NORTH CAROLINA:

Section 1. By virtue of the authority granted by G.S. 160A-31, as amended, the following-described territory is hereby annexed and made a part of the City of Hickory as of October 31, 2016.

Realty Income Properties 28, LLC

Being all of Lot 4 as shown on a subdivision plat recorded in Plat Book 76, Page 20, Catawba County Registry, being all of the land described in Book 3345, Page 1620, located in the Hickory Township, Catawba County, North Carolina, south of Interstate 40 and west of McDonald Parkway SE, bounded on the north by Interstate 40, on the east by Burgin - Hickory Properties, LLC (Remainder Lot), on the south by 13th Avenue Drive SE (a public road), and on the west by Rudisill & Coulter Investment LLC, BK 2235 PG 1866; surveyed by C. Neil Shepherd, PLS of Blue Ridge Engineering PLLC, Project #16002, August 31, 2016, tied to NC Grid, NAD 83. A metes and bounds description taken from said survey is as follows:

BEGINNING at a concrete monument found at the southern margin of the right-of-way of Interstate 40, in a controlled access fence line, at the northeast corner of the remaining property of Rudisill & Coulter Investment LLC, BK 2235 PG 1866, said concrete monument being located N 85° 13' 45" W a grid distance of 5,908.37 feet from NCGS monument "FAIRGROVE"; thence from the POINT OF BEGINNING, with the southern margin of the right-of-way of Interstate 40, and a controlled access fence, the following five courses: (1) S 67° 41' 39" E a distance of 129.40 feet to a NCDOT R/W disc found; (2) S 47° 04' 37" E a distance of 73.20 feet to a 1/2 inch rebar found at the former northwest corner of Tract 2, Plat Book 74, Page 196; (3) S 47° 11' 52" E a distance of 107.02 feet to a NCDOT R/W disc found; (4) S 61° 24' 26" E a distance of 210.93 feet to a 5/8 inch rebar found with blue cap; (5) S 34° 28' 21" E a distance of 154.82 feet to a 5/8 inch rebar found with blue cap; thence with the eastern margin of Lot 4, S 20° 26' 29" W a distance of 427.49 feet to a 5/8 inch rebar found with blue cap; thence with the northern margin of the right-of-way of 13th Avenue Drive SE, a public road, the following two courses: (1) 215.05 feet along a curve to the right with a radius of 1,402.50 feet, chord bearing of N 58° 26' 57" W and chord distance of 214.84 feet, to a 1/2 inch rebar found at the former southwest corner of Tract 2, Plat Book 74, Page 196; (2) continuing 296.57 feet along the same curve to the right with a radius of 1,402.50 feet, chord bearing of N 47° 59' 54" W and chord distance of 296.02 feet to a 5/8 inch rebar found with blue cap; thence with the western boundary of Tract 2, Plat Book 31, Page 147, and the eastern boundary of Rudisill & Coulter, LLC, BK 2235 PG 1866, the following two courses: (1) N 01° 50' 56" W a distance of 437.62 feet to a 24 inch dead oak; (2)

N 38° 17' 32" E a distance of 67.45 feet to a concrete monument, the POINT OF BEGINNING; containing an area of 6.25 acres by coordinate computation.

Section 2. Upon and after the 31st day of October, 2016, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Hickory. Said territory shall be subject to municipal taxes according to G.S. 160A-31 (e), as amended.

Section 3. That the newly annexed territory described hereinabove shall become a part of Ward No. 3 of the City of Hickory.

Section 4. The Mayor of the City of Hickory shall cause to be recorded in the Office of the Register of Deeds of Catawba County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of this Ordinance.

Section 5. That all ordinances and clauses of ordinances in conflict with this Ordinance are hereby repealed.

Section 6. This Ordinance shall be in full force and effect from and after the 31st day of October, 2016.

2. Approved on First Reading Amending Chapter 4 Section 4-21(a) of the Hickory Code of Ordinances.

Chapter 4 (Animals and Fowl), Section 4-21 of the Hickory City Code concerns Restraint of Animals. Section 4-21(a) stipulates that an animal can be off an owner's property if it is under the physical control of a person and physically restrained by a chain, leash or harness that is held in the hand of the person. An animal is not considered restrained if it is on a chain, leash or harness but, is not under the control of the owner or caregiver. Section 4.21(a) allows for the two following exceptions: 1) Service animals trained to provide assistance to persons impaired in sight, hearing, mobility or any other impairment; and, 2) A working police dog in the course and scope of its duties. Now that the City of Hickory operates the Fairbrook Optimist Dog Park, a third exception is required: 3) Dogs in city dog parks. The Parks and Recreation Commission, at their September 13, 2016 meeting, endorsed the ordinance amendment. Staff recommends approval of the Ordinance amending Chapter 4 Section 4-21(a) of the Hickory Code of Ordinances.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on September 23, 2016.

Interim City Manager Andrea Surratt advised Council that this item was consideration of an ordinance amendment, Chapter 4 Section 4-21(a) of the Hickory Code of Ordinances which deals with Animals and Fowl. She asked the City's Parks and Recreation Director Mack McLeod to the podium to explain the purpose of the ordinance change.

Parks and Recreation Director Mack McLeod presented City Council with a PowerPoint presentation. Mr. McLeod advised for Council's consideration was an ordinance that would amend Chapter 4 Section 4-21 (a) of the Hickory Code of Ordinance. Chapter 4 dealt with Animals and Fowl. Specifically section 4-21 concerns restraint of animals. Section 4-21(a) stipulates that every person owner or having possession, charge, care, custody or control of any animal shall keep such animal exclusively upon the owner's real property. However, such animal may be off the owner's real property if it is under the physical control of a person and physically restrained by a chain, leash or harness and held in the hand of said person. An animal is not considered restrained if it is on a chain, leash, or harness, but not under the control of the owner or caregiver. There were two exceptions to this section: service animals trained to provide assistance to persons impaired in sight, hearing, mobility, or any other impairment, are not required to be restrained as long as they are under the impaired person's direct control and is obedient to that person's commands. The second exception to this section of the ordinance was that a working police dog in the course and scope of its duties is not required to be restrained. Now that the City of Hickory operates the Fairbrook Optimist Dog Park there needs to be a third exception to the ordinance just to make it clear that dogs in City dog parks would not have to be restrained by leash. The Parks and Recreation Commission, at their September 13<sup>th</sup> meeting, considered and endorsed the ordinance amendment and recommended its approval to City Council. Staff also recommended approval of the ordinance which amends Chapter 4 Section 4-21(a). He asked if Council had any questions.

Alderman Tarlton asked if this was just for the new City dog park.

Mr. McLeod responded yes sir.

Mayor Wright commented that everybody had been violating that ordinance all this time.

Mr. McLeod advised they were clearing that up. They want the City code to mirror that also.

Alderman Guess asked if they had written any tickets.

Mr. McLeod responded no sir.

Mayor Wright asked if they could declare amnesty for all of the violations.

Mr. McLeod commented yes sir, if you don't mind they would appreciate it.

Mayor Wright declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal. No one appeared. He asked if there was anyone present to speak in favor of the proposal. No one appeared. Mayor Wright closed the public hearing.

Alderman Guess moved, seconded by Alderwoman Patton approval of amending Chapter 4 Section 4-21(a) of the Hickory Code of Ordinances. The motion carried unanimously.

Mayor Wright announced that the motion was made by Alderman Guess seconded by Alderwoman Patton and the motion carried unanimously.

Mayor Wright asked if that took effect tonight.

Mr. McLeod commented yes sir, we are good to go.

ORDINANCE NO. 16-43  
ORDINANCE AMENDING CHAPTER 4 SECTION 4-21(A) OF THE HICKORY  
CODE OF ORDINANCES

WHEREAS, Section 4-21(a) of Chapter 4 Animals and Fowls of the Hickory City Code of ordinances regulates the restraint of animals; and

WHEREAS, the regulations require owners to keep their animals on a leash, harness, or other restraint when the animals off the owners' properties with certain exceptions; and

WHEREAS, the City Council hereby desires to amend those exceptions to include animals in dog parks regulations now that Hickory City now operates a dog park; and

WHEREAS, the revisions to Chapter 4, Section 4-21(a) of the Hickory City Code as suggested by Staff and/or directed by the Hickory City Council have been incorporated herein.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HICKORY, THAT THE HICKORY CITY CODE BE AMENDED AS FOLLOWS:

ARTICLE II. Section 4-21(a) of the Hickory City Code shall be amended as follows:

- (a) Every person owning or having possession, charge, care, custody or control of any animal shall keep such animal exclusively upon the owner's real property. However, such animal may be off the owner's real property if it is under the physical control of a person and physically restrained by a chain, leash or harness and held in the hand of said person. An animal is not considered restrained if it is on a chain, leash, or harness, but not under the control of the owner or caregiver. Exceptions to this section are as follows:
  - (1) Service animals trained to provide assistance to persons impaired in sight, hearing, mobility, or any other impairment, do not have to be under physical restraint while off the owner's premises if the dog is under the impaired person's direct control and is obedient to that person's commands. The animal control officer or any

sworn police officer may request proof of assistance animal registration to satisfy this exception.

- (2) A working police dog in the course and scope of its duties.
- (3) Dogs in city dog parks.

All ordinances or provisions of the Hickory City Code of Ordinances which are not in conformance with the provisions of the Amendment occurring herein are repealed as of the effective date of this Ordinance.

Effective Date.

This ordinance shall become effective immediately upon adoption.

- 3. Approved Petition Number 16-01 for Installation of Curb and Gutter along a Portion of the 5<sup>th</sup> Street Place NW.

The City Clerk received a petition from the owner(s) of the property along 5<sup>th</sup> Street Place NW to install curb and gutter along a portion of the street per Section 29-2 of the Hickory Code of Ordinances. The petitioner(s) represent a majority, greater than 50 percent, of the property owner(s) affected, who in turn represent 100 percent of the property footage affected. The City Clerk certified the sufficiency of the petition and notified the property owner(s) of the public hearing on the Preliminary Resolution for Street Improvement Project (curb and gutter) subject to assessment. Staff request Council's approval of the Resolution Directing that the street improvement project be undertaken.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on September 9, 2016.

Interim City Manager Andrea Surratt advised Council that this public hearing was a curb and gutter request for 2024 5<sup>th</sup> Street Place NW, which was one property owner requesting this particular petition. She asked the City's Public Services Director Chuck Hansen to the podium to present Council with the petition.

Public Services Director Chuck Hansen presented City Council with Petition 16-01. It was a petition by the property owner for curb and gutter at 2024 5<sup>th</sup> Street Place NW, a single property owner; 100 percent signature. Staff requested approval of the petition.

Mayor Wright questioned if it was 50/50 split between the property owner and the City.

Mr. Hansen advised it was a per linear foot charge and by signing the petition the property owner agrees to that charge. They will go through the process they build it and then they bill them for the improvements.

Mayor Wright declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal. No one appeared. He asked if there was anyone present to speak in favor of the proposal. No one appeared. Mayor Wright closed the public hearing.

Mayor Wright moved, seconded by Alderman Lail approval of petition number 16-01 for installation of curb and gutter along a portion of 5<sup>th</sup> Street Place NW. The motion carried unanimously.

Mayor Wright announced that he moved seconded by Alderman Lail and the motion carried unanimously.

RESOLUTION NO. 16-31  
Resolution Directing That Street Improvement Project Be Undertaken  
(No. 16-01)

WHEREAS, on March 4, 2016, the property owner of 2024 5<sup>th</sup> Street Place NW, Hickory filed with the City Engineer of the City of Hickory a petition for improving said street by placing and constructing thereon curb and gutter according to plans and specifications on file in the office of the City Engineer; and

WHEREAS, the City Clerk has certified to the City Council of the City of Hickory that said petition is sufficient in all respects, the same having been duly signed by a majority in number of the owners, whose property represents a majority of all the lineal feet of frontage of the lands abutting upon the streets or portion of streets hereinabove described; and

WHEREAS, a Preliminary Assessment Resolution was adopted by this City Council and a public hearing thereon duly held.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HICKORY, NORTH CAROLINA:

1. That 2024 5th Street Place NW, Hickory be improved by placing and constructing thereon curb and gutter under and by virtue of Chapter 160A, Article 10 of the General Statutes of North Carolina and the procedure therein established, and that said improvements be done by the City of Hickory or by contract after due notice and advertisement for bids, as outlined by Chapter 143, Section 129, of the General Statutes of North Carolina.
2. That 50 percent of the total cost of said improvement, exclusive of so much of the total costs as is incurred in improving the street intersections, be hereafter assessed upon the property receiving the improvements.
3. That the assessment herein provided for shall be payable in cash, or if any property owner shall so elect, in accordance with Chapter 160A, Sections 232 and 233, of the General Statutes of North Carolina, he shall have the option and privilege of paying the assessment in five (5) annual installments, said installments to bear interest at the rate of 8 percent per annum.
4. Approved Petition Number 16-03 for Installation of Curb and Gutter along the Southside of the 900 Block of 4<sup>th</sup> Avenue Drive NW, Petition No. 16-03.

The City Clerk received a petition from the owner(s) of the property along 4<sup>th</sup> Avenue Drive NW to install curb and gutter along a portion of the street per Section 29-2 of the Hickory Code of Ordinances. The petitioner(s) represent a majority, greater than 50 percent, of the property owner(s) affected, who in turn represent 100 percent of the property footage affected. The City Clerk certified the sufficiency of the petition and notified the property owner(s) of the public hearing on the Preliminary Resolution for Street Improvement Project (curb and gutter) subject to assessment. Staff request Council's approval of the Resolution Directing that the street improvement project be undertaken.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on September 9, 2016. Departmental Reports:

Interim City Manager Andrea Surratt asked the City's Public Services Director Chuck Hansen back to the podium to present Council with Petition 16-03 which also was for installation of curb and gutter.

Public Services Director Chuck Hansen presented City Council with curb and gutter Petition 16-03. The property was located at 915 4<sup>th</sup> Avenue Drive NW, a single property owner; 100 percent signature, for curb and gutter. Staff recommended approval.

Mayor Wright declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal. No one appeared. He asked if there was anyone present to speak in favor of the proposal. No one appeared. Mayor Wright closed the public hearing.

Alderman Tarlton moved, seconded by Alderman Zagaroli approval of petition number 16-03 for installation of curb and gutter along 915 4<sup>th</sup> Avenue Drive NW. The motion carried unanimously.

Mayor Wright announced that the motion was made by Alderman Tarlton seconded by Alderman Zagaroli and the motion carried unanimously.

RESOLUTION NO. 16-32  
Resolution Directing That Street Improvement Project Be Undertaken  
(No. 16-03)

WHEREAS, on July 28, 2016, the property owner of 915 4<sup>th</sup> Avenue Drive NW, Hickory filed with the City Engineer of the City of Hickory a petition for improving said street by placing and constructing thereon curb and gutter according to plans and specifications on file in the office of the City Engineer; and

WHEREAS, the City Clerk has certified to the City Council of the City of Hickory that said petition is sufficient in all respects, the same having been duly signed by a

majority in number of the owners, whose property represents a majority of all the lineal feet of frontage of the lands abutting upon the streets or portion of streets hereinabove described; and

WHEREAS, a Preliminary Assessment Resolution was adopted by this City Council and a public hearing thereon duly held.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HICKORY, NORTH CAROLINA:

1. That 915 4th Avenue Drive NW, Hickory be improved by placing and constructing thereon curb and gutter under and by virtue of Chapter 160A, Article 10 of the General Statutes of North Carolina and the procedure therein established, and that said improvements be done by the City of Hickory or by contract after due notice and advertisement for bids, as outlined by Chapter 143, Section 129, of the General Statutes of North Carolina.
2. That 50 percent of the total cost of said improvement, exclusive of so much of the total costs as is incurred in improving the street intersections, be hereafter assessed upon the property receiving the improvements.
3. That the assessment herein provided for shall be payable in cash, or if any property owner shall so elect, in accordance with Chapter 160A, Sections 232 and 233, of the General Statutes of North Carolina, he shall have the option and privilege of paying the assessment in five (5) annual installments, said installments to bear interest at the rate of 8 percent per annum.

B. Departmental Reports:

1. Appointments to Boards and Commissions

**BUSINESS DEVELOPMENT COMMITTEE**

(Terms Expiring 6-30; 2 Year Terms) (Appointed by City Council)  
At-Large (Council Appoints)

VACANT

Alderman Seaver nominated Michael Ellwanger as an At-Large Representative to the Business Development Committee.

**CITIZENS ADVISORY COMMITTEE**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)  
At-Large (Council Appoints)  
At-Large (Council Appoints)

VACANT  
VACANT

**COMMUNITY APPEARANCE COMMISSION**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)  
Ward 3 (Seaver Appoints)  
Ward 4 (Guess Appoints)  
At-Large (Outside City but within Hickory Regional Planning Area)  
(Council Appoints)  
At Large (Council Appoints)

VACANT  
VACANT  
VACANT  
VACANT

**COMMUNITY RELATIONS COUNCIL**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)  
Other Minority (Council Appoints)  
Other Minority (Council Appoints)

VACANT  
VACANT

**HICKORY REGIONAL PLANNING COMMISSION**

(Terms Expiring 6-30; 3-Year Terms With Unlimited Appointments)  
(Appointed by City Council)  
Burke County (Mayor to Nominate)

VACANT

**INTERNATIONAL COUNCIL**

(Appointed by Mayor with the Concurrence of City Council)  
(5) Positions

VACANT

**LIBRARY ADVISORY BOARD**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)  
Ward 4 (Guess Appoints)  
At-Large (Mayor Appoints)

VACANT  
VACANT

**PARKS AND RECREATION COMMISSION**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

At-Large (2) (Council Appoints) VACANT  
 At-Large (3) (Council Appoints) VACANT

**PUBLIC ART COMMISSION**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)  
 At-Large (Mayor Appoints) VACANT

**PUBLIC HOUSING AUTHORITY**

(Terms Expiring 6-30; 5-Year Terms) (Appointed by the Mayor)  
 Position 9 VACANT

**RECYCLING ADVISORY BOARD**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)  
 Ward 2 (Tarlton Appoints) VACANT  
 Ward 3 (Seaver Appoints) VACANT  
 Ward 4 (Guess Appoints) VACANT  
 At-Large (Council Appoints) VACANT  
 At-Large (Council Appoints) VACANT

**YOUTH COUNCIL**

(Terms Expiring 6-30; 1-Year Terms) (Appointed by City Council)

St. Stephens High School Representatives 2 Positions VACANT  
 At-Large Representatives 2 Positions VACANT  
 Challenger High School Representative 1 Position VACANT

Alderman Guess advised the Hickory 101 class of several vacancies on different boards and commissions. If they hadn't already discussed that, perhaps that could be a topic of future discussion. If they were interested in any of those, they all probably have vacancies.

Alderman Tarlton mentioned the Recycling Advisory Board which had five vacancies. He asked if they still met.

Alderwoman Patton advised they did.

Mayor Wright commented we have the best recycling in North Carolina.

Alderman Guess commented the meeting was on a weeknight at night. He wasn't saying that was part of the issue, but it might be.

Mayor Wright asked who the liaison was.

Interim City Manager Andrea Surratt advised Solid Waste Director Andrew Ballentine.

Mayor Wright commented maybe they could move the time.

Alderman Guess commented that he didn't mean to imply that was the problem.

Mayor Wright commented it could be. It is also one where we don't change things up very much and we are doing a great job.

Public Services Director Chuck Hansen advised they had met a lot of the original goals of this group when you go back to when it started twenty some years ago. Especially with the residential recycling program which was kicked off a year ago now. So, it has almost taken care of a lot of the issues. The question is what's next, it is a little bit of the tough part.

Alderman Tarlton commented how can we get better?

Mr. Hansen stated that everyone is pleased of where we are at with the recycling program. We rank among the top in the State in that category and we are proud of that. They will do a little more conversation and see if a time change could help too. He advised that was what was going on there.

Alderman Guess didn't want to reflect negatively because we have five vacancies, that was not the case at all. It is a great program.

Alderman Tarlton agreed that it was great.

Mayor Wright commented that historically it has been one that is tough to fill and the Burke County Representative on the Planning Commission had been vacant, he thought for 15 years.

Deputy City Attorney Dula advised Mayor Wright that was the Brookford position.

Mayor Wright commented that Brookford had been filled.

Ms. Dula replied just recently. She advised it hadn't been 15 years for the Burke County position, it had been filled since she had been at the City.

Alderman Guess advised they are looking for people.

Alderman Seaver moved seconded by Alderman Tarlton approval of Michael Ellwanger to the Business Development Committee. The motion carried unanimously.

C. Presentation of Petitions and Requests

XII. Matters Not on Agenda (requires majority vote of Council to consider)

XIII. General Comments by Members of Council, City Manager or City Attorney of a Non-Business Nature

Alderman Seaver mentioned that Council had four public hearings on this agenda, which was a sign that things were doing pretty well in Hickory, because they had gone sometimes five or six meetings and not had one. He commented it is a point in the right direction.

Mayor Wright commented that people are spending money on curb and gutters, and retail establishments. He mentioned that the City now owns the sinkhole and are on the way to repairing it with the help of DOT. The City had enjoyed excellent cooperation with Hendrix and the adjacent property owners in terms of working together and getting easements so the City can access the property. The current estimate is March/April timeframe to have the property ready for use as a public asset or ready for sale. He advised Oktoberfest was this weekend and encouraged everyone to go to Oktoberfest and spend money to keep everyone prosperous and happy. He commended Mr. Hansen for doing a great job as "Acting" City Manager.

XIV. There being no further business, the meeting adjourned at 7:45 p.m.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



City of Hickory  
 PO Box 398  
 Hickory, NC 28603  
 Telephone  
 828-323-7410  
 Fax 828-323-7474

**City of Hickory**  
**Special Events/Activities Application**  
 (Must be submitted to Planning & Development)

**SPECIAL EVENT APPLICATION**

The purpose of this application is to provide information about your event or activity in order for various departments and agencies to determine if they need to be involved in the approval and/or permitting process. Depending on the specific event, a permit application and/or fee(s) from individual departments may be required.

**The applicant is responsible for providing complete and accurate information on the application, including an attached detailed site plan. The applicant is also responsible for notifying the Planning Department of any changes. Incomplete applications will not be accepted.** \*\*For public property events a complete application should be submitted at least **90 days** prior to the planned event to allow sufficient review time. For private property events a complete application should be submitted at least **30 days** prior to the planned event. Public officials may contact you with specific questions. Any official may require a pre-planning meeting.

Applications and events are prioritized based on a first come-first served basis and the City may approve or disapprove an event's requested date based on availability of resources. Events that occur on an annual basis will receive priority the following year.

**\*\*If the event is to be held on public property, approval to use the property must be obtained from City Council; therefore the application must be submitted 90 days prior to the event.**

**APPLICANT INFORMATION**

Name of Event: Lowes Foods Christmas Parade, City of Hickory and Christmas Tree Lighting

Applicant Name & Title: Lauren Townson, Senior Recreation Programmer

Organization: City of Hickory, Parks and Recreation Department

Mailing (Billing) Address: 1451 8th Street Drive NE

City / State / Zip: Hickory, NC

Daytime Phone: 828-324-1200 Cell: N/A Email: ltownson@hickorync.gov

Description of the Event: \_\_\_\_\_

The annual parade will be held in Downtown Hickory on Friday, Nov. 18 starting at 6:00pm, hosting an array of local companies/organizations.

Does the event have a Twitter, Facebook or other social networking page? No

If yes, please list URL(s): \_\_\_\_\_

<b>Event Address:</b> Downtown Hickory, 76 N Center Street	
<b>Date of Event:</b> Friday, November 18, 2016	
<b>Event Start Time:</b> 6:00 pm	<b>Event End Time:</b> 8:30 pm
<b>Road Closure Begins (if applicable):</b>	<b>Road Closure Ends (if applicable):</b>
<b>Set-Up Begins:</b> 3:00 pm	<b>Clean-Up Ends:</b> 8:30 pm
<b>Preferred Date &amp; Time of Inspection:</b> Friday, November 18 at 4:00 pm	
<b>Estimated Attendance:</b> 2,500	
<b>The Event is:</b> <input type="checkbox"/> Private (by invitation only) or <input checked="" type="checkbox"/> Open to General Public	
<b>Describe the procedures to be used for selecting participants and vendors for this event:</b> All parade entries must adhere to "Well. Crafted." theme	

**APPLICANT'S SIGNATURE** Lauren Townson Digitally signed by Lauren Townson  
 DN: cn=Lauren Townson, o=City of Hickory, email=ltownson@hickorync.gov, c=US  
 Date: 2016.11.17 15:57:34-0500 **DATE:** 08/18/2016

A pre-planning meeting may be required and will be scheduled to include the appropriate staff. The event applicant must attend the meeting. The city reserves the right to require others to attend.

**TENTS & MEMBRANE STRUCTURES**

**\*\* Tent** is a structure, enclosure, or shelter, with or without sidewalls or drops **\*\***

Will tent(s) be used for the event?  Yes  No (If no, proceed to next section)

# of Tent(s) \_\_\_\_\_ (fabric structure that is ENCLOSED with sidewalls or drops exceeding 400 square feet)

# of Tent(s) 5 \_\_\_\_\_ (fabric structure that is OPEN on all sides exceeding 700 square feet)

Are there multiple tents without sidewalls placed side by side such that the total square footage of all the tents in this group exceeds 700 square feet without 12 feet of clear space between all other permanent and temporary structures?  Yes  No

---

**\*\* Membrane** structure is an air-inflated or air supported structure **\*\***

Will Membrane(s) be used for the event?  Yes  No (If no, proceed to next section)

# of Membrane Structure(s) 0 \_\_\_\_\_ exceeding 400 square feet

**POWER SOURCES**

Will you use electric generators?  Yes  No

If yes, will Power Distribution boxes be used?  Yes  No

Provide contact information for contractor supplying generator power:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

---

Will you use electric power from an existing structure?  Yes  No

If yes, will direct wiring to breakers be required?  Yes  No

Provide contact information for person responsible for setup of power:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**VOICE/MUSIC AMPLIFICATION**

Are there any musical entertainment features related to your event?  Yes  No  
(If no proceed to next section)

If yes, state the number of bands and type of music: Number of bands: 3 \_\_\_\_\_

Type(s) of music: Local High School Marching Bands

Will a portable or temporary stage be utilized?  Yes  No

If yes\*, state the number of portable or temporary stages: \_\_\_\_\_

Provide contact information for contractor providing stage:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

*\*A Temporary Stage Certification Form must be completed for Catawba County Building Services\**

Will your event use amplified sound?  Yes  No

If yes, please indicate times: Start time: 6:00 pm Finish time: 8:30 pm

**HAZARDOUS MATERIALS**

Will the event have any hazardous materials such as propane, butane, gasoline, diesel tanks, helium cylinders or other upright tanks?  Yes  No  
**If yes, all tanks must be secured in a manner to prevent accidentally being knocked over. All helium tanks not being used shall have their caps in place.**

Will there be any portable heaters?  Yes  No

Will there be any deep fat fryers?  Yes  No

Will there be any fireworks, lasers, torches, candles or pyrotechnics?  Yes  No  
**If yes, contact the City of Hickory Fire Prevention office at 828-323-7522 for more information.**

**ALCOHOL**

Will alcoholic beverages be served?  Yes  No (If yes, NC ABC permit required)

Will alcoholic beverages be sold?  Yes  No (If yes, NC ABC permit required)

What type of alcohol will be served?  
 Draft Beer  Can/Bottle Beer  Wine  Liquor

Who will be serving the alcohol?

Times for alcohol to be served:

Locations within event site where alcohol will be served:

Have you applied for a North Carolina temporary ABC permit?  Yes  No

**VENDORS**

*List all commercial vendors who will be present during the event (serving, selling, sampling, or displaying).  
 (Use additional sheet of paper if necessary)*

VENDOR NAME	ADDRESS	PHONE NUMBER(S)
Freckled Frog	217 1st Ave S, Conover, NC	828-994-4477
Peppermint Forest	11729 Carolina PI Pkwy, Pineville, NC 28134	704-542-5300
Incredible Toy Co.	3411 US-321, Blowing Rock, NC 28605	828-264-1422
NC Locals Market	134 N Sterling St, Morganton, NC	704-301-3825

Does the event include mechanical rides, or other similar attractions?  Yes  No  
 If yes, please describe attractions:

*Applicants contracting with amusement ride companies are required to provide the City of Hickory with a certificate of insurance, naming applicant and the City of Hickory (if applicable) as additional insured on general liability.*

**VENDORS**

Does the event include food vendors?  Yes  No

If the event will have food vendors, please check the following that apply:  
 Served  Sold  Free  Catered  Prepared Outdoors  
*An applicant having any food service must contact the Catawba County Health Department at (828) 465-8270 for approval of any food preparation or service.*

Does the event include food concession and/or cooking areas?  Yes  No

If yes, please list each vendor and specify cooking method (Gas, Electric, Charcoal, Other)  
*(Use additional sheet if necessary)*

VENDOR	COOKING METHOD	FOOD ITEM

*Fire Code requires a fire extinguisher at each cooking location. Food and beverages shall not be sold at an event unless approved and licensed, if necessary, by the Catawba County Health Department. Event organizers are responsible for arranging health inspections for their events.*

**EVENT SCHEDULE**

Provide a detailed schedule of the event including dates and times for entertainment, activities, hours of event, start time, finish time, etc. If the event requires an extended time frame for set-up, include details with a timeline listing the times and locations where streets or public property will be impacted and when dismantling will be completed. (Use additional sheet of paper if necessary)

DATE	TIME	ACTION	ADDITIONAL NOTES
11/18	3:00 pm	Set up (Tents, Line-Up, etc.)	
11/18	4:30 pm	Parade entries start to arrive	
11/18	6:00 pm	Parade begins	
11/18	6:45 pm	Parade ends, clean up	
11/18	7:00 pm	Tree lighting begins	immediately following parade
11/18	8:30 pm	Conclusion of event	

**CITY SERVICES**

The City of Hickory does not provide amenities such as portable washrooms, sound systems, tables, chairs, tents, canopies or other equipment.

<p><b>TRASH AND RECYCLING PLAN</b></p> <p>In order to determine what types of containers are needed for the event, please answer the following questions:</p> <p>How many trash bins are you requesting for trash? 0 _____</p> <p>How many recycling bins are you requesting for recycling? 0 _____</p>				
<p>Delivery Location? _____</p>				
<p>Date and Time for trash or recycling bins to be emptied/picked up? _____</p> <p><i>Applicants are responsible for cleaning and restoring the site after the event. The cost of any employee overtime incurred because of an applicant's failure to clean and/or restore the site following the event will be paid for by the applicant. If you reasonably believe that no litter will be generated during your event, please state this in your plan.</i></p>				
<p><b>PUBLIC PROPERTY CLEAN-UP</b></p> <p>Contracted personnel or volunteers may be used if indicated below. What is the clean-up plan for the event?</p>				
<p><i>If City personnel are needed to assist with event site clean-up the applicant will be required to hire off duty personnel.</i></p> <p>If needed, please list preferred Date &amp; Time for clean-up staff arrival: _____</p>				
<p>Will any of the following services be used for the event:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;"><input type="checkbox"/> Water Service</td> <td style="width: 50%;"><input checked="" type="checkbox"/> Portable Toilet Service</td> </tr> <tr> <td><input type="checkbox"/> Wastewater Service</td> <td><input checked="" type="checkbox"/> Public Restrooms</td> </tr> </table>	<input type="checkbox"/> Water Service	<input checked="" type="checkbox"/> Portable Toilet Service	<input type="checkbox"/> Wastewater Service	<input checked="" type="checkbox"/> Public Restrooms
<input type="checkbox"/> Water Service	<input checked="" type="checkbox"/> Portable Toilet Service			
<input type="checkbox"/> Wastewater Service	<input checked="" type="checkbox"/> Public Restrooms			
<p><b>SAFETY AND SECURITY (CHECK TYPES OF SECURITY USED)</b></p> <p><input checked="" type="checkbox"/> Beer/Alcohol Security    <input type="checkbox"/> Stage Security    <input type="checkbox"/> Event Area Security    <input type="checkbox"/> Gate Security</p> <p><input type="checkbox"/> Road Closure Security    <input type="checkbox"/> Money Handling Security    <input type="checkbox"/> Other _____</p> <p><input type="checkbox"/> Overnight Security    From _____ : _____ To _____ : _____</p> <p>Dates &amp; Times security will be on site: 11/18 5:30-8:30 pm</p> <p>Security provided by: Hickory Police Department    Number of Security Personnel: TBD</p> <p><i>Applicant may be required to hire sworn off-duty City of Hickory police officers to provide security to insure public safety. The Hickory Police Department will determine the number of security personnel required on site.</i></p>				

## SITE PLAN

Please attach a detailed Site-Plan sketch of the event. Include maps, outline or diagram of the entire event venue including the names of all streets or areas that are part of the venue and the surrounding area. The plan should include the following information (if applicable):

- Location of the event/activity on the property with approximate distances from roads, fire hydrants, existing buildings, etc.
- Location of temporary structures that will be used during the event. Must indicate size of temporary structures, distances between temporary structures and existing buildings.
- Identify how each temporary structure will be used. Example: type of vendor, food preparation, alcohol sales, etc.
- Identify location of all cooking devices and open flames.
- Location of all fencing, barricades, or other restrictions that will impair access to and from the event or property.
- Identify all designated parking areas.
- Identify location of any generators and fuel storage.

**WALK, RUN, CYCLE EVENTS ON PUBLIC ROADWAYS**

Number of participants expected: 1200 % of participants expected under 18: 500

\*Must be at least 100 participants and no more than 2,000 per route.

Number of volunteers expected: 10 % of volunteers expected under 18: 0

**Check the approved City/NCDOT Route on public roadways below**

**5K 1 Downtown 5k** (Not allowed on Saturdays during the Downtown Hickory Farmers Market: Mid April-November)

**5K 2 Hickory Foundation YMCA** (Can start and finish in Downtown District or other locations on route)

**5K 3 FRMC 5K** (Can start and finish in Downtown District or other locations on route)

**5K 4 Neill Clark Park 5k** (Must contact Parks and Recreation Director Mack McLeod [mmcleod@hickorync.gov](mailto:mmcleod@hickorync.gov) or 828-322-7046 and submit email confirmation with Special Event application.)

**5K 5 Winkler Park 5k** (Must contact Parks and Recreation and Hickory Crawdads and submit email confirmation with Special Event application. Approval from Mack McLeod 828-322-7046 or mmcleod@hickorync.gov and Hickory Crawdads Mark Seaman 828-322-3000 or mseaman@hickorycrawdads.com.)

**5K 6 LRU 5K** (Must clear route with LRU before submitting Special Event application. (Can start and finish in various locations, including First Methodist Church)

**10K 1 Hickory Foundation YMCA** (Can start and finish in Downtown District)

**10K 2 Do a 5k route twice, which 5k route?** \_\_\_\_\_

**Half Marathon 1** (13.1 miles)

**Cycle Route 1** (10 mile)

**Cycle Route 2** (32 mile)

**APPROVED ROUTES/EVENTS AT THE AIRPORT AND PUBLIC PARKS**

**AIRPORT ROUTE**

\_\_\_ Hickory Regional Airport 5k      \_\_\_ Approval from Airport Manager Terry Clark

\*The second and fourth Saturdays have existing events in the morning hours. Check with Airport Manager Terry Clark 828-323-7408 or tclark@hickorync.gov on availability.

Name the new date proposed and time: \_\_\_\_\_

(Please include email confirmation with approval to use airport with application.)

**PUBLIC PARKS ROUTES**

*Approval for park use may be obtained from Parks and Recreation Director Mack McLeod 828-322-7046 or mmcleod@hickorync.gov*

Hickory City Park to Geitner-Rotary Park 5k via paved

(Please include email confirmation with approval to use park with application.)

Henry Fork River Regional Recreation Park

(Please include email confirmation with approval to use park with application.)

Neill W. Clark Jr. Recreation Park - **Event within park, could be different activities on fields**

(Please include email confirmation with approval to use park with application.)

Highland Recreation Center at Stanford Park Options

3.2 option     3.1 option     4.5 option – **All options along sidewalks**

(Please include email confirmation with approval to use park with application.)

### ADDITIONAL GUIDELINES AND REQUIREMENTS

**Please initial all guidelines below and provide the information requested at the time the application is submitted.**

Must use a preapproved route from the City/NCDOT and/or preapproved neighborhood route and/or track or one of the options not on roadways that are available at the airport or at a park.       

Must include a certificate of liability insurance for walk, run, and/or cycle event if the start/finish are on public property. LT

Must include a plan for volunteers for events with an anticipated attendance of 100 participants or more (how many, their duties). LT

Must include a parking plan for participants and volunteers (can be included in site plan). LT

The provision of twenty foot (20') minimum emergency access lanes throughout the event site. LT

Temporary signs may be used to mark a course. No markings of any kind (permanent or temporary) are allowed on roadways, sidewalks, or parking lots. LT

Any unauthorized traffic control device or other sign or message placed on the highway right-of-way by a private organization or individual constitutes a public nuisance and should be removed. Any violations of this policy will result in disapproval of future event(s). LT

Do not assume, advertise, or promote your event until you have a signed permit from the Hickory Police Department, along with permission from city staff and Hickory City Council. Conflicts do arise and changes to the request may be necessary. LT

**ATTACHMENTS CHECKLIST**

In addition to the Special Event Application form, the following supporting documents are required to complete your application package and begin the review process:

**All Events:**

- Site Plan Sketch
- Parking Plan for participants and volunteers (May be included in site plan)
- Volunteer Plan for events with an anticipated attendance of 100 participants or more (how many, their duties)

**All Public Property Events:**

- Certificate of Insurance listing the City of Hickory as certificate holder and additional insured.

**-Public Property Event at a Public Park:**

- Email from Parks and Recreation Director Mack Mcleod indicating approval of the event date

**-Public Property Event at the Airport:**

- Email from Airport Director Terry Clark indicating approval of the event date

**\*\* THIS SECTION IS ONLY TO BE COMPLETED IF REQUESTING TO HOLD AN EVENT ON UNION SQUARE COMMON, STREETS ADJOINING THERETO OR OTHER PUBLIC PLACES, PARKS, AND THE AIRPORT \*\***

**USE OF UNION SQUARE AND OTHER PUBLIC PLACES**

**RULES REGULATING THE USE OF UNION SQUARE COMMON, STREETS ADJOINING THERETO AND OTHER PUBLIC PLACES, PARKS AND THE AIRPORT FOR SPECIAL EVENTS**

- Special events may be held in one or more of the following areas:
  - Union Square Common, north of the Southern Railway tracks, east of Third Street, NW, and west of Second Street, NW.
  - Streets adjoining Union Square, including Third Street, NW, between the Southern Railway tracks and the northern margin of First Avenue, NW; First Avenue, NW between Third Street, NW and Second Street, NW; Second Street, NW from the Southern Railway tracks to the northern margin of First Avenue, NW; and Trade Alley.
  - Any other public building, park or property owned or possessed by the City of Hickory which, by its nature, is suitable for any certain special event that may be applied for, provided that said event remains open to the public at large.
- The City Council reserves the right to reject any application as to the use of any area described above for any special event. If the City Council learns that the event or vendors participating were misrepresented to the City Council or that the event in any way fails to comply with the rules regulating the use of Union Square Common or fails to comply with any applicable local, state, or federal laws, it reserves the right to rescind any approved application up to and during the course of the event. In the case of a special event being held at a City-owned facility for which a rental fee is usually charged, the normal rental fee shall be charged to the applicant unless the City Council waives such rental.
- Application must be filed in the City Manager's Office at least ninety (90) days prior to the time that the applicant desires to first take possession of the area to make preparations for the special event. The applicant for a special event must be a non-profit organization, organized and existing for the purpose of either some charitable or public benefit or for the promotion of business in the Downtown Area of Hickory. In addition, said non-profit organization may at the request of the Council be required to produce evidence of their non-profit corporation status as defined by state and federal laws. In addition, procedures to be used for selecting participants and vendors must be included with the application.
- The applicant shall provide to the City Manager at least two (2) weeks prior to the beginning of the public participation in the special event a list of all of the vendors or others having booths or display tables during the special event. No other persons may sell merchandise or operate any booth or display tables during the special event, unless the applicant, in writing, requests the City Manager to amend such list accordingly and permission is granted.
- No motor vehicles or other large equipment or manufactured items or livestock will be permitted within the area unless they are clearly identified and described and the proposed location is stated in the application and specific approval is given.
- The size, type of construction and location of display tables and booths must be described generally in the application; all construction must be safe and self-sustaining; no spikes or other holding devices may be driven into the ground of any street, sidewalk or tied to any tree.
- When food preparation, painting and/or pottery -making activities or similar activities are held, appropriate protective materials must be placed over any paved or brick areas for protection.

- No tents may be placed in the area without being described and exhibited to the Fire Prevention Inspectors of the Hickory Fire Department and special approval by the City Council.
- Public address systems can be used only if specifically requested in the application and special permission given, including limitations as to use.
- Sufficient portable toilets shall be provided for the expected number of participants.
  
- If the applicant desires to sell alcoholic beverages, it shall specifically so state in its application and shall provide a sketch of the area where the same will be sold and consumed. The area shall be delineated by barricades, with the entrance to be clearly marked and so constructed as to allow ready control of patrons, including viewing of identification to avoid underage persons being within the barricaded area. Signs shall be posted stating that no one shall leave the barricaded area with alcoholic beverages. Application must be made to proper State authorities for special permit for sale of alcoholic beverages. Special permit shall be available for inspection by the City at any time.
  
- The applicant shall assume full liability for all accidents or claims of accidents as a result of activities taking place at the special event and during the time the area is being readied for the event and while it is being cleaned up following the event. A copy of the insurance policy must be submitted to the City Manager's office prior to the event. The applicant must add the city as an additional insured on the policy. The policy is to be one of comprehensive general liability in the amount of not less the Three Hundred Thousand Dollars (\$300,000.00) for bodily injury per person and One Million Dollars (\$1,000,000.00) per occurrence and not less than One Hundred Thousand Dollars (100,000.00) for property damage per occurrence.
- The applicant will be responsible for the security or protection of any articles, items, merchandise, display tables, booths or other property owned by the applicant or others participating in the special event.
- Applicants must obtain any special use permits required by the Hickory Fire Inspector, must comply with all applicable provisions of the North Carolina Fire Code and must at all times insure that all fire lanes in the area to be used remain unobstructed.
- Applicants must comply with all applicable Health Department regulations pertaining to the scheduled event.
- Applicants must comply with the requirements of the Hickory Sign Ordinance.
- Applications must comply with any and all local, state, and federal laws pertaining to equal opportunity and should make every effort to make events accessible to the disabled public. In addition, applicants shall not deny access or a vendor's booth to any group based on national origin, race, religion, age, sex, or disability.

City of Hickory

**NAME OF NON-PROFIT ORGANIZATION**

**BRIEFLY DESCRIBE THE PURPOSE OF THE NON-PROFIT ORGANIZATION:**

Serve the Hickory community.

**LIST ORGANIZATIONS OFFICERS:**

Michele Wilkerson

828-261-2249

TELEPHONE

TELEPHONE

TELEPHONE

**CHAIRPERSON OF THE SPECIAL EVENT:**

Lauren Townson

828-324-1200

NAME

TELEPHONE

1451 8th Street Drive NE, Hickory, NC 28601

ADDRESS

*The undersigned Applicant is aware of the rules regulating the use of Union Square Common, streets adjoining thereto and other public places and parks for special events, and will abide with the same; and further understands that the City of Hickory will not be responsible for the security or protection of any articles, items, merchandise, display tables, booths or other property owned by the applicant or others participating in the special event. The undersigned Applicant agrees to reimburse the City of Hickory for the additional cost of providing police department and/or fire department personnel to supervise the event, including services rendered both before, during and after the event itself, to ensure the compliance with all laws and ordinance, to direct traffic and to promote the safety and welfare of participants and other citizens.*

Lauren Townson

Digitally signed by Lauren Townson  
DN: cn=Lauren Townson, o, ou,  
email=ltownson@hickorync.gov, c=US  
Date: 2016.08.19 12:11:48 -0400

08/19/16

Date

Lauren Townson

President

City of Hickory

Non-Profit Organization

Approved by:

CITY MANAGER



DATE

9/23/16

DATE APPROVED BY HICKORY CITY COUNCIL:

**NORTH CAROLINA**

**RELEASE AND INDEMNITY AGREEMENT**

**CATAWBA COUNTY**

**THIS RELEASE AND INDEMNITY AGREEMENT**, entered into by **THE CITY OF HICKORY**, a North Carolina Municipal Corporation, City, and the **City of Hickory** \_\_\_\_\_, a non-profit organization with its principal place of operation being Catawba County, North Carolina, Applicant:

**WITNESSETH :**

**WHEREAS**, City desires to allow the Applicant to conduct a special event within the City Limits of Hickory, North Carolina, pursuant to the Hickory City Code; and

**WHEREAS**, the Applicant desires to conduct a special event within the City Limits of Hickory, North Carolina; and

**WHEREAS**, to this end, said Applicant has previously filed with the City of Hickory an application for approval of said event, and wishes to enter into this Release and Indemnity Agreement pursuant to the Hickory City Code and the administrative rules of the City of Hickory;

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants herein contained, and for other good and sufficient consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. That the Applicant hereby completely and unequivocally releases the City, the officials of the City, and all employees of the City, and their families, from any and all claims, damages, injuries or rights of action which the Applicant may incur by reason of the special event being conducted by the Applicant.
2. That the Applicant hereby agrees to indemnify, defend, and hold harmless the City for any liability, injury or claim which may arise to the benefit of the Applicant as a result of the special event being conducted by the Applicant.

3. That the parties to this Release and Indemnity Agreement stipulate and acknowledge that there exists sufficient consideration for the execution of this instrument.

This the 19 day of August, 2016.

Lauren Townson  
President

Lauren Townson  
Digitally signed by Lauren Townson  
DN: cn=Lauren Townson, o, ou,  
email=l.townson@hickorync.gov, c=US  
Date: 2016.08.19 12:13:05 -04'00'



LINE UP

1st St NW

LINE UP

LINE UP

Announcing Area

Spectator Parking

BUS PARKING

1st St NW

Main Ave NW

2nd St NW



City of Hickory  
 PO Box 398  
 Hickory, NC 28603  
 Telephone  
 828-323-7410  
 Fax 828-323-7474

**City of Hickory**  
**Special Events/Activities Application**  
 (Must be submitted to Planning & Development)

**SPECIAL EVENT APPLICATION**

The purpose of this application is to provide information about your event or activity in order for various departments and agencies to determine if they need to be involved in the approval and/or permitting process. Depending on the specific event, a permit application and/or fee(s) from individual departments may be required.

**The applicant is responsible for providing complete and accurate information on the application, including an attached detailed site plan. The applicant is also responsible for notifying the Planning Department of any changes. Incomplete applications will not be accepted.** \*\*For public property events a complete application should be submitted at least **90 days** prior to the planned event to allow sufficient review time. For private property events a complete application should be submitted at least **30 days** prior to the planned event. Public officials may contact you with specific questions. Any official may require a pre-planning meeting.

Applications and events are prioritized based on a first come-first served basis and the City may approve or disapprove an event's requested date based on availability of resources. Events that occur on an annual basis will receive priority the following year.

**\*\*If the event is to be held on public property, approval to use the property must be obtained from City Council; therefore the application must be submitted 90 days prior to the event.**

**APPLICANT INFORMATION**

Name of Event: Mel's Jingle Run 5K (benefitting Operation 300 & Hickory Soup Kitchen)  
 Applicant Name & Title: Sarah Prencipe (Op300 volunteer) Leslie Knapp (Mellow Mushroom Owner & Soup Kitchen Volunteer)  
 Organization: Operation 300, Hickory Soup Kitchen, Mellow Mushroom Hickory (Peace-a-Pie Makers, LLC)  
 Mailing (Billing) Address: 312 2nd Ave NW (Sarah Prencipe)  
 City / State / Zip: Hickory, NC 28601  
 Daytime Phone: 828-261-2290 Cell: 828-446-4248 Email: sprencipe@hickorync.gov  
 Description of the Event: Downtown 5K race route in December to celebrate the holiday and raise money for 2 charities

Does the event have a Twitter, Facebook or other social networking page? Yes  
 If yes, please list URL(s): facebook.com/melsjingerun

Event Address: <u>Sails on the Square stage and 5K route</u>	
Date of Event: <u>December 3, 2016</u>	
Event Start Time: <u>9 a.m.</u>	Event End Time: <u>10:30 a.m.</u>
Road Closure Begins (if applicable):	Road Closure Ends (if applicable):
Set-Up Begins: <u>6 a.m.</u>	Clean-Up Ends: <u>noon</u>
Preferred Date & Time of Inspection: <u>N/A</u>	
Estimated Attendance: <u>500</u>	
The Event is: <input type="checkbox"/> Private (by invitation only) or <input checked="" type="checkbox"/> Open to General Public	
Describe the procedures to be used for selecting participants and vendors for this event: <u>Race fee to run or walk the 5K</u>	

APPLICANT'S SIGNATURE: [Signature] DATE: 8/11/16

A pre-planning meeting may be required and will be scheduled to include the appropriate staff. The event applicant must attend the meeting. The city reserves the right to require others to attend.

**TENTS & MEMBRANE STRUCTURES**

**\*\* Tent** is a structure, enclosure, or shelter, with or without sidewalls or drops **\*\***

Will tent(s) be used for the event?  Yes  No (If no, proceed to next section)

# of Tent(s) \_\_\_\_\_ (fabric structure that is ENCLOSED with sidewalls or drops exceeding 400 square feet)

# of Tent(s) \_\_\_\_\_ (fabric structure that is OPEN on all sides exceeding 700 square feet)

Are there multiple tents without sidewalls placed side by side such that the total square footage of all the tents in this group exceeds 700 square feet without 12 feet of clear space between all other permanent and temporary structures?  Yes  No

---

**\*\* Membrane** structure is an air-inflated or air supported structure **\*\***

Will Membrane(s) be used for the event?  Yes  No (If no, proceed to next section)

# of Membrane Structure(s) \_\_\_\_\_ exceeding 400 square feet

**POWER SOURCES**

Will you use electric generators?  Yes  No

If yes, will Power Distribution boxes be used?  Yes  No

Provide contact information for contractor supplying generator power:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

---

Will you use electric power from an existing structure?  Yes  No

If yes, will direct wiring to breakers be required?  Yes  No

Provide contact information for person responsible for setup of power:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**VOICE/MUSIC AMPLICATION**

Are there any musical entertainment features related to your event?  Yes  No  
(If no proceed to next section)

If yes, state the number of bands and type of music: Number of bands: \_\_\_\_\_

Type(s) of music: DJ playing popular holiday music before and after the race

Will a portable or temporary stage be utilized?  Yes  No

If yes\*, state the number of portable or temporary stages: \_\_\_\_\_

Provide contact information for contractor providing stage:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

*\*A Temporary Stage Certification Form must be completed for Catawba County Building Services\**

Will your event use amplified sound?  Yes  No

If yes, please indicate times: Start time: 8:15 a.m. Finish time: 10:30 a.m.

**HAZARDOUS MATERIALS**

Will the event have any hazardous materials such as propane, butane, gasoline, diesel tanks, helium cylinders or other upright tanks?  Yes  No  
**If yes, all tanks must be secured in a manner to prevent accidentally being knocked over. All helium tanks not being used shall have their caps in place.**

Will there be any portable heaters?  Yes  No

Will there be any deep fat fryers?  Yes  No

Will there be any fireworks, lasers, torches, candles or pyrotechnics?  Yes  No  
**If yes, contact the City of Hickory Fire Prevention office at 828-323-7522 for more information.**

**ALCOHOL**

Will alcoholic beverages be served?  Yes  No (If yes, NC ABC permit required)

Will alcoholic beverages be sold?  Yes  No (If yes, NC ABC permit required)

What type of alcohol will be served?  
 Draft Beer  Can/Bottle Beer  Wine  Liquor

Who will be serving the alcohol?

Times for alcohol to be served:

Locations within event site where alcohol will be served:

Have you applied for a North Carolina temporary ABC permit?  Yes  No

**VENDORS**

*List all commercial vendors who will be present during the event (serving, selling, sampling, or displaying).  
 (Use additional sheet of paper if necessary)*

VENDOR NAME	ADDRESS	PHONE NUMBER(S)

Does the event include mechanical rides, or other similar attractions?  Yes  No  
 If yes, please describe attractions:

*Applicants contracting with amusement ride companies are required to provide the City of Hickory with a certificate of insurance, naming applicant and the City of Hickory (if applicable) as additional insured on general liability.*

**VENDORS**

Does the event include food vendors?  Yes  No

If the event will have food vendors, please check the following that apply:  
 Served  Sold  Free  Catered  Prepared Outdoors  
*An applicant having any food service must contact the Catawba County Health Department at (828) 465-8270 for approval of any food preparation or service.*

Does the event include food concession and/or cooking areas?  Yes  No

If yes, please list each vendor and specify cooking method (Gas, Electric, Charcoal, Other)  
*(Use additional sheet if necessary)*

VENDOR	COOKING METHOD	FOOD ITEM
Grocery items purchased by volunteers	store bought	bananas & packaged items like granola bars

*Fire Code requires a fire extinguisher at each cooking location. Food and beverages shall not be sold at an event unless approved and licensed, if necessary, by the Catawba County Health Department. Event organizers are responsible for arranging health inspections for their events.*

**EVENT SCHEDULE**

Provide a detailed schedule of the event including dates and times for entertainment, activities, hours of event, start time, finish time, etc. If the event requires an extended time frame for set-up, include details with a timeline listing the times and locations where streets or public property will be impacted and when dismantling will be completed. (Use additional sheet of paper if necessary)

DATE	TIME	ACTION	ADDITIONAL NOTES
12/2/16	5 - 7 p.m.	packet pickup for participants	under the Sails
12/3/16	6 a.m.	volunteers arrive and begin setting up tables for participants	
		to pick up race packets, display information about the	
		race, and to set up snacks for after the race is finished	
	8:45 a.m.	5K warm up exercises	
	9 a.m.	5K begins	
	10:30 a.m.	Race complete/Food/Awards Program	
	Noon	Clean up complete	



**SITE PLAN**

Please attach a detailed Site-Plan sketch of the event. Include maps, outline or diagram of the entire event venue including the names of all streets or areas that are part of the venue and the surrounding area. The plan should include the following information (if applicable):

- Location of the event/activity on the property with approximate distances from roads, fire hydrants, existing buildings, etc.
- Location of temporary structures that will be used during the event. Must indicate size of temporary structures, distances between temporary structures and existing buildings.
- Identify how each temporary structure will be used. Example: type of vendor, food preparation, alcohol sales, etc.
- Identify location of all cooking devices and open flames.
- Location of all fencing, barricades, or other restrictions that will impair access to and from the event or property.
- Identify all designated parking areas.
- Identify location of any generators and fuel storage.

**WALK, RUN, CYCLE EVENTS ON PUBLIC ROADWAYS**

Number of participants expected: 400 % of participants expected under 18: 10%

\*Must be at least 100 participants and no more than 2,000 per route.

Number of volunteers expected: 20 % of volunteers expected under 18: 10%

**Check the approved City/NC DOT Route on public roadways below**

- 5K 1 Downtown 5k** (Not allowed on Saturdays during the Downtown Hickory Farmers Market: Mid April-November)
- 5K 2 Hickory Foundation YMCA** (Can start and finish in Downtown District or other locations on route)
- 5K 3 FRMC 5K** (Can start and finish in Downtown District or other locations on route)
- 5K 4 Neill Clark Park 5k** (Must contact Parks and Recreation Director Mack McLeod [mmcleod@hickorync.gov](mailto:mmcleod@hickorync.gov) or 828-322-7046 and submit email confirmation with Special Event application.)
- 5K 5 Winkler Park 5k** (Must contact Parks and Recreation and Hickory Crawdads and submit email confirmation with Special Event application. Approval from Mack McLeod 828-322-7046 or mmcleod@hickorync.gov and Hickory Crawdads Mark Seaman 828-322-3000 or mseaman@hickorycrawdads.com.)
- 5K 6 LRU 5K** (Must clear route with LRU before submitting Special Event application. (Can start and finish in various locations, including First Methodist Church)
- 10K 1 Hickory Foundation YMCA** (Can start and finish in Downtown District)
- 10K 2 Do a 5k route twice, which 5k route?** \_\_\_\_\_
- Half Marathon 1** (13.1 miles)
- Cycle Route 1** (10 mile)
- Cycle Route 2** (32 mile)

**APPROVED ROUTES/EVENTS AT THE AIRPORT AND PUBLIC PARKS**

**AIRPORT ROUTE**

Hickory Regional Airport 5k  Approval from Airport Manager Terry Clark

\*The second and fourth Saturdays have existing events in the morning hours. Check with Airport Manager Terry Clark 828-323-7408 or tclark@hickorync.gov on availability.

Name the new date proposed and time: \_\_\_\_\_

(Please include email confirmation with approval to use airport with application.)

**PUBLIC PARKS ROUTES**

*Approval for park use may be obtained from Parks and Recreation Director Mack McLeod 828-322-7046 or mmcleod@hickorync.gov*

Hickory City Park to Geitner-Rotary Park 5k via paved

(Please include email confirmation with approval to use park with application.)

Henry Fork River Regional Recreation Park

(Please include email confirmation with approval to use park with application.)

Neill W. Clark Jr. Recreation Park - **Event within park, could be different activities on fields**

(Please include email confirmation with approval to use park with application.)

Highland Recreation Center at Stanford Park Options

3.2 option  3.1 option  4.5 option - **All options along sidewalks**

(Please include email confirmation with approval to use park with application.)

### ADDITIONAL GUIDELINES AND REQUIREMENTS

**Please initial all guidelines below and provide the information requested at the time the application is submitted.**

Must use a preapproved route from the City/NC DOT and/or preapproved neighborhood route and/or track or one of the options not on roadways that are available at the airport or at a park. SP

Must include a certificate of liability insurance for walk, run, and/or cycle event if the start/finish are on public property. SP

Must include a plan for volunteers for events with an anticipated attendance of 100 participants or more (how many, their duties). SP

Must include a parking plan for participants and volunteers (can be included in site plan). SP

The provision of twenty foot (20') minimum emergency access lanes throughout the event site. SP

Temporary signs may be used to mark a course. No markings of any kind (permanent or temporary) are allowed on roadways, sidewalks, or parking lots. SP

Any unauthorized traffic control device or other sign or message placed on the highway right-of-way by a private organization or individual constitutes a public nuisance and should be removed. Any violations of this policy will result in disapproval of future event(s). SP

Do not assume, advertise, or promote your event until you have a signed permit from the Hickory Police Department, along with permission from city staff and Hickory City Council. Conflicts do arise and changes to the request may be necessary. SP

## ATTACHMENTS CHECKLIST

In addition to the Special Event Application form, the following supporting documents are required to complete your application package and begin the review process:

**All Events:**

- Site Plan Sketch
- Parking Plan for participants and volunteers (May be included in site plan)
- Volunteer Plan for events with an anticipated attendance of 100 participants or more (how many, their duties)

**All Public Property Events:**

- Certificate of Insurance listing the City of Hickory as certificate holder and additional insured.

**-Public Property Event at a Public Park:**

- Email from Parks and Recreation Director Mack McLeod indicating approval of the event date

**-Public Property Event at the Airport:**

- Email from Airport Director Terry Clark indicating approval of the event date

**-Waiver Request**

- I am requesting a waiver from the Section which prohibits animals from special events on City property. I have included the required safety plan with the application.

**\*\* THIS SECTION IS ONLY TO BE COMPLETED IF REQUESTING TO HOLD AN EVENT ON UNION SQUARE COMMON, STREETS ADJOINING THERETO OR OTHER PUBLIC PLACES, PARKS, AND THE AIRPORT \*\***

**USE OF UNION SQUARE AND OTHER PUBLIC PLACES**

**RULES REGULATING THE USE OF UNION SQUARE COMMON, STREETS ADJOINING THERETO AND OTHER PUBLIC PLACES, PARKS AND THE AIRPORT FOR SPECIAL EVENTS**

- Special events may be held in one or more of the following areas:
  - Union Square Common, north of the Southern Railway tracks, east of Third Street, NW, and west of Second Street, NW.
  - Streets adjoining Union Square, including Third Street, NW, between the Southern Railway tracks and the northern margin of First Avenue, NW; First Avenue, NW between Third Street, NW and Second Street, NW; Second Street, NW from the Southern Railway tracks to the northern margin of First Avenue, NW; and Trade Alley.
  - Any other public building, park or property owned or possessed by the City of Hickory which, by its nature, is suitable for any certain special event that may be applied for, provided that said event remains open to the public at large.
- The City Council reserves the right to reject any application as to the use of any area described above for any special event. If the City Council learns that the event or vendors participating were misrepresented to the City Council or that the event in any way fails to comply with the rules regulating the use of Union Square Common or fails to comply with any applicable local, state, or federal laws, it reserves the right to rescind any approved application up to and during the course of the event. In the case of a special event being held at a City-owned facility for which a rental fee is usually charged, the normal rental fee shall be charged to the applicant unless the City Council waives such rental.
- Application must be filed in the City Manager's Office at least ninety (90) days prior to the time that the applicant desires to first take possession of the area to make preparations for the special event. The applicant for a special event must be a non-profit organization, organized and existing for the purpose of either some charitable or public benefit or for the promotion of business in the Downtown Area of Hickory. In addition, said non-profit organization may at the request of the Council be required to produce evidence of their non-profit corporation status as defined by state and federal laws. In addition, procedures to be used for selecting participants and vendors must be included with the application.
- The applicant shall provide to the City Manager at least two (2) weeks prior to the beginning of the public participation in the special event a list of all of the vendors or others having booths or display tables during the special event. No other persons may sell merchandise or operate any booth or display tables during the special event, unless the applicant, in writing, requests the City Manager to amend such list accordingly and permission is granted.
- No motor vehicles or other large equipment or manufactured items or livestock will be permitted within the area unless they are clearly identified and described and the proposed location is stated in the application and specific approval is given.
- The size, type of construction and location of display tables and booths must be described generally in the application; all construction must be safe and self-sustaining; no spikes or other holding devices may be driven into the ground of any street, sidewalk or tied to any tree.
- When food preparation, painting and/or pottery -making activities or similar activities are held, appropriate protective materials must be placed over any paved or brick areas for protection.

- No tents may be placed in the area without being described and exhibited to the Fire Prevention Inspectors of the Hickory Fire Department and special approval by the City Council.
- Public address systems can be used only if specifically requested in the application and special permission given, including limitations as to use.
- Sufficient portable toilets shall be provided for the expected number of participants.
- If the applicant desires to sell alcoholic beverages, it shall specifically so state in its application and shall provide a sketch of the area where the same will be sold and consumed. The area shall be delineated by barricades, with the entrance to be clearly marked and so constructed as to allow ready control of patrons, including viewing of identification to avoid underage persons being within the barricaded area. Signs shall be posted stating that no one shall leave the barricaded area with alcoholic beverages. Application must be made to proper State authorities for special permit for sale of alcoholic beverages. Special permit shall be available for inspection by the City at any time.
- The applicant shall assume full liability for all accidents or claims of accidents as a result of activities taking place at the special event and during the time the area is being readied for the event and while it is being cleaned up following the event. A copy of the insurance policy must be submitted to the City Manager's office prior to the event. The applicant must add the city as an additional insured on the policy. The policy is to be one of comprehensive general liability in the amount of not less than Three Hundred Thousand Dollars (\$300,000.00) for bodily injury per person and One Million Dollars (\$1,000,000.00) per occurrence and not less than One Hundred Thousand Dollars (100,000.00) for property damage per occurrence.
- The applicant will be responsible for the security or protection of any articles, items, merchandise, display tables, booths or other property owned by the applicant or others participating in the special event.
- Applicants must obtain any special use permits required by the Hickory Fire Inspector, must comply with all applicable provisions of the North Carolina Fire Code and must at all times insure that all fire lanes in the area to be used remain unobstructed.
- Applicants must comply with all Health Department regulations pertaining to the scheduled event.
- Applicants must comply with the requirements of the Hickory Sign Ordinance.
- Applications must comply with any and all local, state, and federal laws pertaining to equal opportunity and should make every effort to make events accessible to the disabled public. In addition, applicants shall not deny access or a vendor's booth to any group based on national origin, race, religion, age, sex, or disability.
- No person shall bring an animal, on a leash or otherwise, into the boundaries of this event. The boundaries and the interior of a special event shall consist of any area part of the event or parade route and shall include any public street, road, highway, sidewalk, alley, parking lot, grassy area, right-of-way or other publicly owned area. Exceptions shall include service dogs or other animals relied upon by persons with disabilities, and animals owned and controlled by public law enforcement agencies, or animals used by a vehicle for hire in accordance with applicable City ordinances. The special event operator and sponsor are responsible for immediately cleaning up and removing any animal waste from animals that are part of an authorized event, exhibit, or parade. All animal waste shall be disposed of properly. The event organizer may request a waiver from this ordinance. The sponsor shall submit plans specifying how the public will be protected from the animals. Requests shall be reviewed as part of the special event permitting process and may be approved or denied as part of that process. To request a waiver from this provision, please complete the appropriate section of the special event application.

Operation 300 & Hickory Soup Kitchen

**NAME OF NON-PROFIT ORGANIZATION**

**BRIEFLY DESCRIBE THE PURPOSE OF THE NON-PROFIT ORGANIZATION:**

Operation 300 is a registered 501(c)3 not for profit organization which hosts adventure camps for children who have lost their fathers as a result of military service and seeks to honor the families of the Fallen. The Hickory Soup Kitchen is also a non-profit whose mission is to provide nutritious meals to the hungry in our community.

**LIST ORGANIZATIONS OFFICERS:**

Operation 300 - Tara Baldwin

772-214-4434

**TELEPHONE**

Hickory Soup Kitchen - Austin Pearce

828-327-4828

**TELEPHONE**

**TELEPHONE**

**CHAIRPERSON OF THE SPECIAL EVENT:**

Sarah Prencipe & Leslie Knapp

828-446-4248 or 828-446-9460 (Leslie)

**NAME**

**TELEPHONE**

312 2nd Ave NW, Hickory, NC 28601

**ADDRESS**

*The undersigned Applicant is aware of the rules regulating the use of Union Square Common, streets adjoining thereto and other public places and parks for special events, and will abide with the same; and further understands that the City of Hickory will not be responsible for the security or protection of any articles, items, merchandise, display tables, booths or other property owned by the applicant or others participating in the special event. The undersigned Applicant agrees to reimburse the City of Hickory for the additional cost of providing police department and/or fire department personnel to supervise the event, including services rendered both before, during and after the event itself, to ensure the compliance with all laws and ordinance, to direct traffic and to promote the safety and welfare of participants and other citizens.*

8/11/16  
Date

*Sarah Prencipe*  
President Volunteer  
Operation 300  
Non-Profit Organization

Approved by:

*Andrea Sumatt*  
CITY MANAGER

10/3/16  
DATE

DATE APPROVED BY HICKORY CITY COUNCIL: \_\_\_\_\_

NORTH CAROLINA

RELEASE AND INDEMNITY AGREEMENT

CATAWBA COUNTY

THIS RELEASE AND INDEMNITY AGREEMENT, entered into by THE CITY OF HICKORY, a North Carolina Municipal Corporation, City, and the Peace-A-Pie Makers, LLC dba Mellow Mushroom a non-profit organization with its principal place of operation being Catawba County, North Carolina, Applicant:

WITNESSETH:

**WHEREAS**, City desires to allow the Applicant to conduct a special event within the City Limits of Hickory, North Carolina, pursuant to the Hickory City Code; and

**WHEREAS**, the Applicant desires to conduct a special event within the City Limits of Hickory, North Carolina; and

**WHEREAS**, to this end, said Applicant has previously filed with the City of Hickory an application for approval of said event, and wishes to enter into this Release and Indemnity Agreement pursuant to the Hickory City Code and the administrative rules of the City of Hickory;

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants herein contained, and for other good and sufficient consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. That the Applicant hereby completely and unequivocally releases the City, the officials of the City, and all employees of the City, and their families, from any and all claims, damages, injuries or rights of action which the Applicant may incur by reason of the special event being conducted by the Applicant.
2. That the Applicant hereby agrees to indemnify, defend, and hold harmless the City for any liability, injury or claim which may arise to the benefit of the Applicant as a result of the special event being conducted by the Applicant.

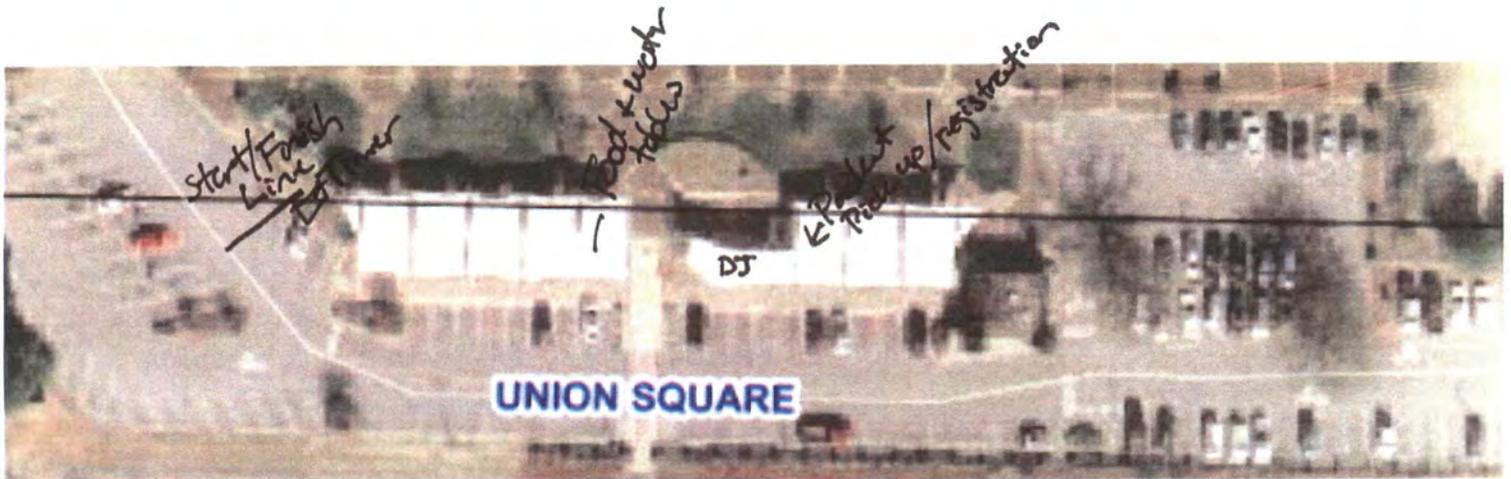
3. That the parties to this Release and Indemnity Agreement stipulate and acknowledge that there exists sufficient consideration for the execution of this instrument.

This the 11th day of August, 2016.  
William A. Krapp  
President Owner

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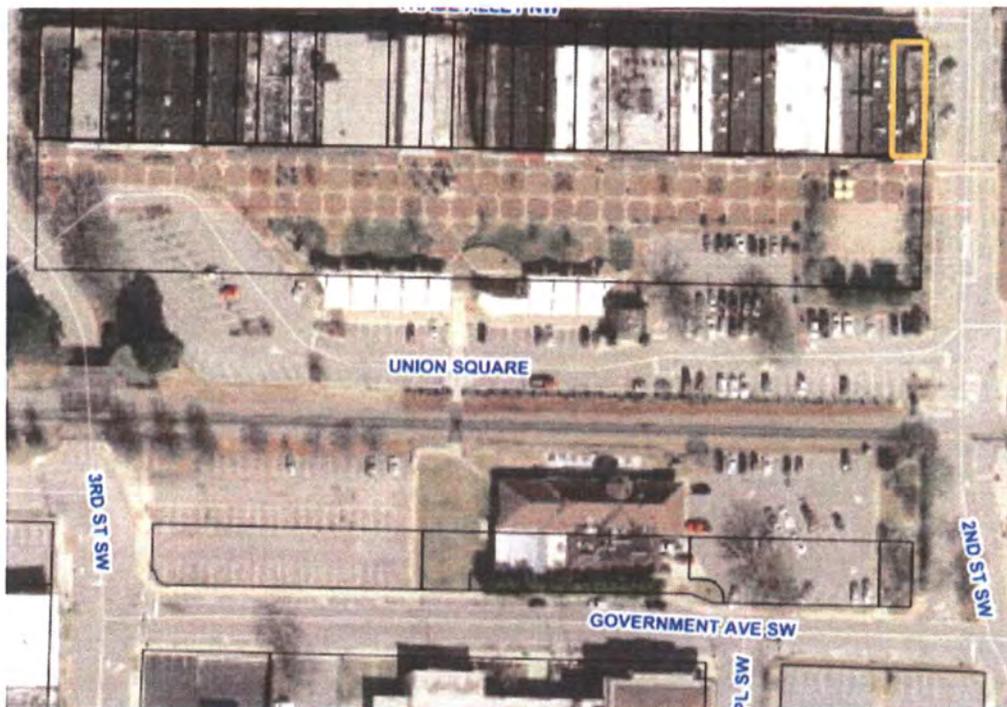


Parking for Mel's Jingle Run  
Saturday, December 3, 2016  
Site Plan Sketch



Parking for Mel's Jingle Run  
Saturday, December 3, 2016

We plan to utilize public lots and street parking in the Downtown area. Since the race is early morning on a Saturday, we do not anticipate a lot of other traffic competing for spots. Most shops and restaurants will not open until the time we are finishing up and leaving.



Parking for Mel's Jingle Run  
Saturday, December 3, 2016  
Volunteer Plan

**6:00 am Set Up** – 10 people

Help setup and organize tables, hang banners, etc.

**6:50 am – 8:15 am Same Day Registration** – 5 people

Collect paperwork & money for those who want to sign up that morning.

**7:00 am – 8:45 am Packet Pickup** – 5 people

Distribute race packets for those who pre-registered

**8:15 am – 10:15 am Food Table** - 5 people

Set up and serve snacks to runners after the race.

**10:30 am Clean Up** – 10 people

Put away tables, take down banners, etc.



City of Hickory  
 PO Box 398  
 Hickory, NC 28603  
 Telephone  
 828-323-7410  
 Fax 828-323-7474

**City of Hickory**  
**Special Events/Activities Application**  
 (Must be submitted to Planning & Development)

**SPECIAL EVENT APPLICATION**

The purpose of this application is to provide information about your event or activity in order for various departments and agencies to determine if they need to be involved in the approval and/or permitting process. Depending on the specific event, a permit application and/or fee(s) from individual departments may be required.

The applicant is responsible for providing complete and accurate information on the application, including an attached detailed site plan. The applicant is also responsible for notifying the Planning Department of any changes. Incomplete applications will not be accepted. \*\*For public property events a complete application should be submitted at least 90 days prior to the planned event to allow sufficient review time. For private property events a complete application should be submitted at least 30 days prior to the planned event. Public officials may contact you with specific questions. Any official may require a pre-planning meeting.

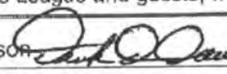
Applications and events are prioritized based on a first come-first served basis and the City may approve or disapprove an event's requested date based on availability of resources. Events that occur on an annual basis will receive priority the following year.

\*\*If the event is to be held on public property, approval to use the property must be obtained from City Council; therefore the application must be submitted 90 days prior to the event.

**APPLICANT INFORMATION**

Name of Event: Marine Corps League Cake Cutting Ceremony  
 Applicant Name & Title: Derek D. Dawson  
 Organization: Marine Corps League-Catawba Valley Chapter  
 Mailing (Billing) Address: P.O. Box 9484  
 City / State / Zip: Hickory, NC 28603  
 Daytime Phone: 828-409-3414 Cell: 828-409-3414 Email: ddd1655@yahoo.com  
 Description of the Event: We would like to have a cake cutting ceremony to commemorate the 241st Birthday of the United States Marine Corps.  
 Does the event have a Twitter, Facebook or other social networking page? None.  
 If yes, please list URL(s): \_\_\_\_\_

<b>Event Address:</b> Union Square Common, north of the Southern Railway tracks, east of Third Street, NW, and west of Second Street, NW	
<b>Date of Event:</b> Thursday, 11/10/2016	
<b>Event Start Time:</b> 12 P.M. (Noon)	<b>Event End Time:</b> 12:30 p.m.
<b>Road Closure Begins (if applicable):</b> N/A	<b>Road Closure Ends (if applicable):</b> N/A
<b>Set-Up Begins:</b> 11:30 a.m.	<b>Clean-Up Ends:</b> 1:00 p.m.
<b>Preferred Date &amp; Time of Inspection:</b> if applicable, same date before the National Anthem.	
<b>Estimated Attendance:</b> 20 people.	
<b>The Event is:</b> <input type="checkbox"/> Private (by invitation only) or <input checked="" type="checkbox"/> Open to General Public	
<b>Describe the procedures to be used for selecting participants and vendors for this event:</b> The only group present will be the Marine Corps League and guests, which are the public present who are all invited.	

**APPLICANT'S SIGNATURE** Derek D. Dawson  **DATE:** 09/13/2016

A pre-planning meeting may be required and will be scheduled to include the appropriate staff. The event applicant must attend the meeting. The city reserves the right to require others to attend.

**TENTS & MEMBRANE STRUCTURES**

**\*\* Tent** is a structure, enclosure, or shelter, with or without sidewalls or drops **\*\***

Will tent(s) be used for the event?  Yes  No (If no, proceed to next section)

# of Tent(s)  (fabric structure that is ENCLOSED with sidewalls or drops exceeding 400 square feet)

# of Tent(s)  (fabric structure that is OPEN on all sides exceeding 700 square feet)

Are there multiple tents without sidewalls placed side by side such that the total square footage of all the tents in this group exceeds 700 square feet without 12 feet of clear space between all other permanent and temporary structures?  Yes  No

---

**\*\* Membrane** structure is an air-inflated or air supported structure **\*\***

Will Membrane(s) be used for the event?  Yes  No (If no, proceed to next section)

# of Membrane Structure(s)  exceeding 400 square feet

**POWER SOURCES**

Will you use electric generators?  Yes  No

If yes, will Power Distribution boxes be used?  Yes  No

Provide contact information for contractor supplying generator power:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

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Will you use electric power from an existing structure?  Yes  No

If yes, will direct wiring to breakers be required?  Yes  No

Provide contact information for person responsible for setup of power:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**VOICE/MUSIC AMPLIFICATION**

Are there any musical entertainment features related to your event?  Yes  No  
(If no proceed to next section)

If yes, state the number of bands and type of music: Number of bands: 0

Type(s) of music: MP3 recordings will play the National Anthem, the Marine Corps Hymn and be used for vocals by the narrator/guest of honor.

Will a portable or temporary stage be utilized?  Yes  No

If yes\*, state the number of portable or temporary stages:         

Provide contact information for contractor providing stage:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

*\*A Temporary Stage Certification Form must be completed for Catawba County Building Services\**

Will your event use amplified sound?  Yes  No

If yes, please indicate times: Start time: 12 p.m. Finish time: 12:30 p.m.

**HAZARDOUS MATERIALS**

Will the event have any hazardous materials such as propane, butane, gasoline, diesel tanks, helium cylinders or other upright tanks?  Yes  No  
**If yes, all tanks must be secured in a manner to prevent accidentally being knocked over. All helium tanks not being used shall have their caps in place.**

Will there be any portable heaters?  Yes  No

Will there be any deep fat fryers?  Yes  No

Will there be any fireworks, lasers, torches, candles or pyrotechnics?  Yes  No  
**If yes, contact the City of Hickory Fire Prevention office at 828-323-7522 for more information.**

**ALCOHOL**

Will alcoholic beverages be served?  Yes  No (If yes, NC ABC permit required)

Will alcoholic beverages be sold?  Yes  No (If yes, NC ABC permit required)

What type of alcohol will be served?  
 Draft Beer  Can/Bottle Beer  Wine  Liquor

Who will be serving the alcohol?

Times for alcohol to be served:

Locations within event site where alcohol will be served:

Have you applied for a North Carolina temporary ABC permit?  Yes  No

**VENDORS**

*List all commercial vendors who will be present during the event (serving, selling, sampling, or displaying).  
 (Use additional sheet of paper if necessary)*

VENDOR NAME	ADDRESS	PHONE NUMBER(S)

Does the event include mechanical rides, or other similar attractions?  Yes  No  
 If yes, please describe attractions:

*Applicants contracting with amusement ride companies are required to provide the City of Hickory with a certificate of insurance, naming applicant and the City of Hickory (if applicable) as additional insured on general liability.*

**VENDORS**

Does the event include food vendors?  Yes  No Cake will be supplied by League Member.

If the event will have food vendors, please check the following that apply:  
 Served  Sold  Free  Catered  Prepared Outdoors  
*An applicant having any food service must contact the Catawba County Health Department at (828) 465-8270 for approval of any food preparation or service.*

Does the event include food concession and/or cooking areas?  Yes  No

If yes, please list each vendor and specify cooking method (Gas, Electric, Charcoal, Other)  
*(Use additional sheet if necessary)*

VENDOR	COOKING METHOD	FOOD ITEM

*Fire Code requires a fire extinguisher at each cooking location. Food and beverages shall not be sold at an event unless approved and licensed, if necessary, by the Catawba County Health Department. Event organizers are responsible for arranging health inspections for their events.*

**EVENT SCHEDULE**

Provide a detailed schedule of the event including dates and times for entertainment, activities, hours of event, start time, finish time, etc. If the event requires an extended time frame for set-up, include details with a timeline listing the times and locations where streets or public property will be impacted and when dismantling will be completed. (Use additional sheet of paper if necessary)

DATE	TIME	ACTION	ADDITIONAL NOTES
11/10/2016	1130	Set up speaker and music station.	
11/10/2016	1145	Place flag stands	
11/10/2016	1150	All participants on hand	
11/10/2016	1200	Narrator announces event and invitation to public to join	
11/10/2016	1230	ceremonies concluded	1245 at the latest.
11/10/2016	1300	clean up of area and departure	this should be complete no later than 1300-1315

**CITY SERVICES**

*The City of Hickory does not provide amenities such as portable washrooms, sound systems, tables, chairs, tents, canopies or other equipment.*

**TRASH AND RECYCLING PLAN**

In order to determine what types of containers are needed for the event, please answer the following questions:

How many trash bins are you requesting for trash?  \_\_\_\_\_

How many recycling bins are you requesting for recycling?  \_\_\_\_\_

Delivery Location? \_\_\_\_\_

Date and Time for trash or recycling bins to be emptied/picked up? \_\_\_\_\_

*Applicants are responsible for cleaning and restoring the site after the event. The cost of any employee overtime incurred because of an applicant's failure to clean and/or restore the site following the event will be paid for by the applicant. If you reasonably believe that no litter will be generated during your event, please state this in your plan.*

**PUBLIC PROPERTY CLEAN-UP**

Contracted personnel or volunteers may be used if indicated below. What is the clean-up plan for the event? **We will clean up our area and the members present will haul off trash.**

*If City personnel are needed to assist with event site clean-up the applicant will be required to hire off duty personnel.*

If needed, please list preferred Date & Time for clean-up staff arrival: \_\_\_\_\_

Will any of the following services be used for the event:

\_\_\_ Water Service

\_\_\_ Portable Toilet Service

\_\_\_ Wastewater Service

\_\_\_ Public Restrooms

**SAFETY AND SECURITY (CHECK TYPES OF SECURITY USED)**

Beer/Alcohol Security     Stage Security     Event Area Security     Gate Security

Road Closure Security     Money Handling Security     Other \_\_\_\_\_

Overnight Security    From \_\_\_\_\_: \_\_\_\_\_ To \_\_\_\_\_: \_\_\_\_\_

Dates & Times security will be on site: \_\_\_\_\_

Security provided by: \_\_\_\_\_ Number of Security Personnel: \_\_\_\_\_

*Applicant may be required to hire sworn off-duty City of Hickory police officers to provide security to insure public safety. The Hickory Police Department will determine the number of security personnel required on site.*

## SITE PLAN

Please attach a detailed Site-Plan sketch of the event. Include maps, outline or diagram of the entire event venue including the names of all streets or areas that are part of the venue and the surrounding area. The plan should include the following information (if applicable):

- Location of the event/activity on the property with approximate distances from roads, fire hydrants, existing buildings, etc.
- Location of temporary structures that will be used during the event. Must indicate size of temporary structures, distances between temporary structures and existing buildings.
- Identify how each temporary structure will be used. Example: type of vendor, food preparation, alcohol sales, etc.
- Identify location of all cooking devices and open flames.
- Location of all fencing, barricades, or other restrictions that will impair access to and from the event or property.
- Identify all designated parking areas.
- Identify location of any generators and fuel storage.

**WALK, RUN, CYCLE EVENTS ON PUBLIC ROADWAYS**

Number of participants expected: \_\_\_\_\_ % of participants expected under 18: \_\_\_\_\_

\*Must be at least 100 participants and no more than 2,000 per route.

Number of volunteers expected: \_\_\_\_\_ % of volunteers expected under 18: \_\_\_\_\_

**Check the approved City/NCDOT Route on public roadways below**

- 5K 1 Downtown 5k** (Not allowed on Saturdays during the Downtown Hickory Farmers Market: Mid April-November)
- 5K 2 Hickory Foundation YMCA** (Can start and finish in Downtown District or other locations on route)
- 5K 3 FRMC 5K** (Can start and finish in Downtown District or other locations on route)
- 5K 4 Neill Clark Park 5k** (Must contact Parks and Recreation Director Mack McLeod [mmcleod@hickorync.gov](mailto:mmcleod@hickorync.gov) or 828-322-7046 and submit email confirmation with Special Event application.)
- 5K 5 Winkler Park 5k** (Must contact Parks and Recreation and Hickory Crawdads and submit email confirmation with Special Event application. Approval from Mack McLeod 828-322-7046 or [mmcleod@hickorync.gov](mailto:mmcleod@hickorync.gov) and Hickory Crawdads Mark Seaman 828-322-3000 or [mseaman@hickorycrawdads.com](mailto:mseaman@hickorycrawdads.com).)
- 5K 6 LRU 5K** (Must clear route with LRU before submitting Special Event application. (Can start and finish in various locations, including First Methodist Church)
- 10K 1 Hickory Foundation YMCA** (Can start and finish in Downtown District)
- 10K 2 Do a 5k route twice, which 5k route?** \_\_\_\_\_
- Half Marathon 1** (13.1 miles)
- Cycle Route 1** (10 mile)
- Cycle Route 2** (32 mile)

**APPROVED ROUTES/EVENTS AT THE AIRPORT AND PUBLIC PARKS**

**AIRPORT ROUTE**

Hickory Regional Airport 5k       Approval from Airport Manager Terry Clark

\*The second and fourth Saturdays have existing events in the morning hours. Check with Airport Manager Terry Clark 828-323-7408 or tclark@hickorync.gov on availability.

Name the new date proposed and time: \_\_\_\_\_

(Please include email confirmation with approval to use airport with application.)

**PUBLIC PARKS ROUTES**

Approval for park use may be obtained from Parks and Recreation Director Mack McLeod 828-322-7046 or mmcleod@hickorync.gov

Hickory City Park to Geitner-Rotary Park 5k via paved

(Please include email confirmation with approval to use park with application.)

Henry Fork River Regional Recreation Park

(Please include email confirmation with approval to use park with application.)

Neill W. Clark Jr. Recreation Park - **Event within park, could be different activities on fields**

(Please include email confirmation with approval to use park with application.)

Highland Recreation Center at Stanford Park Options

3.2 option     3.1 option     4.5 option – **All options along sidewalks**

(Please include email confirmation with approval to use park with application.)

### ADDITIONAL GUIDELINES AND REQUIREMENTS

**Please initial all guidelines below and provide the information requested at the time the application is submitted.**

Must use a preapproved route from the City/NCDOT and/or preapproved neighborhood route and/or track or one of the options not on roadways that are available at the airport or at a park. N/A 

Must include a certificate of liability insurance for walk, run, and/or cycle event if the start/finish are on public property. N/A 

Must include a plan for volunteers for events with an anticipated attendance of 100 participants or more (how many, their duties). N/A 

Must include a parking plan for participants and volunteers (can be included in site plan). N/A 

The provision of twenty foot (20') minimum emergency access lanes throughout the event site. N/A 

Temporary signs may be used to mark a course. No markings of any kind (permanent or temporary) are allowed on roadways, sidewalks, or parking lots. N/A 

Any unauthorized traffic control device or other sign or message placed on the highway right-of-way by a private organization or individual constitutes a public nuisance and should be removed. Any violations of this policy will result in disapproval of future event(s). N/A 

Do not assume, advertise, or promote your event until you have a signed permit from the Hickory Police Department, along with permission from city staff and Hickory City Council. Conflicts do arise and changes to the request may be necessary. DD 

## ATTACHMENTS CHECKLIST

In addition to the Special Event Application form, the following supporting documents are required to complete your application package and begin the review process:

**All Events:**

- Site Plan Sketch
- Parking Plan for participants and volunteers (May be included in site plan)
- Volunteer Plan for events with an anticipated attendance of 100 participants or more (how many, their duties)

**All Public Property Events:**

- Certificate of Insurance listing the City of Hickory as certificate holder and additional insured.

**-Public Property Event at a Public Park:**

- Email from Parks and Recreation Director Mack McLeod indicating approval of the event date

**-Public Property Event at the Airport:**

- Email from Airport Director Terry Clark indicating approval of the event date

**-Waiver Request**

- I am requesting a waiver from the Section which prohibits animals from special events on City property. I have included the required safety plan with the application.

**\*\* THIS SECTION IS ONLY TO BE COMPLETED IF REQUESTING TO HOLD AN EVENT ON UNION SQUARE COMMON, STREETS ADJOINING THERETO OR OTHER PUBLIC PLACES, PARKS, AND THE AIRPORT \*\***

**USE OF UNION SQUARE AND OTHER PUBLIC PLACES**

**RULES REGULATING THE USE OF UNION SQUARE COMMON, STREETS ADJOINING THERETO AND OTHER PUBLIC PLACES, PARKS AND THE AIRPORT FOR SPECIAL EVENTS**

- Special events may be held in one or more of the following areas:
  - Union Square Common, north of the Southern Railway tracks, east of Third Street, NW, and west of Second Street, NW.
  - Streets adjoining Union Square, including Third Street, NW, between the Southern Railway tracks and the northern margin of First Avenue, NW; First Avenue, NW between Third Street, NW and Second Street, NW; Second Street, NW from the Southern Railway tracks to the northern margin of First Avenue, NW; and Trade Alley.
  - Any other public building, park or property owned or possessed by the City of Hickory which, by its nature, is suitable for any certain special event that may be applied for, provided that said event remains open to the public at large.
- The City Council reserves the right to reject any application as to the use of any area described above for any special event. If the City Council learns that the event or vendors participating were misrepresented to the City Council or that the event in any way fails to comply with the rules regulating the use of Union Square Common or fails to comply with any applicable local, state, or federal laws, it reserves the right to rescind any approved application up to and during the course of the event. In the case of a special event being held at a City-owned facility for which a rental fee is usually charged, the normal rental fee shall be charged to the applicant unless the City Council waives such rental.
- Application must be filed in the City Manager's Office at least ninety (90) days prior to the time that the applicant desires to first take possession of the area to make preparations for the special event. The applicant for a special event must be a non-profit organization, organized and existing for the purpose of either some charitable or public benefit or for the promotion of business in the Downtown Area of Hickory. In addition, said non-profit organization may at the request of the Council be required to produce evidence of their non-profit corporation status as defined by state and federal laws. In addition, procedures to be used for selecting participants and vendors must be included with the application.
- The applicant shall provide to the City Manager at least two (2) weeks prior to the beginning of the public participation in the special event a list of all of the vendors or others having booths or display tables during the special event. No other persons may sell merchandise or operate any booth or display tables during the special event, unless the applicant, in writing, requests the City Manager to amend such list accordingly and permission is granted.
- No motor vehicles or other large equipment or manufactured items or livestock will be permitted within the area unless they are clearly identified and described and the proposed location is stated in the application and specific approval is given.
- The size, type of construction and location of display tables and booths must be described generally in the application; all construction must be safe and self-sustaining; no spikes or other holding devices may be driven into the ground of any street, sidewalk or tied to any tree.
- When food preparation, painting and/or pottery -making activities or similar activities are held, appropriate protective materials must be placed over any paved or brick areas for protection.

- No tents may be placed in the area without being described and exhibited to the Fire Prevention Inspectors of the Hickory Fire Department and special approval by the City Council.
- Public address systems can be used only if specifically requested in the application and special permission given, including limitations as to use.
- Sufficient portable toilets shall be provided for the expected number of participants.
- If the applicant desires to sell alcoholic beverages, it shall specifically so state in its application and shall provide a sketch of the area where the same will be sold and consumed. The area shall be delineated by barricades, with the entrance to be clearly marked and so constructed as to allow ready control of patrons, including viewing of identification to avoid underage persons being within the barricaded area. Signs shall be posted stating that no one shall leave the barricaded area with alcoholic beverages. Application must be made to proper State authorities for special permit for sale of alcoholic beverages. Special permit shall be available for inspection by the City at any time.
- The applicant shall assume full liability for all accidents or claims of accidents as a result of activities taking place at the special event and during the time the area is being readied for the event and while it is being cleaned up following the event. A copy of the insurance policy must be submitted to the City Manager's office prior to the event. The applicant must add the city as an additional insured on the policy. The policy is to be one of comprehensive general liability in the amount of not less the Three Hundred Thousand Dollars (\$300,000.00) for bodily injury per person and One Million Dollars (\$1,000,000.00) per occurrence and not less than One Hundred Thousand Dollars (100,000.00) for property damage per occurrence.
- The applicant will be responsible for the security or protection of any articles, items, merchandise, display tables, booths or other property owned by the applicant or others participating in the special event.
- Applicants must obtain any special use permits required by the Hickory Fire Inspector, must comply with all applicable provisions of the North Carolina Fire Code and must at all times insure that all fire lanes in the area to be used remain unobstructed.
- Applicants must comply with all Health Department regulations pertaining to the scheduled event.
- Applicants must comply with the requirements of the Hickory Sign Ordinance.
- Applications must comply with any and all local, state, and federal laws pertaining to equal opportunity and should make every effort to make events accessible to the disabled public. In addition, applicants shall not deny access or a vendor's booth to any group based on national origin, race, religion, age, sex, or disability.
- No person shall bring an animal, on a leash or otherwise, into the boundaries of this event. The boundaries and the interior of a special event shall consist of any area part of the event or parade route and shall include any public street, road, highway, sidewalk, alley, parking lot, grassy area, right-of-way or other publicly owned area. Exceptions shall include service dogs or other animals relied upon by persons with disabilities, and animals owned and controlled by public law enforcement agencies, or animals used by a vehicle for hire in accordance with applicable City ordinances. The special event operator and sponsor are responsible for immediately cleaning up and removing any animal waste from animals that are part of an authorized event, exhibit, or parade. All animal waste shall be disposed of properly. The event organizer may request a waiver from this ordinance. The sponsor shall submit plans specifying how the public will be protected from the animals. Requests shall be reviewed as part of the special event permitting process and may be approved or denied as part of that process. To request a waiver from this provision, please complete the appropriate section of the special event application.

Marine Corps League, Catawba Valley Detachment 1163

**NAME OF NON-PROFIT ORGANIZATION**

**BRIEFLY DESCRIBE THE PURPOSE OF THE NON-PROFIT ORGANIZATION:**

Supports continued social support of active and associate members through fellowship, provides support for League charities which include Toys for Tots, Boy Scouts of America, local boys and girls clubs, and solicited charity events.

**LIST ORGANIZATIONS OFFICERS:**

Bob Rowe, Commandant

828-639-9431

**TELEPHONE**

Kevin Mckutchten, Executive Officer

828-443-1560

**TELEPHONE**

Tom Lain, Treasurer

828-328-8815

**TELEPHONE**

**CHAIRPERSON OF THE SPECIAL EVENT:**

Derek D. Dawson

828-409-3414

**NAME**

**TELEPHONE**

51 Leon Fox Road, Taylorsville, NC 28681

**ADDRESS**

*The undersigned Applicant is aware of the rules regulating the use of Union Square Common, streets adjoining thereto and other public places and parks for special events, and will abide with the same; and further understands that the City of Hickory will not be responsible for the security or protection of any articles, items, merchandise, display tables, booths or other property owned by the applicant or others participating in the special event. The undersigned Applicant agrees to reimburse the City of Hickory for the additional cost of providing police department and/or fire department personnel to supervise the event, including services rendered both before, during and after the event itself, to ensure the compliance with all laws and ordinance, to direct traffic and to promote the safety and welfare of participants and other citizens.*

Date

*Derek D. Dawson, Commandant*

President

MC League, Catawba Valley Detachment 1163

Non-Profit Organization

Approved by:

*[Signature]*  
CITY MANAGER

DATE

10/5/16

DATE APPROVED BY HICKORY CITY COUNCIL:

NORTH CAROLINA

RELEASE AND INDEMNITY AGREEMENT

CATAWBA COUNTY

THIS RELEASE AND INDEMNITY AGREEMENT, entered into by THE CITY OF HICKORY, a North Carolina Municipal Corporation, City, and the MARINE CORPS LEAGUE DET 1163 (CATAWBA VALLEY) a non-profit organization with its principal place of operation being CATAWBA County, North Carolina, Applicant:

WITNESSETH:

**WHEREAS**, City desires to allow the Applicant to conduct a special event within the City Limits of Hickory, North Carolina, pursuant to the Hickory City Code; and

**WHEREAS**, the Applicant desires to conduct a special event within the City Limits of Hickory, North Carolina; and

**WHEREAS**, to this end, said Applicant has previously filed with the City of Hickory an application for approval of said event, and wishes to enter into this Release and Indemnity Agreement pursuant to the Hickory City Code and the administrative rules of the City of Hickory;

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants herein contained, and for other good and sufficient consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. That the Applicant hereby completely and unequivocally releases the City, the officials of the City, and all employees of the City, and their families, from any and all claims, damages, injuries or rights of action which the Applicant may incur by reason of the special event being conducted by the Applicant.
2. That the Applicant hereby agrees to indemnify, defend, and hold harmless the City for any liability, injury or claim which may arise to the benefit of the Applicant as a result of the special event being conducted by the Applicant.

3. That the parties to this Release and Indemnity Agreement stipulate and acknowledge that there exists sufficient consideration for the execution of this instrument.

This the 19 day of SEPTEMBER, 2016.

  
President PERMITEE

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Street View Satellite Driving Directions

Advertisement

It's gone. Undo

What was wrong with this ad?

- Repetitive
- Irrelevant
- Inappropriate

Rocky, NC

Google

Marathon Raleigh Hotel  
S Salisbury St, Raleigh



Marathon North Raleigh Midtown  
5 Wake Forest Rd, Raleigh



Marathon Tree by Hilton Hotel  
Raleigh - Brownstone -  
University



Marathon Embassy Suites Raleigh-Durham  
Airport/Brier Creek



-PARKING WILL BE GENERAL AVAILABLE AT ORION SQUARE  
-EVENT WILL BE AT SITE MARKED ORION SQUARE "A"

# COUNCIL AGENDA MEMOS

**To: City Manager's Office**

**From: Library – Sarah Greene, Library Director**

**Contact Person: Sarah Greene**

**Date: 9-22-2016**

**Re: Contract for Restroom Rehabilitation, Patrick Beaver Memorial Library**

## REQUEST

Staff requests approval of the contract with Wilkie Construction for remodeling of the 2<sup>nd</sup> floor public restrooms at Patrick Beaver Memorial Library.

## BACKGROUND

Funds were approved for 2016-2017 for restroom remodeling on the 2<sup>nd</sup> floor of Patrick Beaver Memorial Library. Work on 1<sup>st</sup> floor restrooms was completed in 2015-2016.

Staff worked with the Purchasing Department and Rick Patton to advertise for bids

Bids were received from three interested bidders, one of which was submitted after the bid deadline. The two valid bids were:

CITY OF HICKORY			
Bid Tabulation			
17-008 Patrick Beaver Library 2nd Floor Restroom Rehab			
	Moss-Marlow Building Co	Wilkie Construction	
Lump Sum Amount	\$63,940.00	\$63,700.00	

## ANALYSIS

Wilkie Construction has submitted the lower bid and their representatives have talked with the library's Maintenance Coordinator Chad Lambert to ensure they understand the details of the project requirements.

The Library's budget includes \$52,000 in capital funds for the project. An additional \$10,000 will be used from the Library Endowment. The remainder will be transferred from library building maintenance funds.

## RECOMMENDATION

Library staff recommends approval of the contract with Wilkie Construction.

**BUDGET ANALYSIS:**

**Budgetary Action**

Is a Budget Amendment required?

Yes

No

**LIST THE EXPENDITURE CODE:**

**Reviewed by:**

[Signature]  
Initiating Department Head

9-27-16  
Date

[Signature]  
Deputy City Attorney, A. Dula

10-14-16  
Date

[Signature]  
Asst. City Manager Rodney Miller

10-7-16  
Date

\_\_\_\_\_

[Signature]  
Finance Officer, Melissa Miller

10-12-16  
Date

[Signature]  
Purchasing Manager, Bo Weichel

10-10-16  
Date

Recommended for approval and placement on \_\_\_\_\_ Council agenda (as  
Consent, Public Hearing, Informational, Department Report, etc).

[Signature]  
Interim City Manager, Andrea Surratt

10/14/16  
Date



CITY of HICKORY
Invitation to Bid and Contract

Project Title:

Bid Number:

Patrick Beaver Library 2nd Floor Restroom Rehabilitation

17-008

SUBMIT SEALED or ELECTRONIC BIDS TO:

Bo Weichel, Purchasing Manager
PO Box 398
Hickory NC 28603
bweichel@hickorync.gov
828.323.7472

DIRECT INQUIRIES TO:

Rick Patton, Senior Civil Engineer
rpatton@hickorync.gov
828-323-7558

No Bids Received After:

4:00 pm

09/06/2016

Vendor Name:

Wilkie Construction Company SE, LLC

Point of Contact:

Brandon Harrison

Mailing Address:

PO Box 1410

City:

State:

Zip:

Lenoir

NC

28645

Area Code and Phone Number:

828-754-6431

Email Address:

estimator@wilkie-const.com

Federal Employer Identification Number or Social Security Number:

45-4241426

THIS BID INVALID IF NOT SIGNED AND NOTARIZED

AFFIDAVIT:

STATE OF NC COUNTY OF Caldwell, of lawful age, being first duly sworn, on oath says that:

- 1. Affiant is the duly authorized agent of the bidder/vendor and/or contractor submitting the competitive bid and executing the contract which is attached to this statement, and that as such agent, Affiant has the authority to bind the bidder/vendor, whether an individual, partnership, or corporation, for the purpose of negotiating and entering into said agreement, and for certifying the facts pertaining to the existence of collusion among bidders and between bidders and City officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to the bid to which this statement is attached;
2. Affiant is fully aware of the facts and circumstances surrounding the making of the bid and/or the procurement of the contract to which this statement is attached and has been personally and directly involved in the proceedings leading to the submission of such bids;
3. Neither the bidder/vendor nor anyone subject to the bidder/vendor's direction or control has been a party:
a. to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding;
a. to any collusion with any municipal official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract;
b. in any discussions between bidders and any municipal official concerning exchange of money or other thing of value for special consideration in the letting of a contract, nor
c. to paying, giving or donating or agreeing to pay, give or donate to any officer or employee of the City of Hickory any money or other thing of value, either directly or indirectly, in procuring the contract to which his statement is attached.
4. Affiant further agrees to be held personally liable in the event that Affiant has misrepresented the scope or extent of Affiant's authority to bind the bidder herein, and to indemnify and hold harmless the City of Hickory, its departments, boards, commissions, agencies, institutions, and all employees of the aforementioned from all damages based upon such misrepresentation, including, but not limited to, all costs and attorney fees incurred, in addition to any other remedies available by law.

Deborah Wilkie

SIGNATURE OF AUTHORIZED AGENT

FIRM: Wilkie Construction Company SE, LLC

Deborah Wilkie, Vice-President
PRINT/TYPE NAME/TITLE

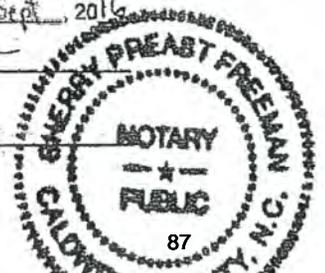
ADDRESS: PO Box 1410, Lenoir, NC 28645
(City, State, Zip)

PHONE: 828-754-6431

Subscribed & sworn before me this 6th day of Sept, 2016

Sherry Prost Freeman
Notary Public

My Commission Expires: 02-24-20





**CITY of HICKORY**  
**Invitation to Bid and Contract**

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation**

**17-008**

***IMPORTANT INFORMATION AND INSTRUCTIONS***

1. **DOCUMENTS WITHIN THIS AGREEMENT:** The pages of this agreement consist of:
  - a. Invitation and Bidder Information
  - b. Important Information and Instructions
  - c. General Conditions
  - d. Special Conditions
  - e. Affidavit of Prime Contractor
  - f. Scope of Work
  - g. Suggested Materials to be used
  - h. Bid Form, Bonding, & General Contract
  
1. **SUBMIT ALL PAGES:** All pages of this document will be used as the contract. Bidders shall submit ALL pages of this document with completed information.
  
2. **SUBMITTAL:**
  - a. **MAIL:** On the outside envelope write:
    1. The name of the General Contractor
    2. The Project Title and Project Number
  
  - b. **ELECTRONIC:**  
Upload the completed bid package on the City's Purchasing webpage  
<http://www.hickorync.gov/departments/division.php?structureid=70>
  
3. **BIDS SHALL NOT BE QUALIFIED WITH ANY STATEMENTS ON THE BID FORMS OR BY SEPARATE ATTACHMENT.**

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# CITY of HICKORY Invitation to Bid and Contract

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation**

**17-008**

## GENERAL CONDITIONS

**BIDDER – TO INSURE ACCEPTANCE OF THE BID, CAREFULLY FOLLOW THESE INSTRUCTIONS. FAILURE TO DO SO MAY RESULT IN THE REJECTION OF YOUR BID WITHOUT FURTHER CONSIDERATION OR NOTICE TO YOU.**

1. **BIDS:** All bid sheets and this form must be executed and submitted in a sealed envelope or by email (See instructions above). DO NOT INCLUDE MORE THAN ONE BID PER ENVELOPE. Bids not submitted on this bid form shall be rejected. All bids are subject to the conditions specified herein. **Those that do not comply with these conditions are subject to rejection.** Bids will be considered only on first quality products. Bid files which include copies of specifications, drawings, schedules or special instructions are on file with the Purchasing Agent for the City of Hickory and may be examined during normal business hours, or may be found on the City's website (See Exhibit 'A' for further instruction).
2. **EXECUTION OF BID AND CONTRACT:** Bid and contract documents must contain an original signature of authorized representative in the space provided. Bid must be typed or printed in ink. Use of erasable ink is not permitted. **ALL CORRECTIONS MADE BY BIDDER/VENDOR TO BID PRICE MUST BE INITIALED.** Do not use white out, correction tape or some other method of masking a correction.
3. **NO BID:** If not submitting a bid, respond by returning page one (1), marking it "NO BID," and explain the reason in the space provided thereon. Failure to respond three (3) times in succession may be cause for removal of the supplier's name from the bid mailing list, without further notice. NOTE: To qualify as having responded, bidder/vendor must submit either a bid or a written "NO BID," and it must be received no later than the stated bid opening date and hour.
4. **OBJECTIONS/CHALLENGE:** Should a bidder/vendor have an objection to or challenge the specifications, the bidder/vendor is responsible for making this known in writing so as to reach the Purchasing Agent no later than seven (7) calendar days prior to the bid opening date. The envelope shall be marked in such a way so as to alert the Purchasing Agent of the urgency of the communication. The envelope must be marked indicating that the content is a challenge to a specified Invitation to Bid. For all challenges considered valid by the Purchasing Agent, all vendors on the original mailing list will be provided an addendum which addresses the challenge. Challenges/objections not considered valid will be so stated to the objecting party.
5. **BID OPENING:** Bid opening, if applicable, occurs at the time specified on the bid form. It is the Bidder/Vendor's responsibility to assure that the bid is delivered at the proper time and place of the bid opening. Bids, which for any reason are not delivered, will not be considered. Offers by telegram, facsimile, or telephone are not acceptable. NOTE: Bid files may be examined during normal working hours by appointment, after the date and time of bid opening. Bid tabulations WILL NOT be provided by telephone or facsimile. Bid tabulations will be provided by email at the written request of the bidder/vendor. Bid and contract documents are the property of the City and are subject to the provisions of the North Carolina Open Records Act.
6. **WITHDRAWAL OF BID:** Bids may be withdrawn at any time prior to the bid opening date and time. After bids are opened, all bids will be considered firm and valid until award of contract is made.
7. **AWARDS:**
  - a. As the best interest of the City may require, the right is reserved to:
    1. Award by individual item or project, group of items or projects, all or none, or a combination thereof.
    2. Award based upon a geographical district basis with one or more vendors.

**CITY of HICKORY**  
**Invitation to Bid and Contract**

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation****17-008**

3. To reject any and all bids or waive any minor irregularity or technicality in bids received.
  - b. Bidders/Vendors are cautioned to make no assumptions regarding their success on the awarding of any contract unless their bid has been evaluated as being responsive, the contract awarded by the City and appropriate documents executed. The City of Hickory reserves the right to add or delete any item from this contract when deemed to be in the best interests of the City.
8. **ACCEPTANCE OF CONTRACT:** This document constitutes only the Bidder/Vendor's offer until it is accepted on behalf of the City of Hickory and is fully executed by both parties.
9. **WAIVER:** The City of Hickory reserves the right to waive any general provisions, special provision or minor specification deviation when considered to be in the best interest of the City.
10. **CHANGES TO SPECIFICATIONS:** Bids are to be submitted in accordance with the specifications provided. Any exceptions to the specifications must be indicated in the place provided on the specification page(s) or by separate letter from the Bidder/Vendor, if a place is not provided in the specifications. Changes in specification reducing the quality, versatility or applicability of the product or service shall cause the rejection of the bid. The City shall make the final determination. Failure to notify the City in writing of any deviation from the specifications within 7 calendar days may cause the agreement to be rejected and/or terminated without further compensation at the discretion of the City.
11. **MISTAKES:** Bidders/Vendors are expected to examine the specifications, delivery schedule, bid prices and all instructions pertaining to supplies and services. Failure to do so will be at Bidder/Vendor's risk.
12. **INFORMATION:** The Bidder/Vendor must provide information pertinent to items you are bidding. Complete catalogues are not necessary. If furnished, however, the Bidder/Vendor must identify the exact location in the catalogue and circle or identify clearly the item being bid.
13. **MANUFACTURERS' NAMES AND APPROVED EQUIVALENTS:** Any manufacturers' names, trade names, brand names, information and/or catalog numbers listed in a specification are for information and not intended to limit competition. The Bidder/Vendor may offer any brand for which he is an authorized representative, which meets or exceeds the specification for any item(s). If bids are based on equivalent products, indicate on the bid form the manufacturer's name and model number. Bidder/Vendor shall submit with his proposal sketches, descriptive literature and/or complete specifications. References to literature submitted with a previous bid will not satisfy this provision. The Bidder/Vendor shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Bids which do not comply with these requirements are subject to rejection. Bids lacking any written indication of intent to quote an alternate brand will be received and considered to be in complete compliance with the specifications as listed on the bid form.
14. **SAMPLES:** Samples of items, when called for, must be furnished free of charge and at no expense to the City. Each individual sample must be labeled with Bidder/Vendor's name, manufacturer's brand name and number, contract number and item reference, or as specified in the attached special conditions. **Samples will not be returned.**
15. **TESTING:** When testing is required to determine if a sample or an awarded product meets specifications and it is determined that the product fails to meet specifications, the cost of testing shall be borne by the Vendor, both on samples and delivered products.
16. **NONCONFORMANCE TO CONTRACT CONDITIONS:** Items may be tested for compliance with specifications by appropriate testing laboratories or by the City. The data derived from any tests for compliance with specifications are public records and open to examination thereto in accordance with

**CITY of HICKORY  
Invitation to Bid and Contract**

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation****17-008**

North Carolina Statutes. Items delivered not conforming to specifications will be rejected and returned to the Bidder/Vendor at the Bidder/Vendor's expense. Any violation of these stipulations may result in supplier's name being removed from the City of Hickory Purchasing Bidder/Vendor mailing list, and the City may pursue any and all other remedies available either in equity or by law.

17. **CONDITION AND PACKAGING:** It is understood and agreed that any item offered or shipped as a result of this bid shall be new (current model at the time of the bid). All containers shall be suitable for storage or shipment, and all prices shall include standard commercial packaging.
18. **INSPECTION, ACCEPTANCE, AND TITLE:** Inspection and acceptance will be at destination unless otherwise provided. "Destination" shall mean delivered to the receiving dock, department stockroom, or other point specified. The City accepts no responsibility for goods until accepted at the receiving point in good condition. Title and risk of loss or damage to all items shall be the responsibility of the Bidder/Vendor until accepted by the ordering agency. The Bidder/Vendor shall be responsible for filing, processing and collecting all damage claims. However, to assist him in the expeditious handling of damage claims, the ordering department will:
  - a. Record any evidence of visible damage on all copies of the delivering carrier's bill of lading.
  - b. Report damage (whether visible or concealed) to the carrier and Bidder/Vendor, confirming such reports, in writing, within fifteen (15) days of delivery, requesting that the carrier inspects the damaged merchandise.
  - c. Retain the item and its shipping container, including inner packaging material, until inspection is performed by the carrier, and disposition given by the Bidder/Vendor, or for a reasonable time after notification to the Bidder/Vendor.
  - d. Provide the Bidder/Vendor with a copy of the carrier's bill of lading and damage inspection report.
19. **SAFETY STANDARDS:** Unless otherwise stipulated in the bid, all work performed pursuant to this Agreement shall comply with applicable requirements of Occupational Safety and Health Act and any standards thereunder.
20. **SERVICE AND WARRANTY:** Unless otherwise specified, the Bidder/Vendor shall define any warranty service and replacements that will be provided during and subsequent to this contract. Bidder/Vendors must explain on an attached sheet to what extent warranty and service facilities are provided. Unless otherwise indicated in this agreement, upon acceptance of this contract by the City, Bidder/Vendor expressly warrants that all articles, materials, supplies, equipment, and/or services covered in this contract will conform to the specification attached hereto and made a part hereof; and further warrants that same shall be of good material and workmanship and free from defects.
21. **REMEDIES:** Failure to make delivery or to meet specifications authorizes the City to seek replacement goods or services elsewhere and to seek legal remedies against the defaulting Bidder/Vendor. If any of the goods and/or work performed fails to meet the warranties contained herein, Bidder/Vendor upon notice thereof from the City shall promptly correct or replace the same at Bidder/Vendor's expense. If Bidder/Vendor shall fail to do so, the City may cancel this order as to all such goods and in addition, may cancel the remaining balance of this order and pursue all other remedies available. After notice to the Bidder/Vendor, all such goods will be held at Bidder/Vendor's risk. The City may, and at the Bidder/Vendor's direction shall, return such goods to Bidder/Vendor at Bidder/Vendor's risk, and all transportation charges, both to and from original destination, shall be paid by Bidder/Vendor. Any payment for such goods shall be refunded by Bidder/Vendor unless Bidder/Vendor promptly corrects or replaces the same at its expense.



**CITY of HICKORY**  
**Invitation to Bid and Contract**

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation**

**17-008**

22. **AUTHORIZED USERS:** Bids shall cover requirements during the specified period for all municipal departments, boards, commissions, agencies and institutions.
23. **LIABILITY:** The Bidder/Vendor shall hold and save the City of Hickory, its departments, boards, commissions, agencies, institutions and all employees of the aforementioned harmless against the claims by third parties resulting from the Bidder/Vendor's breach of this contract or the Bidder/Vendor's negligence.
24. **INDEPENDENT CONTRACTOR:** The parties agree that Bidder/Vendor and each subcontractor is acting in the capacity of an independent contractor with respect to the City of Hickory, and shall not at any time be or represent itself as an agent or employee of the City of Hickory.
25. **PRICES AND TERMS:** Unless otherwise provided in the bid specifications, firm fixed prices shall be F.O.B. Hickory, North Carolina at the indicated department's address and include packing, handling and shipping charges fully prepaid by the Vendor. Bid prices shall be valid for a minimum of sixty (60) days from the date of bid opening.
26. **ACCEPTANCE OF PURCHASE ORDERS:** Bidder/Vendors are to accept only those purchase orders issued by the City of Hickory, its departments, boards, commissions, agencies, institutions and all employees of the aforementioned, prepared on City forms, unless instructed otherwise in the Invitation to Bid or executed Contract Agreement.
27. **PRICE ADJUSTMENTS:** Manufacturer's price increases, or other increases in the cost of doing business MAY NOT be passed on to the City of Hickory, its departments, boards, commissions, agencies, institutions, and all employees, nor may the Bidder/Vendor withdraw or cancel the contract, or any part of the contract for these reasons. Bidders/Vendors may only cancel the contract pursuant to the cancellation clause, if one is included as a part of the Invitation to Bid, and then only if the contractual obligation has been fulfilled by the Bidder/Vendor in accordance with the terms stated. Bids which reflect that the price of an item is based upon the "market price" or is "subject to increase" based upon some event, or otherwise indicates that prices reflected are infirm or subject to change will be deemed non-conforming unless the bid specifications specifically provide for price escalation.
28. **SUMMARY OF TOTAL SALES:** The Bidder/Vendor agrees to furnish the City of Hickory Purchasing Division a summary of sales, including total dollar amount made under the contract at the end of each quarter; or as stipulated in the special conditions.
29. **PAYMENT:**
  - a. **INVOICING:** The Bidder/Vendor shall be paid within a reasonable time, not to exceed 45 calendar days, after submission of proper certified invoices to the City at the prices stipulated on the contract. Invoices shall contain the contract number and purchase order number. Failure to follow these instructions may result in delay or processing invoices for payment. The company or corporation bidding shall be the only office authorized to receive orders, do the billing and invoicing, and receive payment. If the Bidder/Vendor wishes to ship or service from a point other than the home office, he will furnish a list of these locations. HOWEVER, NO ORDERS WILL BE PRESENTED TO, BILLING WILL NOT BE DONE FROM, NOR WILL PAYMENT BE MADE TO THESE LOCATIONS.
  - b. **REQUIREMENTS ONLY PURCHASES:** The proposed contract shall be for the quantities actually ordered during the life of the contract only. UNLESS OTHERWISE SPECIFIED, ALL CONTRACTS ARE REQUIREMENTS-TYPE CONTRACTS, meaning that quantities indicated are only estimates of those actually needed, and actual quantities may be greater or less than those indicated. Billing shall be made in accordance with instructions by department or division issuing the purchase order, and only for quantities actually ordered and delivered. The City does not promise to purchase the quantity shown. The City reserves

**CITY of HICKORY  
Invitation to Bid and Contract**

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation****17-008**

- the right to purchase none of the product or more than shown at the unit price stated in the bid.
- c. **DISCOUNTS:** Bidders/Vendors may offer a cash discount for prompt payment; however, such discounts shall not be considered in determining the lowest net cost for bid evaluation purposes. Bidders/Vendors are encouraged to reflect cash discounts in the unit prices quoted. Discount time will be computed from the date of satisfactory delivery at place of acceptance or from receipt of correct invoice at the office specified, whichever is later.
  - d. **UNIFORM COMMERCIAL CODE:** All provisions of the Uniform Commercial Code shall be adhered to.
30. **EXTENSION:** At the end of the contract period, or upon the conclusion of a maximum of one (1) extension thereof, the contract may be extended for a period not to exceed twelve (12) months at the same price and conditions as in the original contract, by mutual agreement between the City and the Bidder/Vendor. The extended contract shall, upon the signing by both parties, become a binding agreement and shall remain in force and effect until terminated by either party, provided that either party to the contract shall have the option to terminate said extended contract upon thirty days' prior written notice of termination by one party to the other.
31. **CONFLICT OF INTEREST:** The Invitation to Bid hereunder is subject to the provisions of City of Hickory's Ethics and Conflict of Interest Policy. All Bidders/Vendors must disclose with the bid, the name of any officer, director or agent who is also an employee of the City of Hickory or any of its agencies or subdivisions. Further, all Bidders/Vendors must disclose the name of any City employee who owns, directly or indirectly, an interest of five percent (5%) or more in the Bidder/Vendor's firm or any of its branches.
32. **PATENTS AND ROYALTIES:** The Bidder/Vendor, without exception, shall indemnify and save harmless the City of Hickory, its departments, boards, commissions, agencies, institutions and all employees of the aforementioned from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract including its use by the City of Hickory. If the Bidder/Vendor uses any design, device or materials covered by letters, patent copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or cost rising from the use of such design, device or materials in any way involved in the work.
33. **RELEASE OF PATENTS AND COPYRIGHTS:** The Contractor will relinquish ownership and exclusive rights to the Department of Housing and Urban Development and the City of Hickory for any patents and/or copyrights for any process, discovery, or invention which arise or is developed in the course of this contract.
34. **FACILITIES AND EQUIPMENT:** The City reserves the right to inspect the Bidder/Vendor's facilities or equipment at any time with reasonable prior notice.
35. **BANKRUPTCY:** If the Bidder/Vendor becomes bankrupt or insolvent, or if a petition in bankruptcy is filed against the Bidder/Vendor, or if a receiver is appointed for the Bidder/Vendor, the City shall have the right to terminate this contract upon written notice to the Bidder/Vendor without prejudice to any claim for damages or any other right of the City under this contract to the time of such termination.
36. **ASSIGNMENT:** This contract shall not be assigned by the Bidder/Vendor without written consent of the City.
37. **ACCESS TO RECORDS:** The Bidder/vendor agrees to provide upon request audit materials to an auditor designated by the City. In addition, the Bidder/Vendor will retain all records pertaining to this contract for a period of three (3) years after final payment and all other pending matters are closed.



**CITY of HICKORY**  
**Invitation to Bid and Contract**

Project Title:

Bid Number:

<b>Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation</b>	<b>17-008</b>
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38. **INSURANCE:** If insurance is required in the specifications to this Agreement, unless otherwise specifically stated, proof of the following types and amounts shall be furnished to the City showing the City as an additional insured thereunder without cost to the City of Hickory prior to the awarding of the contract. This shall be accomplished by including a Certificate of Insurance with the bid package with the Certificate Holder being: *City of Hickory, PO Box 398, Hickory NC 28603.*
- a. **General Liability:** The Bidder/Vendor shall procure and maintain in full force and effect, for the term of the Contract, a policy or policies under a comprehensive form as required by state law. In addition, the Bidder/Vendor shall have, during the term of the contract, insurance in the minimum amount of one hundred thousand dollars (\$100,000.00) property damages, arising from a single occurrence, one million dollars (\$1,000,000.00) for personal injuries arising from a single occurrence, and one million dollars (\$1,000,000.00) for any number of claims arising out of a single occurrence or accident. This policy or policies shall hold harmless and indemnify the City of Hickory, its departments, boards, commissions, agencies, institutions and all employees of the aforementioned. A current certificate showing that the Bidder/Vendor has in force and effect such insurance shall be maintained on file with the City Clerk of the City.
  - b. **Automobile Liability:** The Bidder/Vendor shall procure and maintain in full force and effect, for the term of the Contract, vehicle liability coverage in the amounts specified in Subparagraph a. of this section. In addition, the Bidder/Vendor shall have, during the term of the Contract, vehicle liability coverage as outlined in the attached specifications. If higher coverage is required by any regulatory entity with oversight of the Bidder/Vendor's business, the City Code, or other authority, then proof of the higher coverage must be provided. This policy or policies shall hold harmless and indemnify the City of Hickory, its departments, boards, commissions, agencies, institutions and all employees of the aforementioned. A current certificate showing that the Bidder/Vendor has in force and effect such insurance shall be maintained on file with the City Clerk of the City.
  - c. **Worker's Compensation:** The Bidder/Vendor shall procure and maintain in full force and effect for the period of the Contract, full workers' compensation insurance in accordance with the laws of the State of North Carolina to protect it and the City against liability under the workers' compensation and occupational disease statutes of the State of North Carolina. A current certificate showing that the Bidder/Vendor has in force and effect the aforesaid insurance of a current certificate showing exemption from the requirement shall be maintained on file with the City Clerk of the City.
39. **TIME OF ESSENCE:** Unless otherwise stated, time shall be considered of the essence to this contract. Bidder/Vendor specifically agrees that it shall be liable for failure to deliver or delay in delivery. This includes without limitations: strikes, lockouts, inability to obtaining material, lack of shipping space, breakdowns, delays of carriers or suppliers, and pre-existing governmental regulations of the federal and state government or any subdivisions thereof, unless governmental acts and regulations affecting delivery could not be found, recognized, or discovered by due diligence on the part of the Bidder/Vendor prior to submission of the bid and the City Council's acceptance.
40. **LIQUIDATED DAMAGES:** If the Contractor shall neglect, fail, or refuse to complete the work within the time herein specified, then the Contractor does hereby agree, as a part of the consideration for the awarding of this contract to pay to the City the sum of **(Choose amount)** per day, not as a penalty, but as compensation to the City for delays, damages, and additional expenses for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the contract for completing the work. The said amount is fixed and agreed upon by and between the Contractor and the City because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the City would in such event sustain. It is further agreed that time is of the essence to each and every portion of this contract and to the specifications wherein a definite portion and certain length of time is fixed for the performance of any act whatsoever, and where, under the contract, any additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be the essence of this contract.



**CITY of HICKORY**  
**Invitation to Bid and Contract**

Project Title:

Bid Number:

<b>Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation</b>	<b>17-008</b>
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41. **BONDS:** Bidder's bonds and Performance bonds, if required, are set forth in the specifications attached hereto. If bonds are required, the same shall be held under the following requirements and specifications unless otherwise indicated:
- Bidder's bonds:** If required as a part of the specifications of this contract, bids filed with the Purchasing Agent must be accompanied by a Bidder's Bond, certified check or cashier's check in the amount stated made payable to the City of Hickory. This amount will be retained by the City as damages in the event the successful Bidder/Vendor fails to comply with the terms of this Agreement, but shall in no way act as a remedy or limitation on damages available to the City, which may pursue any and all other remedies available either in equity or at law. All deposits and bonds will be returned to the unsuccessful Bidders/Vendors within a reasonable time after the contract has been awarded, and to the successful Bidder/Vendor upon full performance of the contract. Bonds or funds deposited do not accrue interest while held.
  - Performance Bonds:** If a Performance Bond is required under the specifications of this agreement, the successful Bidder/Vendor must, prior to the award of the Contract, post the bond, certified check or cashier's check in the amount stated made payable to the City of Hickory. The Bidder's Bond posted will be returned to the successful Bidder/Vendor upon posting of the Performance Bond and completion of any additional requirements for execution of the contract by the Bidder/Vendor. The Performance Bond will be released or returned to the Bidder/Vendor, as appropriate, after satisfactory completion of the contract and the performance period as stated in the specifications attached or any amendments thereto.
42. **DISCRIMINATION:** Bidder/Vendor agrees, in connection with the performance of work under this contract, as follows:
- Bidder/Vendor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation or affectation, national origin, ancestry, or physical or mental impairment. The Bidder/Vendor shall take affirmative action to insure that employees are treated without regard to their race, creed, color, sex, sexual orientation or affectation, national origin, ancestry or physical or mental impairment. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruiting or recruitment, advertising, lay-off, termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The Bidder/Vendor agrees to post in a conspicuous place available to employees and applicants for employment, notices setting forth provisions of this section.
  - The Bidder/Vendor agrees to include this non-discrimination clause in any subcontract connected with the performance under this contract.
  - In the event of the Bidder/Vendor's non-compliance with the above non-discrimination clause, this contract may be terminated by the City. The Bidder/Vendor may be declared by the City ineligible for further contracts with the City until satisfactory proof of intent to comply is made by the Bidder/Vendor.
43. **DISTRIBUTION OF CONTRACT:** One (1) copy of the contract or award letter shall be furnished to each successful Bidder/Vendor as a result of this bid. It shall be the Bidder/Vendor's responsibility to reproduce and distribute copies of the contract to all distribution points listed in this bid that will accept orders and complete deliveries. No additions, deletions or changes of any kind shall be made to this contract by the Bidder/Vendor.
44. **ANTI-KICKBACK PROVISIONS:** Contractor shall comply with the applicable regulations (herein incorporated by reference) of the Secretary of Labor, United States Department of Labor, made pursuant to the so called "Anti-Kickback Act" of June 13, 1934) 48 Stat. 948; 62 Stat. 862; Title 18 U.S.C., Section 874 and Title 40 U.S.C., Section 276c), and any amendments or modifications thereof, shall cause appropriate provisions to be inserted in subcontracts to insure compliance therewith by all subcontractors subject thereto, and shall be responsible for the submission of affidavits required by subcontractors

**CITY of HICKORY  
Invitation to Bid and Contract**

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation****17-008**

thereunder, except for the submission of affidavits required by subcontractors thereunder, except as said Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances, and exemptions from the requirement thereof.

45. **CONTRACT WORK HOURS AND SAFETY STANDARDS: Overtime Compensation Required by Contract Work Hours and Safety Standards Act (76 Stat. 357-360; Title 40 U.S.C., Sections 327-332).**
- a. **Overtime Requirements:** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics, including watchmen and guards, which he has employed on such work to work in excess of 40 hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half time his basic rate of pay for all hours worked in excess of 40 hours in such work week.
  - b. **Violation/Liability for Unpaid Wages Liquidated Damages:** In the event of any violation of the clause set forth in Paragraph (1) of this section, the contractor and any subcontractor responsible therefore shall be liable to any affected employee for his unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States or other appropriate governing or regulatory body for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violations of the clause set forth in Paragraph (1), in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in Paragraph (1).
  - c. **Withholding for Liquidated Damages:** The Owner shall withhold or cause to be withheld, from any monies payment on account of work performed by the contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for liquidated damages as provided in the clause set forth in Paragraph (2) of this Section.
  - d. **Subcontracts:** The contractor shall insert in any subcontracts the clauses set forth in Paragraphs (1), (2) and (3) of this Section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts, which may be entered into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.
  - e. **Questions Concerning Certain Federal Statutes and Regulations:** All questions arising under this contract which related to the application or interpretation of (a) the aforesaid Anti-Kickback Act, (b) the Contract Work Hours and Safety Standards Act, (c) the regulations issued by the Secretary of Labor, United States Department of Labor, pursuant to said acts, or (d) the labor standards provisions of any other pertinent federal statute shall be referred through the Owner and the Secretary of Housing and Urban Development, to the Secretary of Labor, United States Department of Labor, for said Secretary's appropriate ruling or interpretation which shall be authoritative and may be relied upon for the purposes of this contract.
46. **APPLICABILITY OF FEDERAL REGULATIONS TO FEDERALLY FUNDED PROJECTS:** If it is indicated in the specifications to this Agreement that federal funding is used in the completion of this project, the following provisions shall apply in compliance with the regulations of the United States Department of Housing and Urban Development.
- a. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.



**CITY of HICKORY**  
**Invitation to Bid and Contract**

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation**

**17-008**

- b. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them for complying with the Part 135 Regulations.
- c. The contractor agrees to send each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization of workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each, the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin.
- d. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- e. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- f. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default and debarment or suspension from future HUD-assisted contracts.
47. **REPORTING REQUIREMENTS:** The Contractor will provide such reports as required for submission to the Department of Housing and Urban Development pertaining to racial, gender, age and ethnic status of its employees for carrying out the work under this contract.
48. **ADVERTISING:** In submitting a proposal, Bidder/Vendor agrees not to use the results therefrom as a part of any commercial advertising.
49. **TERMINATION FOR CONVENIENCE OF THE CITY:**
- a. The performance of work and/or delivery of ordered materials, supplies, equipment and/or services under this contract may be terminated by the City, in whole or in part, whenever it is determined to be in the best interest of the City.
- b. Any such termination shall be effected by the delivery to the Bidder/Vendor of a notice of termination specifying the extent to which performance of work and/or delivery of ordered materials, supplies, equipment and/or services are terminated, and the date upon which such termination becomes effective.
- c. After receipt of a notice of termination, the Bidder/Vendor shall stop work and/or place no further orders under the contract on the date and to the extent specified in the Notice of Termination.
50. **VENUE:** This contract shall be governed by the laws of the State of North Carolina.
51. **INTEGRATED AGREEMENT:** This writing, with the attachments hereto, and any associated purchase orders constitute the entire agreement of the parties. No separate promises or agreements have been made other than those contained herein. This Agreement may not be modified except in writing signed by both parties.



**CITY of HICKORY  
Invitation to Bid and Contract**

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation** **17-008**

52. **DELIVERY OF NOTICES:** Any notices required or permitted by this Agreement will be considered sufficient if hand delivered or sent by certified mail to the party entitled to receive the notice at the address of that party set forth above. If a notice is sent by certified mail, it shall be deemed to have been given on the second business day after it is deposited in the United States mail, whether actually received by the addressee on that date or not.

53. **SEVERABILITY:** If any provision under this Agreement or its application to any person or circumstance is held invalid by any court of competent jurisdiction, such invalidity does not affect any other provision of this Agreement or its application that can be given effect without the invalid provision or application.

54. **PARTIAL PAYMENTS:** Partial payments will be made once each month as the work progresses. Said payments will be based upon estimates prepared by the Contractor and approved by the Engineer for the value of the work performed and materials complete in place in accordance with the Contract, plans, and specifications. Such partial payments may also include the delivered actual cost of those materials stockpiled and stored in accordance with this contract.

From the total of the amount determined to be payable on a partial payment, 5% of such total will be deducted and retained by the OWNER until the final payment is made. The balance 95% of the amount payable, less all previous payments, shall be certified for payment.

The Contractor shall not receive partial payment based on quantities of work in excess of those provided in the proposal or covered by approved change orders, except when such excess quantities have been determined by the ENGINEER to be a part of the final quantity for the item of work in question.

No partial payment shall bind the OWNER to the acceptance of any materials or work in place as to quality or quantity. CONTRACTOR shall submit partial payment request for work completed by the 25<sup>th</sup> of the month. OWNER will make payment to the Contractor on or about the 25<sup>th</sup> of the following month.

55. **PAYMENT FOR MATERIALS ON HAND (IF APPLICABLE UNDER THE CONTRACT):** Partial payments may be made to the extent of the delivered cost of materials to be incorporated in the work, provided that such materials meet the requirements of the Contract, plans, specifications, and are delivered to sites acceptable to the ENGINEER. Such delivered costs of stored or stockpiled materials may be included in the next partial payment after the following conditions are met:

- a. The material has been stored or stockpiled in a manner acceptable to the ENGINEER at or on an approved site.
- b. The Contractor has furnished the ENGINEER with acceptable evidence of the quantity and quality of such stored or stockpiled materials.
- c. The Contractor has furnished the ENGINEER with satisfactory evidence that the material and transportation costs have been paid.
- d. The Contractor has furnished the OWNER legal title (free of liens or encumbrances of any kind) to the material so stored or stockpiled.
- e. The Contractor has furnished the OWNER evidence that the material so stored or stockpiled is insured against loss by damage to or disappearance of such materials at any time prior to use in the work.

The transfer of title and the OWNER's payment for such stored or stockpiled materials shall in no way relieve the Contractor of the responsibility for furnishing and placing such materials in accordance with the requirements of the Contract, plans, and specifications.

In no case will the amount of partial payments for materials on hand exceed the Contract price for such materials or the Contract price for the Contract item in which the material is intended to be used.

No partial payment will be made for stored or stockpiled living or perishable plant materials.

The Contractor shall bear all costs associated with the partial payment of stored or stockpiled materials in accordance with the provisions of this contract.



**CITY of HICKORY**  
**Invitation to Bid and Contract**

Project Title:

Bid Number:

<b>Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation</b>
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<b>17-008</b>
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***SPECIAL CONDITIONS***

1. **COMPLIANCE WITH LAWS:** The bidder, at his own expense, shall obtain and maintain all licenses, permits, liability insurance, worker's compensation insurance and shall comply with any and all other standards or regulations required by federal, state and local statute, ordinance, executive order and rules during the performance of any contract between the bidder and the City. Any such requirement specifically set forth in any contract document between the bidder and the City shall be supplementary to this section and not in substitution thereof.
2. **SPECIFICATIONS:** Any obvious error or omission in specifications shall not inure to the benefit of the bidder but shall put the bidder on notice to inquire of or identify the same from the City. All construction and materials shall conform to the City of Hickory's Manual of Practice which includes the standard specifications and details.
3. **GUARANTEE:** Unless otherwise specified by the City the bidder shall unconditionally guarantee the materials and workmanship on all material, construction, and/or services to be free from defect at the time of delivery and acceptance (to be determined by usage) by the City. If any defects are present which are due to faulty material, workmanship and/or services, the bidder at his expense, shall repair or adjust the condition, or replace the material and/or services to the complete satisfaction of the City. These repairs or replacements or adjustments shall be made only at such time as will be designated by the City as least detrimental to the operation of the City. Standard Manufacturer's warranties and other warranties normally offered by the bidder shall be in effect for all deliveries and shall be in addition to specific warranties or guarantees contained in this Bid. Statement of terms of standard warranty should be included with the bid.
4. **LICENSE and INSURANCE:** All bidders must have proper license governing services provided as well as the minimum insurance coverage required under General Conditions.
5. **E-VERIFY COMPLIANCE:** Employers and their subcontractors with 25 or more employees as defined in Article 2 of Chapter 64 of the North Carolina General Statutes must comply with North Carolina Session Law 2013-418's E-Verify requirements to contract with local governments. E-Verify is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law.

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**CITY of HICKORY**  
**Invitation to Bid and Contract**

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation**

**17-008**

*AFFIDAVIT OF PRIME CONTRACTOR*  
*(STATUS OF SUBCONTRACTORS AND MATERIAL SUPPLIERS)*

We, Wilkie Construction Company SE, LLC, certify that to the best of our knowledge and belief, no claims or liens exist against any material suppliers or subcontractors who will furnish materials or labor on the above mentioned Project, or if any appear afterwards, we (as Contractor) shall save the Owner harmless on account thereof. If any lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all monies that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable Attorney's fee.

Sworn to and subscribed before me this 6 day of September, 2016.

Deborah Wilkie

Signature

Deborah Wilkie

Printed Name

Vice-President

Title

9/6/16

Date

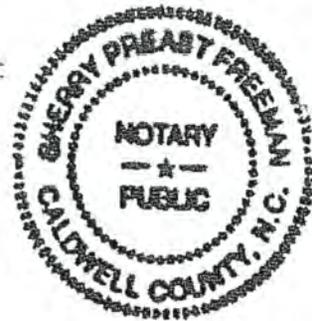
Sherry Prest Freeman

Notary Public

02-24-20

Date Commission Expires

SEAL:





**CITY of HICKORY**  
**Invitation to Bid and Contract**

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation****17-008**

*SCOPE OF WORK*

**Work Covered By Contract Documents:**

The work covered by these documents shall provide for a complete project at the Patrick Beaver Memorial Library second floor restrooms. Tile on the floors and walls of the men's and women's restrooms is to be removed and replaced and the restroom walls painted. Budget considerations may allow contracts for additional work in the restrooms. Should additional work be allowed, that work will be considered part of the original contract and will not require the Contractor to relocate and mobilize again for the additional work. The bid items listed are the major construction components and do not cover all of the activities necessary to provide complete projects. Costs for items not listed but required for a complete project shall be distributed among the various pay items listed. No additional payments will be made for additional work required to provide complete projects.

Contract #1: Existing ceramic tile on the floors and walls of both restrooms shall be removed in its entirety and replaced with new ceramic tile. Existing floor tiles are 2" x 2" and existing wall tiles are 4 ½" x 4 ½". Contractor shall take all necessary precautions to prevent damage to the substrate. Note that wall tiles are applied directly to sheetrock walls and no 'backer board' is used. Wall tiles at the toilet stalls have unfinished edges at the top of the tile section. Wall tiles at the counters have finished, rounded (bullnose) edges at the tops and edges of the tile sections. Water damage is not expected in the substrate and is not a consideration for this project. If water damage is found, the costs for repairs shall be negotiated. Damage to the substrate shall be repaired to provide a smooth surface for installation of new tile. Two coats of waterproofing membrane are to be placed over the smooth, repaired substrate according to the waterproofing membrane manufacturer's recommendations. Replacement tile shall be cut as necessary, installed, and grouted to cover the areas with existing tile. All exposed edges of tile installation shall have bullnose tile. Tile cove at the junction of the wall to the floor is not required to be replaced. Tile and grout colors are to be as per the specifications. Toilets, urinals, and appurtenances shall be removed prior to installation of the tile. New toilets and urinals are to be provided by the Contractor and installed in the original locations. Two hand dryers are to be provided by the Contractor and installed in locations determined by the Owner in each of the restrooms.

Walls in both restrooms are to be cleaned and painted. Existing walls are in generally good condition. Wall sections that are not smooth or have been damaged shall be cleaned and patched to provide a smooth surface. Metal entrance door frame shall be painted, but door is not to receive paint treatment. All painted surfaces shall receive one coat of latex primer and two coats of color coat. Paint color shall be chosen by Owner. Existing fixtures including soap dispensers, door stops, changing table, waste receptacle, among others are to be removed and replaced in their original locations.

Contract #2: Existing partitions in both restrooms are 1" nominal thickness solid phenolic. Partitions shall be removed and replaced in their original locations. Specifications for replacement partitions are included for the eventuality that replacement is deemed necessary. Existing grab bars in 2 of the stalls and any other partition-mounted toilet accessories shall be reused in the same locations as existing. Partition-mounted fixture mountings damaged during removal shall be replaced with new, stainless steel mountings as part of this contract and no additional payments shall be made for that work. Partition mounting hardware shall be new and may not be reused. Wall-mounted door stops for the handicap-accessible stalls are to be replaced as part of this contract. Partition mounting hardware shall be stainless steel. Partition replacement shall be lump sum and no additional costs shall be allowed.

Contract #3: Drop ceilings in both restrooms consisting of 2 feet x 4 feet tiles and metal grid are to be removed and replaced. Replacement ceiling tile shall be 2 feet x 2 feet as per the specifications. Existing fasteners to the concrete slab above the ceiling are assumed to be in good condition and do not need to be replaced with new fasteners. Sprinkler heads and HVAC system shall be reinstalled in the same approximate position as existing. All support wires from the fasteners the ceiling tile grid shall be replaced. In the event that existing fasteners to the concrete slab above the ceiling need to be replaced, the cost of that work shall be included in the lump sum bid and no additional payment will be made for additional fasteners. Tile grid shall be supported



**CITY of HICKORY**  
**Invitation to Bid and Contract**

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation****17-008**

by wire from the walls and ceiling slab fasteners according to the specifications. Up lights are used along the walls above the toilet fixtures and above the sinks. Replacement tile system shall remove up lights and replacement ceiling shall extend to perimeter of restrooms.

Lights and associated switches are to be replaced with new fixtures and switches. Existing lights include up lights and canisters, which are all to be removed. Replacement lights shall consist of 5 (five) each 24" x 48" light fixtures as per the specifications. Wiring and conduit for the lights and switches is assumed to be in good condition and may be reused.

Contract #4: Counter tops and sinks including fixtures are to be removed and replaced with new units. Counter tops shall be constructed with 3/4" thick plywood similar to the existing counters. Exposed plywood including front face, counter top, splash board, and angle brace beneath counter shall be covered with laminate covering. Color and style of laminate to be chosen by Owner. Existing counter top measures approximately 5'-0" long x 2'-0" wide with 4" tall splash. New counters shall include edge support along the length of the counters, perimeter anchorage to the existing walls, support strut near middle of cabinet, splash, and other components as needed to match existing construction. Four top-mount oval sinks including fixtures according to the specifications shall be included in the project. All supply tubes and shutoff valves shall be replaced from the valve to the fixture. All drain pipe from the sink drain flange to the existing drain line including scald protection at each sink shall be replaced.

Contractor shall visit the site to ascertain scope of each section of the project prior to submitting bid. Contractor shall be responsible for determination of quantities for each section of project.

Contractor may bid on any or all of the various contracts.

END OF SECTION



# CITY of HICKORY Invitation to Bid and Contract

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation**

**17-008**

### *SUGGESTED MATERIALS TO BE USED*

Suggested materials for the various contracts are listed below. Materials may be substituted for products equal to or better than those listed. Substitutions for any materials shown shall be approved by the Owner prior to ordering of materials. All labor, materials, and workmanship shall be according to applicable laws and codes.

#### **CONTRACT # 1 – TILE AND PAINTING**

Tile for the walls and flooring shall be American Olean Durango Cream ceramic indoor/outdoor floor tile. Nominal size is 12" x 12" and actual size is 11.81" x 11.81".

Bullnose tile for the walls shall be American Olean Durango Cream ceramic indoor/outdoor floor tile. Nominal size is 3" x 12" and actual size is 3" x 12".

Bullnose corner tile for the walls shall be American Olean Durango Cream ceramic indoor/outdoor floor tile. Nominal size is 3" x 3" and actual size is 3" x 3".

Grout for the floors and walls shall be Stainmaster Classic Collection Titanium epoxy grout.

Adhesive for the wall and floor tile shall be Mapei trowel ceramic flooring adhesive.

Waterproofing for the wall and floor tile shall be Mapei Aquadefense waterproofing membrane.

Interior Latex Wall Primer shall be Sherwin-Williams PrepRite® 200 Interior Latex Primer B28W200.

Paint color coat shall be Sherwin-Williams ProMar® 200 Eg-Shel B33 Series.

Toilets shall be Kohler High Crest K-4301 with Kohler K-4670-C seat, Kohler K-13517 1.28 GPF Flushometer 1" push button, mounted at handicap accessible height.

Urinals shall be Kohler K-4972-R with Sloan 186-1 YBYC flush valve and Kohler K-13517 1.28 GPF Flushometer 1" push button, mounted at handicap accessible height.

The Contractor is responsible for providing the model which most closely matches the specified product.

**SPECIFIED PRODUCT MANUFACTURER**

**ACCEPTED EQUAL**

Kohler

Eljer, American Standard

Kohler (toilet seats)

Centoco, Beneke, Bemis

Sloan (flush valves)

Aquaflush (Zurn), Delaney

Electric hand dryers shall be Xlerator Model XL-W hands-off 900 W, surface-mount using 240 V, 10 A and 20 A maximum fuse capacity. Mounting locations shall be approved by Owner prior to installation.

#### **CONTRACT # 2 – PARTITION REPLACEMENT**

**Manufacturer:** Subject to compliance with requirements, provide products by one of the following:

Solid Plastic – Polymer Resin:

- Capitol Partitions, Inc.
- Global Steel Products Corporation
- Sanatac Products Co.
- Santana Products Co.
- Sanymetal Products Corp.

#### **MATERIALS**

**General:** Provide materials which have been selected for surface flatness and smoothness. Exposed surfaces which exhibit pitting, seam marks, roller marks, stains, discolorations, telegraphing of core material, or other imperfections on finished units are not acceptable.



# CITY of HICKORY Invitation to Bid and Contract

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation**

**17-008**

Solid Plastic: High density, solid polymer resin with homogenous color throughout. Provide material not less than 1 inch thick with seamless construction with edges eased.

Pilaster Shoes and Caps: ASTM A 167, Type 302/304 stainless steel, not less than 3 inches high, 0.0396 inch thick (20 gage), finished to match hardware. Solid plastic will also be acceptable.

Stirrup Brackets: Continuous U-shaped channel for attaching panels to walls and pilasters, either stainless steel, anodized aluminum, or solid plastic.

Hardware and Accessories: Manufacturer's standard design, heavy duty, institutional operating hardware and accessories of stainless steel. Hinges shall be continuous piano or integral nylon pin.

Overhead Bracing: Continuous extruded aluminum, anti-grip profile, with clear anodized finish.

Anchorage and Fasteners: Manufacturer's standard exposed fasteners of stainless steel, chromium-plated steel, or brass, finished to match hardware, with theft-resistant-type heads and nuts. For concealed anchors, use hot-dip galvanized, cadmium-plated, or other rust-resistant protective-coated steel.

## FABRICATION

General: Furnish standard doors, panels, screens, and pilasters fabricated for compartment system. Furnish units with cutouts, drilled holes, and internal reinforcement to receive partition-mounted hardware, accessories, and grab bars, as indicated.

Door Dimensions: Unless otherwise indicated, furnish out-swinging doors for all stalls to match the dimensions of the existing doors.

Overhead-Braced Compartments: Furnish galvanized steel supports and leveling bolts at pilasters as recommended by manufacturer to suit floor conditions. Make provisions for setting and securing continuous, extruded, aluminum, antigrip, overhead bracing at top of each pilaster. Provide shoe at each pilaster to conceal supports and leveling mechanism.

Floor-Supported Screens: Furnish pilasters and panels not less than 1 inch thick and of same construction and finish as toilet compartments. Furnish galvanized steel anchorage devices complete with threaded rods, lock washers, and leveling adjustment nuts at pilasters to permit structural connection to floor. Furnish shoe at pilaster to conceal anchorage. Provide continuous U-shaped channel at wall connections.

Hardware: Furnish hardware for each compartment to comply with ADA and ANSI A117.1 for handicapped accessibility and as follows:

Hinges: Provide gravity type, spring-action cam type, or concealed torsion rod type to suit manufacturer's standards.

Latch and Keeper: Manufacturer's standard surface-mounted latch unit, designed for handicapped accessibility, with combination rubber-faced door strike and keeper.

Coat Hook: Manufacturer's standard unit, combination hook and rubber-tipped bumper, sized to prevent door hitting mounted accessories.

Door Pull: Manufacturer's standard unit for out-swinging doors. Provide pulls on both faces of handicapped compartment doors.

## FINISH

Colors: As chosen by the Owner.



**CITY of HICKORY**  
**Invitation to Bid and Contract**

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation**

**17-008**

**CONTRACT # 3 – CEILINGS AND LIGHTS**

**CEILING MATERIAL PRODUCT SPECIFICATION:**

1. Manufacturer: USG Interiors, Inc.
2. Series: Glacier
3. Panel Size: 2' x 2' x 1/2" (nominal)
4. Edge Style: Shadowline
5. Item Number: 707
6. Class: Class A w/ flame spread (25)
7. NRC: .65 in accordance with ASTM C423-90a
8. CAC Minimum: 35 in accordance with ASTM E1414-97
9. LR Value: .69
10. ASTM E1264 Classification: Type 111, Form 4, Pattern F
11. Weight: 1.45 lb. / sq. ft.
12. Thermal Resistance: R-1.6 (Class A)

The replacement light fixtures shall be Lithonia L1T2PM3NGB33218LDMVOL T T13 w/741 lamps, standard 2' x 4' lay recessed design.

**CONTRACT # 4 – COUNTER AND SINKS**

- Framing lumber shall be Southern Pine #2 or better
- Plywood shall be interior grade A-C or better.
- Grade 12 Formica brand plastic laminate
- Kohler Ellington K-2906-4 sink
- T&S Brass B-0831 faucet
- Kohler K-7607 supply
- Kohler K-9000 trap
- Kohler K-7129 drain

END OF SECTION



**CITY of HICKORY  
Invitation to Bid and Contract**

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation** **17-008**

**BID FORM & GENERAL CONTRACT**

The undersigned, as bidder, hereby declares that the only person(s) interested in the proposal as principal(s) is, are, named herein, and that no other person has any interest in this proposal, or in the contract to be entered into; that this proposal is made without connection with any other person, company, or parties making a bid proposal, and that it is in all respects, fair and in good faith, without collusion or fraud.

The bidder further declares that he has informed himself fully about all conditions regarding this bid, that the **BIDDER HAS EXAMINED DESCRIPTION OF WORK, SPECIFICATIONS AND ALL RELATED DOCUMENTS** for the above mentioned Project and that he has satisfied himself about performance required by this bid.

The bidder agrees that if this bid is accepted, to contract with the City of Hickory in the form of contract specified, to furnish all necessary management, supervision, equipment, tools, materials, apparatus, means of transportation, and labor necessary to complete the contract in full and in complete accordance with the specifications and contract documents, to the full and entire satisfaction of the City, at the prices and amounts shown.

The Bidder warrants that bid prices, terms and conditions quoted in the bid will be firm for a period of sixty (60) days from opening date or other time as specified in this request. By submitting this bid, Contractor agrees to coordinate his schedule with the City of Hickory forces working on this project to the fullest extent possible.

The City of Hickory reserves the right to deduct items above as deemed in the best interest of the City. The Bidder further proposed and agrees hereby to commence work under his contract on a date to be specified in a written order of the Designer.

- A. **BID BOND:** Not required.
- B. **PERFORMANCE BOND:** Not Required.
- C. **PAYMENT BOND:** Not Required.

The City reserves the right to reject any and all bids; and reject any bid items that fail to meet the needs of the City.

Contractor(s) shall submit a certified Sales Tax Report (attached) for reimbursement of sales taxes by Owner.

Bidders should have no contact with elected or appointed officials regarding this bid during the bid process. Any such contact will subject the bidder to immediate disqualification.

**The below bid amount includes all specifications and addendums.**

Acknowledge of Addendum # \_\_\_\_\_ Date \_\_\_\_\_  
 Acknowledge of Addendum # \_\_\_\_\_ Date \_\_\_\_\_



**CITY of HICKORY**  
**Invitation to Bid and Contract**

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation** **17-008**

**MULTI-PRIME CONTRACTS**

**Contract #1: Replace Restrooms Floor and Wall Tile and Paint Walls**

Lump Sum Bid = \$ \_\_\_\_\_ (numeric format)

\$ N/A dollars

(written amount)

**Contract #2: Replace Restrooms Partitions**

Lump Sum Bid = \$ \_\_\_\_\_ (numeric format)

\$ N/A dollars

(written amount)

**Contract #3: Replace Restroom Ceilings and Lights**

Lump Sum Bid = \$ \_\_\_\_\_ (numeric format)

\$ N/A dollars

(written amount)

**Contract #4: Replace Restrooms Counter Tops, Fixtures, and Sinks**

Lump Sum Bid = \$ \_\_\_\_\_ (numeric format)

\$ N/A dollars

(written amount)

**SINGLE-PRIME CONTRACT**

**Contract: Restrooms Rehabilitation** (work shall include work items from all four contracts above)

Lump Sum Bid = \$ 63,700.00 (numeric format)

\$ Sixty Three Thousand Seven Hundred dollars

(written amount)

The bid shall be awarded to the lowest responsive, responsible bidder of the cumulative contracts or single-prime Contractor that is in the best interest of the City.



**CITY of HICKORY**  
**Invitation to Bid and Contract**

Project Title:

Bid Number:

**Patrick Beaver Library 2<sup>nd</sup> Floor Restroom Rehabilitation**

**17-008**

Acceptance and entry into this Agreement by and on behalf of the City of Hickory is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**CITY OF HICKORY,**  
A North Carolina Municipal Corporation

(SEAL)

\_\_\_\_\_  
Andrea Surratt, Interim City Manager

**Attest:**

\_\_\_\_\_  
Debbie D. Miller, City Clerk

This document has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Melissa Miller  
Melissa Miller, Finance Officer

Approved as to form on behalf of the City of Hickory only:

\_\_\_\_\_  
Arnita M. Dula, Staff Attorney

2

COUNCIL AGENDA MEMOS

Exhibit VIII.E.

**To:** City Manager's Office  
**From:** Police, Chief Thurman Whisnant  
**Contact Person:** Chief Thurman Whisnant  
**Date:** 09/26/2016  
**Re:** Approval to Apply for a Walmart Grant

**REQUEST:** Hickory Police Department requests permission to apply for a Wal-Mart Community Grant in the amount of \$2,500.00. If awarded, this grant will purchase a dedicated computer with video editing capability.

**BACKGROUND:** Hickory Police Department is continually searching for ways to enhance community policing efforts. Public service announcements to the community through video and social media have proven to be a valuable tool in this area, especially in the areas of safety, crime prevention and community policing.

**ANALYSIS:** The police department currently uses a Facebook page, Twitter, and the City of Hickory website to reach out to the community. With the purchase of this specialized computer with video editing capability, the police department can increase community outreach with public service and safety messages that will improve communication with citizens and visitors of the city. The Wal-Mart Community Grant Program has been utilized by HPD in the past for supplies to support the Gang of One program. The grant program is a corporate-wide program offered by Wal-Mart to support efforts in local communities where their retail stores are located. There are no matching funds or city resources or obligations required if the grant is awarded. There are two additional deadline dates for application remaining for calendar year 2016.

**RECOMMENDATION:** Hickory Police Department recommends approval to apply for a Wal-Mart Community Grant in the amount of \$2,500.00 for the purchase of a dedicated video editing computer for community outreach videos.

**BUDGET ANALYSIS:**

**Budgetary Action**

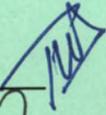
Is a Budget Amendment required?

Yes

No

**LIST THE EXPENDITURE CODE:**

**Reviewed by:**

Thurman Whisnant   
Initiating Department Head  
Date 9/26/16

Aunta M. Dula  
Deputy City Attorney, A. Dula  
Date 10-14-16

Rodney Miller  
Asst. City Manager Rodney Miller  
Date 10-7-16

A. Surratt  
Asst. City Manager, A. Surratt  
Date 10/14/16

Melissa Miller  
Finance Officer, Melissa Miller  
Date 10-7-16

Bo Weichel  
Purchasing Manager, Bo Weichel  
Date 10-10-16

\_\_\_\_\_  
Date

Recommended for approval and placement on \_\_\_\_\_ Council agenda (as  
Consent, Public Hearing, Informational, Department Report, etc).

A. Surratt  
Interim City Manager, A. Surratt

10/14/16  
Date

Our	Apply For	Associate	Our	International
Focus	Grants	Scholarships	Volunteers	Giving

# Community Grant Program

***Walmart believes in operating globally and giving back locally – creating impact in the neighborhoods where we live and work.***

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## ***Community Giving Program Links***

- **Frequently Asked Questions**
- **Community Grant Guidelines**

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ity Grant Program, our associates are proud to support the needs of their communities by providing grants to local organizations.

If you are applying for funding through a Sam's Club location, additional focus areas are considered. Learn more about the Sam's Club Community Grant Program.

**Before applying, please note:**

- The 2016 grant cycle begins **Feb. 1, 2016** and the application deadline to apply is **Dec. 31, 2016**.
- Application may be submitted at any time during this funding cycle. Please note that applications will only remain pending in our system for 90 days.
- Awarded grants range from **\$250 to \$2,500**.
- Organizations applying must meet one of the following criteria:
  - An organization holding a current tax-exempt status under Section 501(c)(3), (4), (6) or (19) of the Internal Revenue Code.
  - A recognized government entity: state, county, or city agency, including law enforcement or fire departments,

that are requesting funds exclusively for public purposes;

- A K-12 public or private school, charter school, community/junior college, state/private college or university; or
  - A church or other faith-based organization with a proposed project that benefits the community at large.
- 
- All organizations must verify that they meet the eligibility requirements. This may require submitting a support ticket through Cybergrants.
  - Applications must be completed in full and submitted online to be considered.
  - Submitting an online application does not guarantee funding.
  - The facility manager and the grant administrator reserve the right to adjust the amount awarded to each organization without prior notice.

Please read the Community Grant Guidelines before beginning your application.

**Apply Now >>**

[^ top](#)



**@sheikhkdukuly2** I will do that. Thanks for the info!

BY WALMART GIVING  
2:48PM SEPTEMBER 22, 2016

**@sheikhkdukuly2** Hi, Sheikh! I am looking into this and will get back to you with information as soon as possible.

BY WALMART GIVING  
2:02PM SEPTEMBER 22, 2016

**@kanselwichita** Notification of funding decision for cycle 4 is Oct. 28, 2016.

BY WALMART GIVING  
1:49PM SEPTEMBER 21, 2016

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# Community Grant Guidelines

## Overview

- Community Grants range from a minimum of **\$250** to the maximum grant of **\$2,500**.
- Organizations must submit an online application to be considered for funding.
- The 2016 grant cycle begins **Feb. 1, 2016** and the application deadline is **Dec. 31, 2016**.
- Applications may be submitted at any time during this funding cycle. Please note that applications will only remain active in our system for 90 days, and at the end of this period they will be automatically rejected.
- Organizations are encouraged to limit the number of pending applications to 25.

## Eligibility Checklist

Funds must benefit the facility's service area: potential grantees should be nonprofit organizations with programs that benefit communities within the service area of the Walmart store, Sam's Club or Logistics facility from which they are requesting funds.

Walmart and the Walmart Foundation have identified four core areas of giving: Hunger Relief & Healthy Eating, Sustainability, Women's Economic Empowerment and Opportunity. To ensure that your application has the best chance of being funded, the proposed use of the grant should fit within one of these areas of giving.

Primary consideration for the Community Grant program is to support local organizations with programs that align with Walmart and the Foundation's areas of giving. However, programs that do not align with these areas may also be given consideration. These include programs that are geared toward strengthening the local communities, for example: local organizations providing health and dental screenings, support for local police and fire departments and local school-based initiatives. If you are applying for funding through a Sam's Club location, additional focus areas are considered. Learn more about the [Sam's Club Giving Program](#).

Organizations applying must meet the one of following criteria:

An organization holding a current tax-exempt status under Section 501(c)(3), (4), (6) or (19) of the Internal Revenue Code;

A recognized government entity: state, county, or city agency, including law enforcement or fire departments, that are requesting funds exclusively for public purposes;

A K-12 public or private school, charter school, community/junior college, state/private college or university; or

A church or other faith-based organization with a proposed project that benefits the community at large.

### **Selection Process**

- Management at the facility to which you are applying will review the application and make initial funding recommendations on all submitted requests.
- Each facility manager may set the frequency and process in which application determinations are made.
- The facility manager and the grant administrator reserve the right to adjust the amount awarded to each organization without prior notice.

- Organizations will be notified of any decision via e-mail. All funding decisions are final.
- If an organization is approved, grant checks will be mailed directly to the recipient organization's address listed in the grant application. Please allow two to four weeks for delivery.
- In the event of being awarded a grant, organizations should contact their local facility from which funds were awarded to schedule a formal recognition event.

### **Funding Exclusions**

- Advertising, film or video project
- Athletic sponsorships (teams/events)
- Capital campaigns and endowments (defined as any plans to raise funds for a significant purchase or expense, such as new construction, major renovations or to help fund normal budgetary items)
- Contests or pageants
- Fundraising events (walks, races, tournaments, dinners etc.)
- In-kind donation requests, including requests for gift cards
- Nationally-sponsored organizations: American Cancer Society, American Diabetes Association, American Heart

Association, Children's Miracle Network and  
United Way

- Memberships, including association/chamber memberships
- Organizations that deny service, membership or other involvement on the basis of race, religion, color, sex, sexual orientation, age national origin, ancestry, citizenship, veteran, or disability status
- Organizations or programs that do not benefit the communities within the facility's service area
- Organizations who apply to a large number of facilities outside of the primary area.
- Organizations whose programming or policies may position Walmart or the Foundation in a negative light
- Organizations whose services do not benefit the community at large
- Political causes, candidates, organizations or campaigns
- Projects that send products or people to foreign countries or on domestic travel
- Registration fees
- Requests made on behalf of another organization or by an unauthorized representative of the recipient organization
- Request made solely to benefit one person or family
- Research

- Salaries, stipends, tips and rewards
- Scholarships (tuition, room, board, other expenses for college/university/vocational school attendance)
- Third-party giving, including funds that are re-allocated to fiscally sponsored organizations
- Tickets for contests, raffles or any other activity with prizes

^ top



**@sheikhkdukuly2** I will do that. Thanks for the info!

BY WALMART GIVING  
2:48PM SEPTEMBER 22, 2016

**@sheikhkdukuly2** Hi, Sheikh! I am looking into this and will get back to you with information as soon as possible.

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**THE CITY OF HICKORY,**  
A North Carolina Municipal Corporation

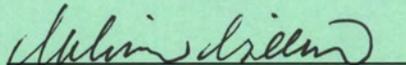
By: \_\_\_\_\_  
Interim City Manager, A. Surratt

**Attest:**

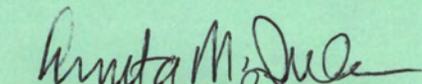
**(SEAL)**

\_\_\_\_\_  
Debbie Miller, City Clerk

This document has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

  
\_\_\_\_\_  
Melissa Miller, Finance Officer

Approved as to form on behalf of the City of Hickory only:

  
\_\_\_\_\_  
Arnita Dula, Staff Attorney

W

**COUNCIL AGENDA MEMOS**

**To: City Manager's Office**  
**From: Kevin B. Greer, PE /Assistant Public Services Director**  
**Contact Person: Kevin B. Greer, PE/Assistant Public Services Director**  
**Date: October 6, 2016**  
**Re: Application and Resolution for NC Industrial Development Grant Fund- 1764 Park**

**REQUEST**

Staff requests Council approval of an Application for North Carolina Industrial Development Grant Funds for Park 1764 to assist development of Sanitary Sewer Infrastructure and Entrance. Staff also requests approval of a Resolution approving provision of required assistance and agreements and designating the Authorized Representative.

**BACKGROUND**

The City of Hickory identified an area in southeast Hickory that is large enough and conducive to development of a business park, convenient to major roadways and adjacent to significant Utility infrastructure. The City of Hickory, Catawba County and Economic Development Corporation have worked on development of this area as a business park for several years and the City and County have agreed to split the cost of development. Park 1764 is the business park identified for Bond proceeds for the Bond Referendum that was passed by the City of Hickory. In an effort to leverage available money the City of Hickory and Economic Development Corporation (EDC) submitted a pre-application for North Carolina Industrial Development Funds.

**ANALYSIS**

Park 1764 is identified as the business park recognized in the Bond projects to receive money from bond proceeds for development. The City and EDC have worked on development of the project to a condition that is receptive to marketing. The City and EDC submitted a Pre-Application for North Carolina Industrial Development Funds and were approved for \$671,920.00 in grant funds with a matching requirement of 100%. The grant proceeds are to be used for sanitary sewer outfall extension to the site of \$361,900 and Entrance road development with landscaping off Startown Road at \$310,020. The grant has a condition that the recipient will match the investment for a total of at least \$1,343,840.00. The City of Hickory and Catawba County entered into an agreement previously to equally cover the cost of development previously estimated at \$1,558,562 for this phase of development.

This grant has a required equal match in funds prior to disbursement of the entire grant. The grant is a reimbursable grant with 50% of each request being funded up to a max of \$671,920.00.

**RECOMMENDATION**

Staff recommends Council approval of an Application for North Carolina Industrial Development Grant Funds for Park 1764 to assist development of Sanitary Sewer Infrastructure and Entrance. Staff also request approval of a Resolution approving provision of required assistance and agreements and designating the Authorized Representative.

**BUDGET ANALYSIS:**

**Budgetary Action**

Is a Budget Amendment required?

Yes

No

**LIST THE EXPENDITURE CODE:**

**Reviewed by:**

<u>Chuck Hansen</u> Initiating Department Head	<u>10/04/2016</u> Date	<u>Anita M. Dula</u> Deputy City Attorney, A. Dula	<u>10-14-16</u> Date
<u>Rodney Miller</u> Asst. City Manager Rodney Miller	<u>10-7-16</u> Date	<u>A. Surratt</u> Asst. City Manager, A. Surratt	<u>10/14/16</u> Date
<u>Melissa Miller</u> Finance Officer, Melissa Miller	<u>10-7-16</u> Date	<u>Bo Weichel</u> Purchasing Manager, Bo Weichel	<u>10-16-16</u> Date
_____	_____		_____
	Date		

Recommended for approval and placement on \_\_\_\_\_ Council agenda (as Consent, Public Hearing, Informational, Department Report, etc).

A. Surratt  
Interim City Manager, A. Surratt

10/14/16  
Date

**CITY OF HICKORY  
NORTH CAROLINA**

**A RESOLUTION AUTHORIZING NORTH CAROLINA INDUSTRIAL DEVELOPMENT  
GRANT FUND**

**BE IT RESOLVED**, that the grant from the North Carolina Department of Commerce be made to Hickory, North Carolina for Park 1764 Business Park project.

**BE IT FURTHER RESOLVED**, that the City will administer this grant in accordance with the rules and regulations of the Department of Commerce.

**BE IT FURTHER RESOLVED**, that the City will administer this grant through the City Finance Office with assistance from the Public Utilities Division, Transportation Division and the Western Piedmont Council of Governments.

**BE IT FURTHER RESOLVED**, that the grant will be monitored quarterly to assure compliance with this proposal and the Department of Commerce Regulations.

**BE IT FURTHER RESOLVED**, that the amount of this grant application will be \$671,920.00

**BE IT FURTHER RESOLVED**, that the City Manager, Andrea Surratt, Interim City Manager, and successors, is hereby authorized to execute and file an application on behalf of the City of Hickory with the State of North Carolina for a grant from the Industrial Development Fund.

**BE IT FURTHER RESOLVED**, that the City Manager, Andrea Surratt, Interim City Manager, and successors, is hereby authorized to furnish such information as the appropriate State agency may request in connection with such application for the project; to make assurances as contained above; and to execute such other documents as may be required in connection with the application.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2016.

**SIGNATURE PAGE ATTACHED**

CITY OF HICKORY,

NORTH CAROLINA

A Body Politic Corporate In Nature

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

Rudy Wright, Mayor  
City of Hickory Council

ATTEST:  
(SEAL)

\_\_\_\_\_  
Debbie D. Miller, City Clerk

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

Melissa Miller  
Melissa Miller, Finance Director  
City of Hickory, North Carolina

Approved as to form on behalf of City of Hickory ~~Alexander County~~, this 14<sup>th</sup> day of October, 2016.

Arnita M. Dula  
Arnita Dula, Deputy City Attorney

STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA

I, \_\_\_\_\_ a Notary Public of said County and State, certify that Debbie D. Miller personally came before me this day and acknowledged that she is City Clerk of the City of Hickory, a North Carolina Municipal Corporation, and that by authority duly given and as the act of the City Council of the City of Hickory, the foregoing instrument was signed in its name and by its City Manager, sealed with its corporate seal and attested by her as its City Clerk.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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

(SEAL)

My Commission Expires: \_\_\_\_\_

6  
**COUNCIL AGENDA MEMOS**

Exhibit VIII.G.

**To: City Manager's Office**  
**From: Kevin B. Greer, PE /Assistant Public Services Director**  
**Contact Person: Kevin B. Greer, PE/Assistant Public Services Director**  
**Date: October 6, 2016**  
**Re: WPCOG Financial Contract Administration - NCIDF Grant for Park 1764**

**REQUEST**

Staff requests Council approval of a contract with Western Piedmont Council of Governments (WPCOG) for the financial administration of a North Carolina Industrial Development Fund (NCIDF) Grant in the amount of \$15,000.00.

**BACKGROUND**

The City of Hickory identified an area in southeast Hickory that is large enough and conducive to development of a business park, convenient to major roadways and adjacent to significant Utility infrastructure. The City of Hickory, Catawba County and Economic Development Corporation have worked on development of this area as a business park for several years and the City and County have agreed to split the cost of development. Park 1764 is the business park identified for Bond proceeds for the Bond Referendum that was passed by the City of Hickory. In an effort to leverage available money the City of Hickory and Economic Development Corporation (EDC) submitted a pre-application for North Carolina Industrial Development Funds.

**ANALYSIS**

Park 1764 is identified as the business park recognized in the Bond projects to receive money from bond proceeds for development. The City and EDC have worked on development of the project to a condition that is receptive to marketing. The City and EDC submitted a Pre-Application for North Carolina Industrial Development Funds and were approved for \$671,920.00 in grant funds with a matching requirement of 100%. The grant proceeds are to be used for sanitary sewer outfall extension to the site of \$361,900 and Entrance road development with landscaping off Startown Road at \$310,020. The grant has a condition that the recipient will match the investment for a total of at least \$1,343,840.00. The City of Hickory and Catawba County entered into an agreement previously to equally cover the cost of development previously estimated at \$1,558,562 for this phase of development.

This grant has a required equal match in funds prior to disbursement of the entire grant. The grant is a reimbursable grant with 50% of each request being funded up to a max of \$671,920.00.

This contract will be for the WPCOG to perform all financial requirements and required quarterly/annual reporting that is required by NCIDF. This will include review and preparation of Pay Request for the Finance Department, prepare and submit reimbursement requests and prepare reports required by NCIDF for reimbursement.

**RECOMMENDATION**

Staff recommends Council approval of a contract with Western Piedmont Council of Governments (WPCOG) for the financial administration of a North Carolina Industrial Development Fund (NCIDF) Grant in the amount of \$15,000.00.

**BUDGET ANALYSIS:**

**Budgetary Action**

Is a Budget Amendment required?

Yes

No

**LIST THE EXPENDITURE CODE:**

**From: GF Fund Balance, per Melissa Miller  
To: 061-7505-577.24-99 (Project # B1B001)**

**Reviewed by:**

<u>Chuck Hansen</u> Initiating Department Head	<u>10/04/2016</u> Date	<u>A. Dula</u> Deputy City Attorney, A. Dula	<u>10-14-16</u> Date
<u>Rodney Miller</u> Asst. City Manager Rodney Miller	<u>10-7-16</u> Date	<u>A. Surratt</u> Asst. City Manager, A. Surratt	<u>10/24/16</u> Date
<u>Melissa Miller</u> Finance Officer, Melissa Miller	<u>10-7-16</u> Date	<u>Bo Weichel</u> Purchasing Manager, Bo Weichel	<u>10-10-16</u> Date
_____	_____	_____	_____
	Date		

**Recommended for approval and placement on \_\_\_\_\_ Council agenda (as Consent, Public Hearing, Informational, Department Report, etc).**

A. Surratt  
Interim City Manager, A. Surratt

10/14/16  
Date

AGREEMENT BETWEEN THE  
WESTERN PIEDMONT COUNCIL OF GOVERNMENTS AND  
THE CITY OF HICKORY  
FOR THE PROVISION OF  
GRANT MANAGEMENT ASSISTANCE  
PARK 1764 BUSINESS PARK  
INDUSTRIAL DEVELOPMENT FUND  
ECONOMIC DEVELOPMENT PROJECT  
DECEMBER 1, 2016 – NOVEMBER 30, 2018

This AGREEMENT, entered into on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the Western Piedmont Council of Governments (hereinafter referred to as the "Planning Agency") and the City of Hickory, North Carolina (hereinafter referred to as the "Local Government"); WITNESSETH THAT:

WHEREAS, the Planning Agency is empowered to provide technical assistance by the North Carolina General Statutes and by resolution passed by the Planning Agency on April 17, 1972. Technical assistance shall consist of the provision of services as described in Attachment A, which is herein made a part of this Contract;

WHEREAS, the Local Government has requested the Planning Agency to provide such technical assistance to the Local Government; and

WHEREAS, the Planning Agency desires to cooperate with the Local Government in every way possible to the end that the proposed activities are carried out in an efficient and professional manner;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. **Personnel.** That during the period of this Contract, the Planning Agency will furnish the necessary trained personnel to the Local Government.
2. **Travel/Printing.** The Local Government will pay for expenses related to conferences, conventions, seminars, local travel, etc. of the personnel when the Local Government requests or approves travel related to the Local Government's planning program, or if it is beneficial to both parties, the costs will be shared on an agreed-upon ratio.

The Local Government will also pay for expenses related to printing of report(s), mailings to advisory boards, and other costs not related to normal travel and staffing costs associated with personnel furnished by the Planning Agency.

3. **Compensation.** The Local Government will pay the Planning Agency an amount not to exceed \$15,000 (fifteen thousand dollars) for the satisfactory performance of all services related to administration of the project as defined in the attached Scope of Services. Planning Agency personnel will keep an accurate record of time spent, which will serve as the basis for the amount charged to the Local Government per month. The Local Government will reimburse the Planning Agency monthly at a rate per hour for each of the personnel involved, which includes the salary, fringe benefits, travel and indirect costs, plus travel and other approved expenses.

All other costs associated with the administration of the IDF grant will be expended from the grant administration allowance budgeted for the Local Government. It is expressly understood and agreed that total compensation shall not exceed the maximum sum specified without prior approval of both agencies.

4. **Termination/Modifications.** The Local Government may terminate this Contract by giving the Planning Agency a thirty-day written notice. Furthermore, if there is a need to amend the proposal outlined in Attachment A, either party may do so with the written approval of the other.
5. **Time of Performance.** The Planning Agency shall ensure that all services required herein shall be completed and all required reports, maps, and documents submitted during the period beginning December 1, 2016 and ending November 30, 2018.
6. **Interest of Members, Officers, or Employees of the Planning Agency, Members of the Local Government, or Other Public Officials.** No member, officer, or employee of the Planning Agency or its agents; no member of the governing body of the locality in which the program is situated; and no other public official of such locality or localities who exercise any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any financial interest, either direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interest in the program. The Planning Agency shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.
7. **Access to Records and Record Retainage.** All official project records and documents must be maintained during the operation of this project and for a period of three years following closeout. The NC Department of Commerce, the Attorney General of the State of North Carolina, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of

the Planning Agency which are pertinent to the execution of this Agreement, for the purpose of making audits, examinations, excerpts, and transcriptions.

- 8. **Liquidated Damages Clause.** If the project fails to be carried out within the time frame outlined in the administrative proposal due to activities attributed to the Planning Agency, the Local Government may assess the Planning Agency a sum in the amount of \$100 per week for any subsequent weeks until completion.
- 9. **Termination of Agreement for Cause.** If, through any cause, the Planning Agency shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or violate any of the covenants, conditions, or stipulations of this Agreement, the Local Government shall thereupon have the right to terminate this Agreement by giving written notice of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared under this Agreement shall, at the option of the Local Government, become its property, and the Planning Agency shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials in direct proportion to the extent of services actually completed.
- 10. **Grantee Assurances.** In the performance of this Agreement, the Planning Agency shall comply with all applicable federal rules and procedures.

IN WITNESS WHEREOF, the Planning Agency and the Local Government have executed this Agreement as of the date first above written.

LOCAL GOVERNMENT:  
CITY OF HICKORY

PLANNING AGENCY:  
WESTERN PIEDMONT COUNCIL OF GOV'TS.

By: \_\_\_\_\_  
Andrea Surratt,  
Interim City Manager

By: \_\_\_\_\_  
Anthony Starr,  
Executive Director

LOCAL GOVERNMENT:

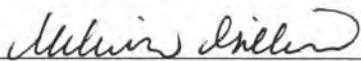
PLANNING AGENCY:

By: \_\_\_\_\_  
Rudy Wright, Mayor

By: \_\_\_\_\_  
George Holleman, Chairman

Preaudit statement:

This instrument has been preaudited in the manner prescribed by the Local Government Budget and Fiscal Control Act.

By:   
Melissa Miller,  
Local Government Finance Officer

## IRAN DIVESTMENT ACT CERTIFICATION

### OVERVIEW

During the 2015 legislative session, the North Carolina General Assembly enacted the Iran Divestment Act which prohibits state agencies and local governments from entering into contracts with an entity that has been identified by the North Carolina State Treasurer as being engaged in certain investment activities in the Iranian energy sector. The State Treasurer's Office is required to publish a list of entities it has identified as engaging in these activities and must update the list every 180 days. An entity identified on the Treasurer's list (called the "Final Divestment List") is prohibited from contracting with a state agency or any local governments. In addition, all entities contracting with the State and local governments are prohibited from subcontracting with any entity included on the Final Divestment List. Contracts entered into in violation of the Act are rendered void by operation of statute. State agencies and local governments must require entities to certify that they are not included on the Final Divestment List.

### CERTIFICATION STATEMENT

By executing this Agreement/Contract, Contractor hereby certifies that Contractor is not listed on the Iran Final Divestment List ("List") created by the State Treasurer pursuant to N.C.G.S. 147-86.58, Iran Divestment Act ("Act"). In compliance with the Act's requirement and N.C.G.S. § 147-86.59, Contractor shall not utilize in the performance of this agreement/contract any subcontractor that is identified on the List. The List can be found on the State Treasurer's website at the address [www.nctreasurer.com/Iran](http://www.nctreasurer.com/Iran) and should be updated at least every 180 days.

ATTACHMENT A  
SCOPE OF SERVICES

CITY OF HICKORY  
GRANTS MANAGEMENT ASSISTANCE  
Park 1794  
WORK PROGRAM/BUDGET  
December 1, 2016 – November 30, 2018

The following work program and budget are presented as descriptive of the work and dollar amounts requested in the Agreement concerning planning activities by the Western Piedmont Council of Governments for the City of Hickory.

Sherry Long, Assistant Executive Director, will be responsible for administering the \$671,920 Industrial Development Fund project.

Work Program

Professional services necessary to administer all aspects of the project will include but not be limited to the following:

- Administration and coordination of all activities involved in the Park 1764 Business Park funded by the Department of Commerce's Industrial Development Fund program. Coordination activities will begin from the point of construction through final inspection.
- Set up and maintenance of all project files and records in accordance with program and audit guidelines.
- Coordination of the program with state and local officials.
- Coordination of all fiscal and legal activities relating to the Industrial Development Fund program.
- Preparation and submission of all financial reports and pay requests.
- Conducting project closeout and representing Hickory at audits and monitoring visits. This does not assume, however, responsibility for payment of fees levied by auditors or accountants.

The City of Hickory will be responsible for the following:

- Adequate office space including utilities.
- Direct payment of funds for legal and audit services and general administrative costs.
- All administrative costs not specifically identified as WPCOG responsibilities.

Time of Performance

The WPCOG will complete all activities involved in administration of this project in a 24-month period beginning December 1, 2016 – November 30, 2018.

Budget

The WPCOG will provide these administrative services for a fee not to exceed \$15,000.

Assurances

Assurances are attached as a part of the Agreement

Amendments

This scope of services and budget may be amended as desired by mutual consent of the Local Government and Planning Agency.

**COUNCIL AGENDA MEMOS**

**To: City Manager's Office**  
**From: Community Appearance Commission**  
**Contact Person: Cal Overby, Planning Department**  
**Date: October 6, 2016**  
**Re: Community Appearance Grant – Mark Tuttle**

**REQUEST**

The Community Appearance Commission recommends City Council approval of a Community Appearance Grant for non-residential property owned by Mark Tuttle located at 104 2<sup>nd</sup> Avenue NW in the amount of \$5,000.00.

**BACKGROUND**

The City Council created the Community Appearance Grant program in 1999 to provide economic incentives for property owners to improve the general appearance of properties located within the City's designated Urban Revitalization Area. The Community Appearance Commission reviews applications for the grant program and forwards a recommendation of approval or denial to City Council. The grants are designed as a reimbursement grant in which the City of Hickory will match the applicant on a 50/50 basis. The maximum grant amount from the City of Hickory is \$5,000.00.

**ANALYSIS**

The grant proposal put forth by Mr. Tuttle involves the renovation of existing non-residential building. The proposal involves the replacement of existing windows, and the painting of the building's exterior facade. The subject property is located within the City's Urban Revitalization Area, which makes the application eligible for funding under the Community Appearance Grant program.

The applicant has provided two (2) bids for the items listed above, which total \$14,850.00 and \$15,200.00. Being both estimates are in excess of \$10,000, the request qualifies for the full \$5,000 grant.

The current tax value of the property is \$220,600.00. The value of the grant represents approximately 2.3% of the property's tax value.

**RECOMMENDATION**

The application was reviewed by the Community Appearance Commission at its October 5, 2016 special call meeting. Upon review the Community Appearance Commission scored the application utilizing its grant scoring criteria. The Community Appearance Commission scored the application at 20 points out of a possible 30 points, which placed the application into the high category of scoring. Upon completion of the scoring exercise, the Community Appearance Commission voted unanimously (7-0) to recommend funding of the grant application in the amount of \$5,000.00.

**BUDGET ANALYSIS:**

**Budgetary Action**

Is a Budget Amendment required?

Yes

No

**LIST THE EXPENDITURE CODE:**

**Reviewed by:**

Brian Frazier 10/06/16  
Initiating Department Head Date

Rodney Miller 10-7-16  
Asst. City Manager Rodney Miller Date

Melissa Miller 10-7-16  
Finance Officer, Melissa Miller Date

Amita M. Dula 10-14-16  
Deputy City Attorney, A. Dula Date

A. Surratt 10/14/16  
Asst. City Manager, A. Surratt Date

Bo Weichel 10-10-16  
Purchasing Manager, Bo Weichel Date

\_\_\_\_\_  
Date  
**Recommended for approval and placement on \_\_\_\_\_ Council agenda (as  
Consent, Public Hearing, Informational, Department Report, etc).**

A. Surratt  
Interim City Manager, A. Surratt  
10/14/16  
Date



Life. Well Crafted.

Office of Planning and Development

**MEMORANDUM**

To: Hickory City Council

From: Community Appearance Commission

Re: Mark Tuttle – Community Appearance Grant

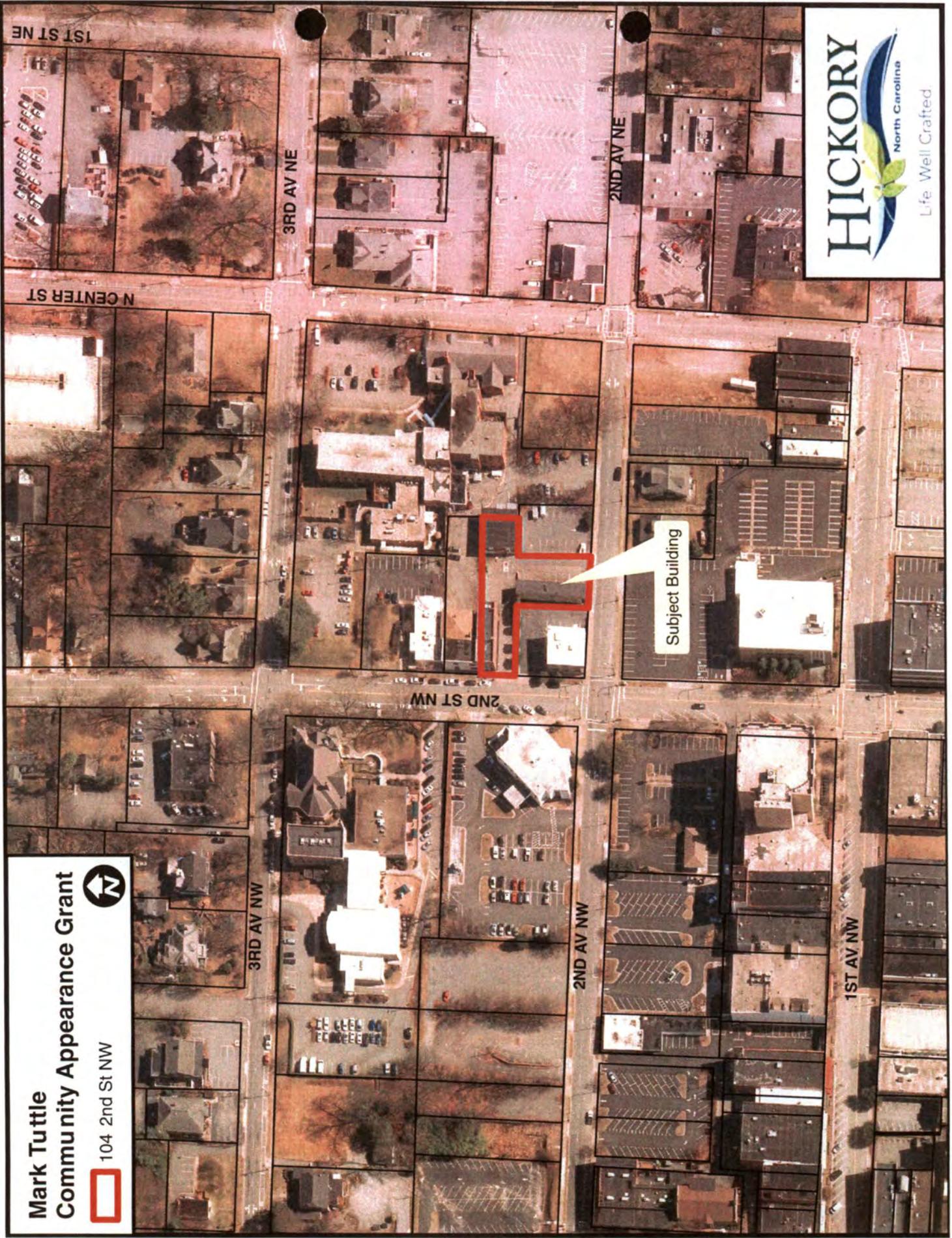
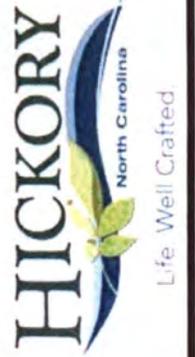
Mark Tuttle submitted an application for a Community Appearance Grant. The proposal involves improvements to a commercial building 104 2<sup>nd</sup> Avenue NW.

The grant proposal put forth involves the replacement of the existing windows, and the painting of the building's exterior walls. The property is located within the City's defined Urban Revitalization Area, and as such is eligible for the consideration of a Community Appearance Grant.

The applicant has provided two (2) bids for the work listed above, which total \$14,850.00 and \$15,200.00. If the Commission moves to approve the proposed grant at the lower of the two estimates, the request would qualify for a \$5,000.00 grant.

The application was reviewed by the Community Appearance Commission at its October 5, 2016 special call meeting. Upon review the Community Appearance Commission scored the application utilizing its grant scoring criteria. The Community Appearance Commission scored the application at 20 points out of a possible 30 points, which placed the application into the high category of scoring. Upon completion of the scoring exercise, the Community Appearance Commission voted unanimously (7-0) to recommend funding of the grant application in the amount of \$5,000.00.

Please refer to the attached materials for complete information.



Subject Building

Mark Tuttle  
Community Appearance Grant  
104 2nd St NW



### Community Appearance Grant Application Form

Project Location Address: 104 2<sup>ND</sup> AVE NW HICKORY

Applicant's Name: MARK TUTTLE

Applicant's Mailing Address: 212 2<sup>ND</sup> ST NW  
HICKORY, N.C. 28601

Telephone: Day: 828-234-0519 Mobile: SAME

E-mail address: markt@atlanticpkg.com

Project Description: MOONDOG PIZZA HAS SIGNED A 5 YEAR LEASE ON THIS PROPERTY AND WILL BE OPENING THEIR SECOND LOCATION IN DOWNTOWN HICKORY! OUR PLAN IS TO PAINT THE NON-DESCRIPT EXTERIOR BRICK AND REPLACE THE UNSIGHTLY EXISTING WINDOWS, MANY OF WHICH HAVE WINDOW AC UNITS. THIS PROJECT IS A CONTINUATION OF THE RECENT RENOVATIONS ON THIS PROMINENT BLOCK IN NORTHWEST HICKORY IN DOWNTOWN.  
BY ADDING ANOTHER DINING OPTION TO THE DOWNTOWN LANDSCAPE AND BEAUTIFYING WHAT IS PRESENTLY AN UGLY BUILDING, THIS PROJECT ADDRESSES THE GOALS OF THIS GRANT AND THEN SOME. PLEASE CONSIDER THIS! THANK YOU!

Total Estimated Project Cost \$ \_\_\_\_\_  
Grant Request Amount \$ \_\_\_\_\_

**Required Attachments**

- Property Deed or Lease
- Color photographs of the existing site or project area
- A plan (drawing) of the site showing the exact location of proposed improvements
- A detailed list of the materials to be used
- A detailed project narrative that fully explains how the application meets the grant guidelines; and
- Two cost estimates/bids.** Cost estimates must be from two different companies or individuals who are capable of performing the proposed work as outlined.

**Certification by Owner**

I have completed the enclosed application and attached the items requested above. I have been adequately informed of the requirements of this grant (including eligible and ineligible activities) and the process for review of my application.

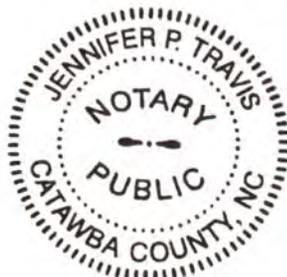
I understand that the grant money will only apply for approved work that is completed in accordance with the information I have provided in this grant application. Additional work that may be done on site but that is not described in this application will not be reimbursed.

Owners Signature: *Mark Tuttle* Date: 8/18/16  
 (Owners signature must be notarized)

**NORTH CAROLINA  
CATAWBA COUNTY**

I, Jennifer P. Travis, a Notary Public for said County and State, do hereby certify that Mark Tuttle personally appeared before me this day and acknowledge the due execution of the foregoing instrument.

Witness my hand and official seal, this the 18<sup>th</sup> day of August, 2016



*Jennifer P. Travis*  
 Notary Public  
 My Commission Expires: Sept 9, 2020

3321-0631

FILED Catawba County

on Dec 15, 2015 at 03:16:00 pm

Excise Tax \$0.00 (AT)

INST. # 21225

DONNA HICKS SPENCER,  
Register of Deeds

BK 03321 Pg 0631-0634

GENERAL WARRANTY DEED

Excise Tax, \$0.00  
Tax Parcel ID No. \_\_\_\_\_ Verified by \_\_\_\_\_ County  
on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ By: \_\_\_\_\_

✓ Mail/Box to: Donald R. Fuller, Jr., P.O. Box 301, Hickory, NC 28603

This instrument was prepared by: Donald R. Fuller, Jr., P.O. Box 301, Hickory, NC 28603

Brief description for the Index: \_\_\_\_\_

THIS DEED, made this the 11<sup>th</sup> day of December, 2015, by and between

GRANTOR: Marcus Lee Tuttle, Jr. and wife, Dana Gilbert Tuttle  
whose mailing address is PO Box 2213, Hickory, NC 28603  
(herein referred to as **Grantor**) and

GRANTEE: Tuttle, LLC, a North Carolina limited liability company  
whose mailing address is PO Box 2213, Hickory, NC 28603  
(herein referred to as **Grantee**) and

WITNESSETH:

For valuable consideration from Grantee to Grantor, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby gives, grants, bargains, sells and conveys unto Grantee in fee simple, subject to the Exceptions and Reservations hereinafter provided, if any, the following described property located in the City of Hickory, County of Catawba, State of North Carolina, more particularly described as follows:

See Exhibit A which is attached and incorporated herein by reference.

None of the property herein conveyed includes the primary residence of a Grantor.

TO HAVE AND TO HOLD unto Grantee, together with all privileges and appurtenances thereunto belonging, in fee simple, subject to the Exceptions and Reservations hereinafter and hereinabove provided, if any.

And Grantor hereby warrants that Grantor is seized of the premises in fee and has the right to convey same in fee simple, that title is marketable and is free and clear of encumbrances other than as set forth herein, and that Grantor will forever warrant and defend the title against the lawful claims of all persons or entities whomsoever.

This conveyance is made subject to the following Exceptions and Reservations:

- a. deed of trust recorded in Book 2776, Page 423, Catawba County Registry, encumbering Tract One;
- b. deed of trust recorded in Book 3273, Page 877, Catawba County Registry, encumbering Tract Two;

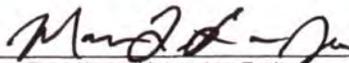
4

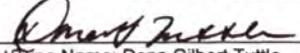
3321-0632

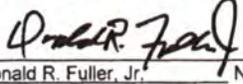
- c. deed of trust recorded in Book 3301, Page 1814, Catawba County Registry, encumbering Tract Three and Tract 4;
- d. ad valorem taxes assessed the property herein conveyed for 2015 and subsequent years; 0632
- e. easements, rights of way, covenants, conditions, restrictions, reservations, and other matters of record affecting the property herein conveyed.

All references to Grantor and Grantee as used herein shall include the parties as well as their heirs, successors and assigns, and shall include the singular, plural, masculine, feminine or neuter as required by context.

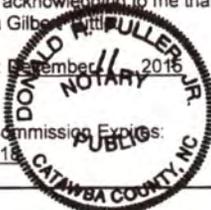
IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

 (SEAL)  
 Print/Type Name: Marcus Lee Tuttle, Jr.

 (SEAL)  
 Print/Type Name: Dana Gilbert Tuttle

State of North Carolina County of Catawba  I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: Marcus Lee Tuttle, Jr.  Date: <u>December 11, 2015</u>	(Official/Notarial Seal)
 <u>Donald R. Fuller, Jr.</u> Notary Public Notary's Printed or Typed Name	
My Commission Expires: <u>8/21/18</u>	

State of North Carolina County of Catawba  I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: Dana Gilbert Tuttle  Date: <u>December 11, 2015</u>	(Official/Notarial Seal)
 <u>Donald R. Fuller, Jr.</u> Notary Public Notary's Printed or Typed Name	
My Commission Expires: <u>8/21/18</u>	



3321-0633

NT  
OT

EXHIBIT A

0633

Tract One

1084 – 14<sup>th</sup> Avenue, NW, Hickory, NC  
PIN 279312873047, LRK 45384

BEING all of Lot No. 2, Block "G", Forest Hills Subdivision, No. 2, a plat of which is recorded in Plat Book 5 at Page 111, Catawba County Registry.

Tract One having been conveyed to Grantor by instrument recorded in Book 2776, Page 421, Catawba County Registry.

Tract Two

2149 Sixth Street, NE, Hickory, NC  
PIN 371305183869, LRK 46140

BEGINNING at an iron stake in the Northern line of the property of S. E. Kirby and in the Western margin of a 50-foot street sometimes known as 6<sup>th</sup> Street, NE, Hickory, North Carolina, and running thence with the Northern line of S.E. Kirby and Lock Isenhour, South 87 degrees 42 minutes West 193.92 feet to an iron stake at the Southeast corner of E.C. Bolick; thence North 5 degrees 20 minutes East 100 feet to an iron stake; thence South 89 degrees 36 minutes East 192.6 feet to an iron stake located in the Western margin of 6<sup>th</sup> Street, NE; thence South 4 degrees 37 minutes West with the Western margin of 6<sup>th</sup> Street, NE, 90.0 feet to the point of Beginning, and being a part of the land conveyed to J. C. Moser and wife, Lona H. Moser by deed recorded in Book 505 of Deeds at Page 473 in the Catawba County Registry, Also, see deed recorded in Book 442 of Deeds Page 579, for further chain of title.

Tract Two having been conveyed to Grantor by instrument recorded in Book 3004, Page 1650, Catawba County Registry.

Tract Three

212 Second Street, NW, and 104 Second Avenue, NW, Hickory, NC  
PIN 370319508571, LRK 1042

BEGINNING at an iron stake found in the eastern margin of the right-of-way of 2<sup>nd</sup> Street, N.W., which iron stake is located North 0° 25' 45" East 97.22 feet, more or less, from the northern margin of the right-of-way of 2<sup>nd</sup> Avenue, N.W., which iron stake marks the northwest corner of Phillip J. Schmitt under deed recorded in Book 1506 at Page 995; proceeding thence with the eastern margin of the right-of-way of 2<sup>nd</sup> Street, N.W., North 0° 25' 45" East 50.53 feet to a pin, the southwest corner of Robert W. Hallman, Sr., under deed recorded in Book 1621 at Page 149; thence with Hallman's Southern line, South 89° 48' 15" East 215.85 feet to an iron stake in the western line of Health & Rehabilitation

3321-0634

MT 05

Properties Trust under deed recorded in Book 1528 at Page 120, thence with the eastern line of the trust, the following courses and distances: South 0° 05' 10" East 8.71 feet to an iron stake found and South 1° 39' 42" West 41.61 feet to an iron stake found in the northern line of Tilden H. Adams under Deed recorded in Book 1292 at Page 748; thence with Adams, the following courses and distances: South 89° 50' 23" West 48.63 feet to an iron stake set and South 0° 38' 34" East 99.05 feet to an iron stake found in the northern margin of the right-of-way of 2<sup>nd</sup> Avenue NW; thence with the northern margin of the right-of-way of 2<sup>nd</sup> Avenue, NW, North 89° 06' 20" West 68.69 feet to an iron stake found, the southeast corner of Phillip J. Schmitt; thence with Schmitt the following courses and distances: North 0° 18' 41" West 98.04 feet to an iron stake found and North 89° 40' West 98.30 feet to the BEGINNING, and containing 17,650 square feet, as shown on plat of surveyed entitled "Property of the Honeycutt Brothers Partnership" prepared by Vaughn & Bradshaw Surveying Company and dated January 31, 1991.

0634

Tract Three having been conveyed to Grantor by instrument recorded in Book 3239, Page 1939, Catawba County Registry.

Tract Four

Second Avenue, NW, Hickory, NC  
PIN 370319509464, LRK 1039

BEGINNING at a stake located at the northern margin of the right-of-way of 2<sup>nd</sup> Avenue NW, Hickory, North Carolina, said stake marking the southeast corner of Lot 1 of the Frank H. Houck Property as shown on a plat recorded in Plat Book 5 at Page 19, Catawba County Registry, said stake being located South 87° 10' East 168.5 feet from the northeast intersection of the rights of way of 2<sup>nd</sup> Avenue, NW and 2<sup>nd</sup> Street, NW and running thence with the eastern line of Lot No. 1 of the Frank Houck Property as platted in Plat Book 5 at Page 19, North 1° 30' East 99 feet to an iron pin, now or formerly in the line of Mrs. M.E. Taylor; thence with the Taylor line, South 88° 50' East to an iron stake now or formerly a corner of Mrs. B.L. Prevette; thence with Prevette's line, South 1° 30' west 100 feet to a stake located at the northern margin of the right-of-way of 2<sup>nd</sup> Avenue, N.W.; thence with the northern margin of the right of way of 2<sup>nd</sup> Avenue, NW, North 87° 10' West 68.5 feet to the Beginning. The above metes and bounds description encompasses all of Lot 2 of the Frank Houck Property as shown on a plat recorded in Plat Book 5 at Page 19, Catawba County Registry.

Tract Four having been conveyed to Grantor by instrument recorded in Book 3239, Page 1939, Catawba County Registry.

# PROPOSAL



## Advanced Building Corporation

STEVEN M ZEPP

6222 Ruffin Lane  
 Conover, NC 28613  
 Phone 828-638-8649  
[agape3@charter.net](mailto:agape3@charter.net)

To: Mark Tuttle

Memo:  
 104 2nd Ave NW  
 Hickory, NC 28601

DATE	DESCRIPTION	BALANCE	AMOUNT
8-3-2016	-Removal of existing widows throughout main(upper) floor of building. Replace with new double hung vinyl clad windows. Replace and paint trim  -Paint existing brick on building. maximum of two color choices. One color for the body of the building and one color for the trim (soffits and fascia)		
			\$14,850

REMITTANCE
Statement 3373
SNATURE Steven M. Zepp

Harrill Construction, Inc

Post Office Box 3102  
Hickory, NC 28603

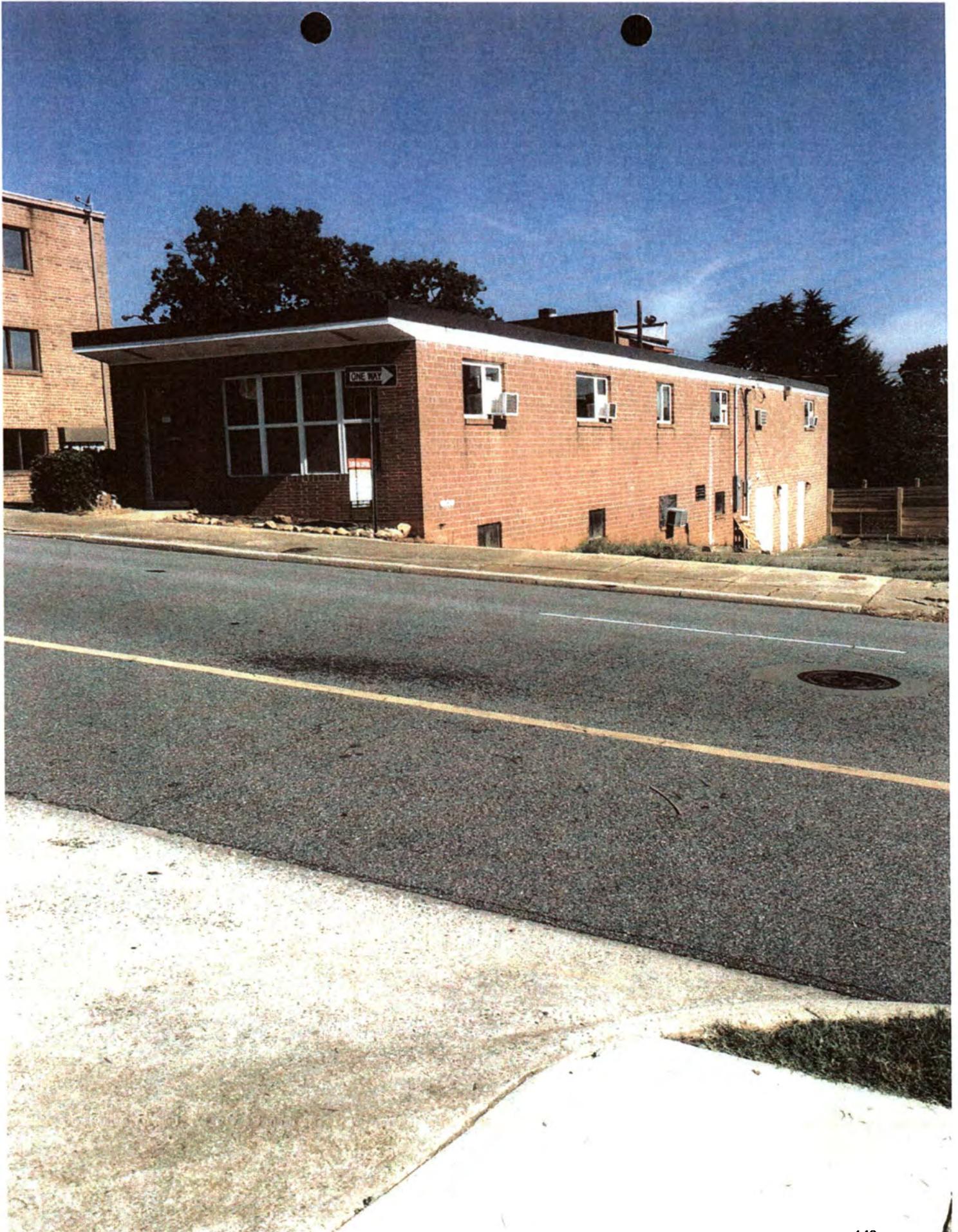
Phone # 828 228 1000      harrillalex@gmail.com

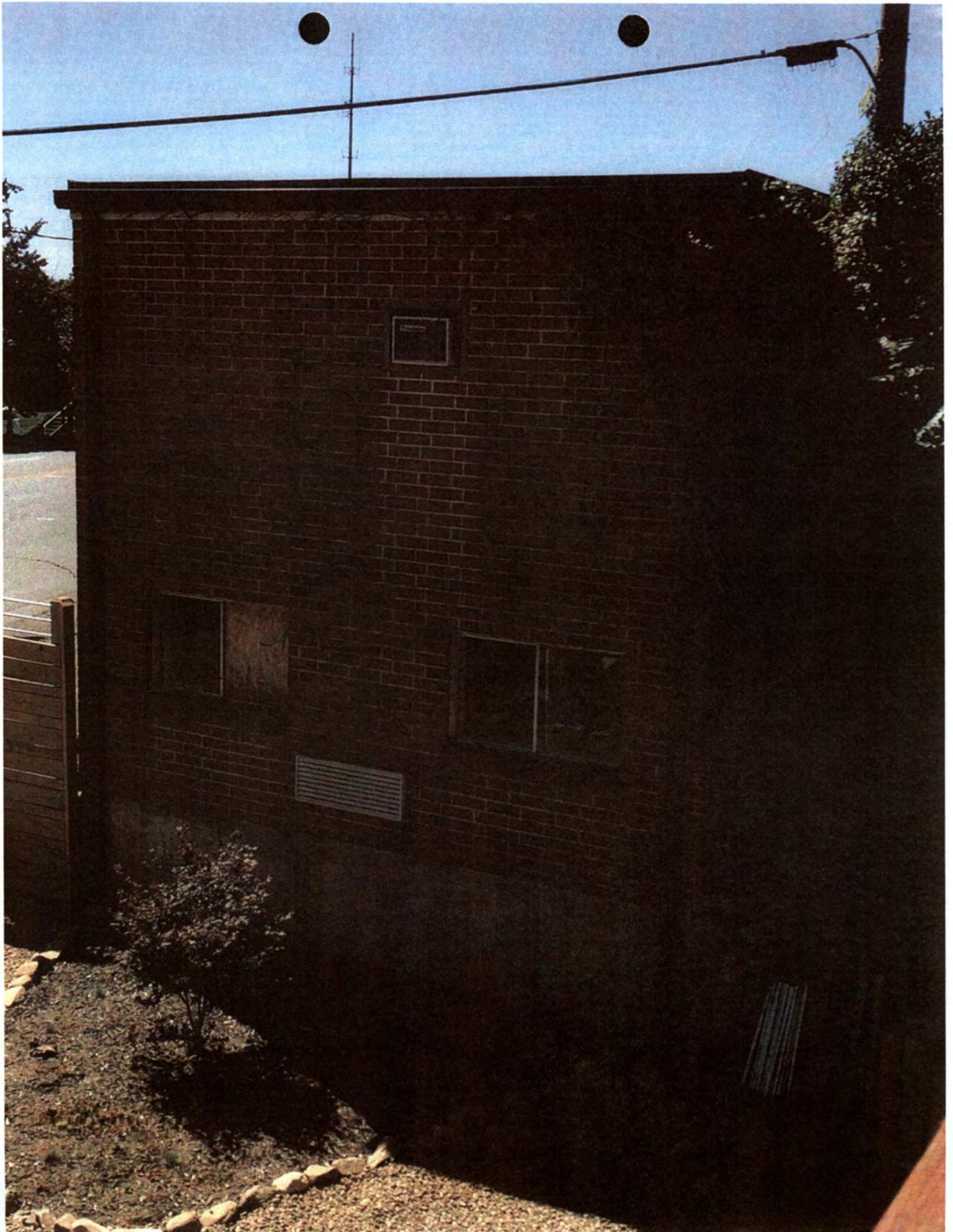
# Estimate

8/2/2016	217

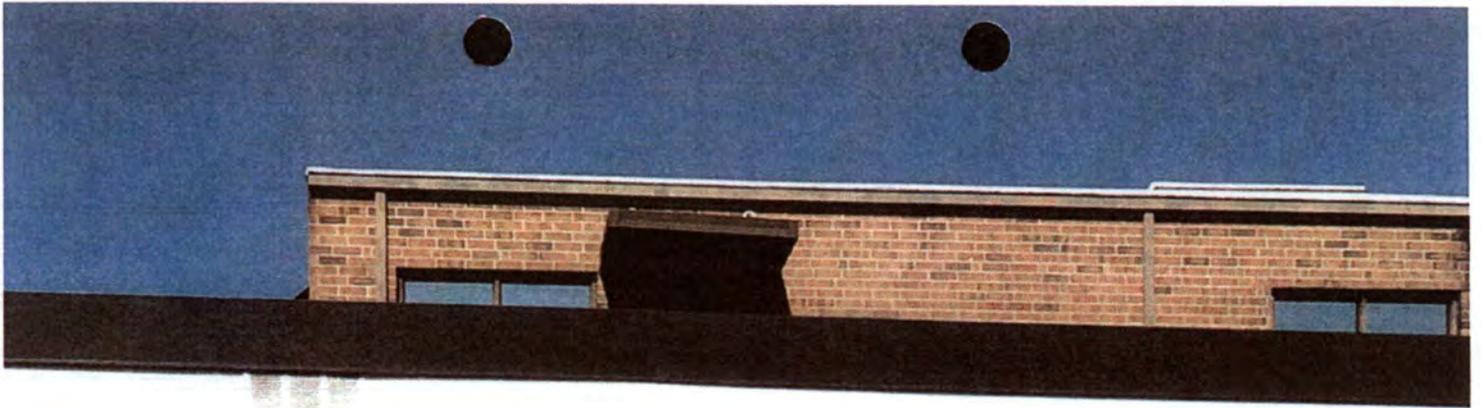
Mark Tuttle

Description	Qty	Rate	Total
Clean and prep exterior brick for paint. Cover all windows and doors to prevent over spray. One main color and one trim color. All brick will be primed and two coats of finish paint will be applied		7,800.00	7,800.00
Remove existing windows and replace with new MGM vinyl clad windows. Make all necessary alterations to accommodate new windows. Wrap exterior with new metal trim.		7,400.00	7,400.00
			<b>\$15,200.00</b>

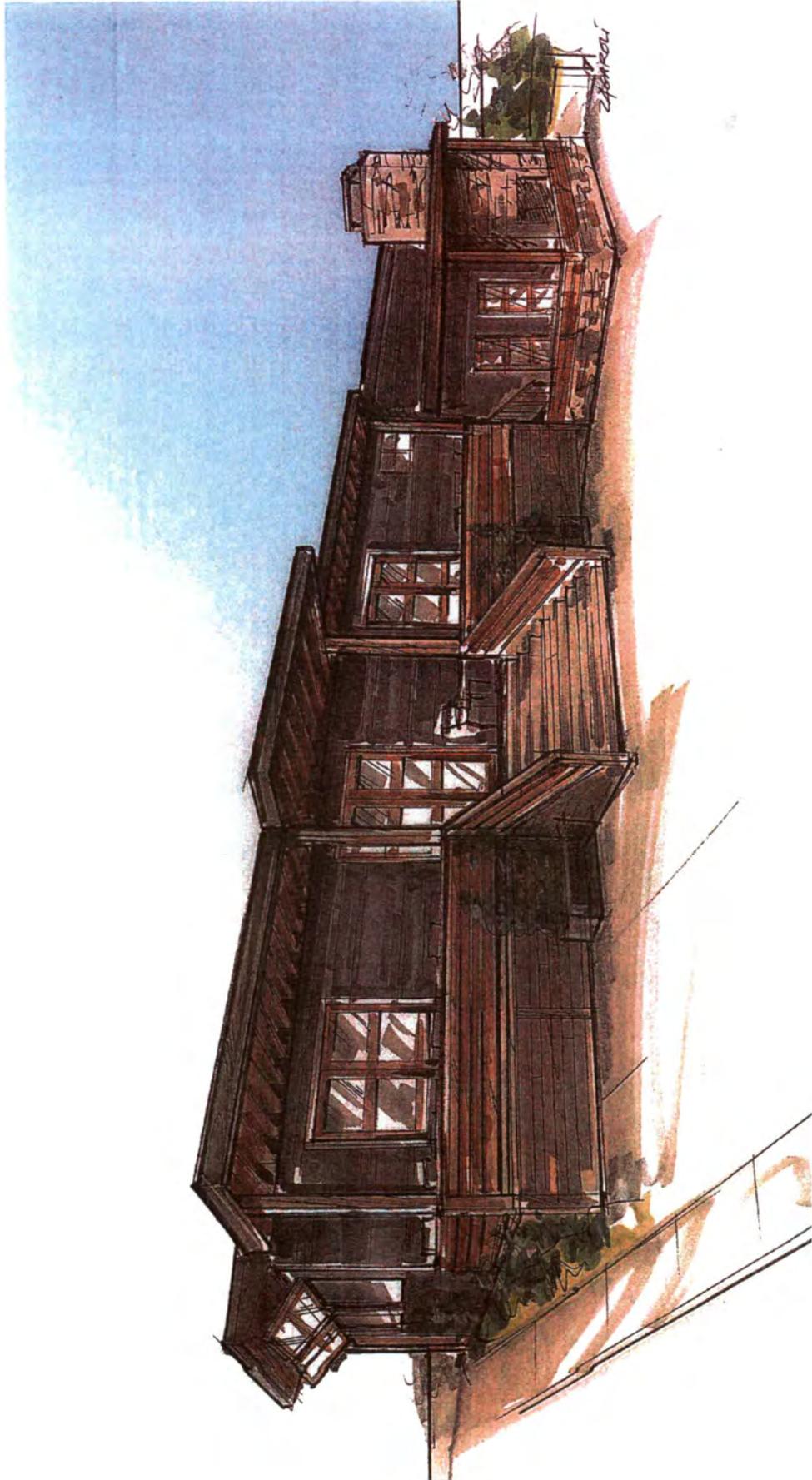












PREPARED BY: Legal Department, City of Hickory  
PO Box 398, Hickory, NC 28603

**STATE OF NORTH CAROLINA**

**APPEARANCE  
GRANT AGREEMENT**

**COUNTY OF CATAWBA**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the **CITY OF HICKORY**, a municipal corporation of Catawba County, North Carolina, hereinafter referred to as the CITY, and having a mailing address of P.O. Box 398, Hickory, North Carolina 28603, and **MARK TUTTLE**, referred to as the RECIPIENT, and having a mailing address of 212 2<sup>ND</sup> STREET NW, HICKORY, NC 28601.

**WITNESSETH**

THAT WHEREAS, the City is dedicated to the visual and functional improvements of properties within one mile of the City Center area, as defined by the City Center Plan, dated October 20, 1998; and

WHEREAS, the City is willing to award grants for physical improvements for the purpose of assisting in the visual enhancement of certain existing properties provided the Recipient agrees to certain conditions.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained the parties agree as follows:

1. The Recipient agrees to utilize the grant funds to fulfill that project described in the Downtown Appearance Improvement Incentive Grant Application attached hereto as Exhibit "A" and to utilize said funds solely for physical improvements. Said application is made a part of this Agreement and incorporated herein by reference as if more fully set forth.
2. The Recipient agrees to improve those premises described in Exhibit "A" in accordance with the intent of the City Center Plan to enhance the aesthetic integrity of the premises in accordance with the specifications established in attached "Exhibit A".
3. The Recipient agrees to maintain the design integrity of the proposed improvements, creating, retaining and/or modifying those elements, which enhance the premises.
4. The Recipient agrees to abide by and conform all construction, rehabilitation, renovation, demolition, and landscaping undertaken pursuant to this agreement to all applicable laws of the United States, the State of North Carolina, and those applicable provisions of the ordinances of the City of Hickory directly or indirectly related to the subject matter of this agreement.
5. The amount of this grant is Five Thousand Dollars and 00/100 (\$5,000.00), payable upon completion of said project, and submission of documentation confirming payment of all

contractors and/or subcontractors, provided said project is completed within 120 days from the date of this agreement being signed in accordance with those provisions specified in the Downtown Appearance Improvement Incentive Grant Application.

- 6. The Recipient agrees that in the event the actual project costs are less than the estimated costs, the City grant will be reduced to solely the amount of the actual project costs that would be eligible for participation in this program.
- 7. Technical assistance provided by the City will be advisory only. The City will not be a party in negotiations between the Recipient and any contractor employed by the Recipient nor will the City provide legal advice or services to any party. The Recipient agrees to hold the City harmless for any defects in workmanship or from any liability, damages, or other costs relative to this project.
- 8. This Agreement may be terminated and the City may withhold grant monies upon the Recipient's breach of or failure to perform any of the terms of this agreement. The City shall give the Recipient notice in writing of any potential breach of this Agreement, after which the applicant shall have ten (10) calendar days in which to cure said breach. In the event of a failure to cure a breach of this Agreement, the City of Hickory may pursue any remedy available, either in equity or at law.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed upon the day and year first written above.

**CITY OF HICKORY**  
A North Carolina Municipal Corporation

By: \_\_\_\_\_  
Rudy Wright, Mayor

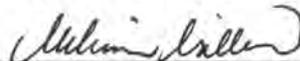
ATTEST: (SEAL)

\_\_\_\_\_  
Debbie D. Miller, City Clerk

Approved as to form and legality on behalf of the City of Hickory only:

\_\_\_\_\_  
Attorney for the City of Hickory

This document has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

  
\_\_\_\_\_  
Melissa Miller, Finance Officer

Mark Tuttle  
MARK TUTTLE, OWNER

STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA

I, \_\_\_\_\_ a Notary Public of said county and state, certify that **Debbie D. Miller** personally came before me this day and acknowledged that she is City Clerk of the City of Hickory, a North Carolina municipal corporation, and that by authority duly given and as the act of the City Council of the City of Hickory, the foregoing instrument was signed in its name and by its Mayor, sealed with its corporate seal and attested by her as its City Clerk.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

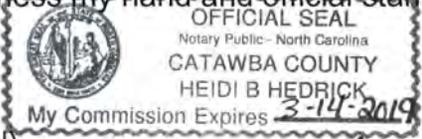
(Seal) \_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA

I, Heidi B. Hedrick, a Notary Public of the County and State aforesaid certify that **Mark Tuttle**, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal this 6<sup>th</sup> day of October, 2016.



(Seal) \_\_\_\_\_  
Notary Public

My Commission Expires: March 14, 2019

**COUNCIL AGENDA MEMOS**

**To: City Manager's Office**  
**From: Community Appearance Commission**  
**Contact Person: Cal Overby, Planning Department**  
**Date: October 6, 2016**  
**Re: Community Appearance Grant – Resource Recovery Company**

**REQUEST**

The Community Appearance Commission recommends City Council approval of a Community Appearance Grant for non-residential property owned by Resource Recovery Company at 313 Main Avenue NE in the amount of \$5,000.00.

**BACKGROUND**

The City Council created the Community Appearance Grant program in 1999 to provide economic incentives for property owners to improve the general appearance of properties located within the City's designated Urban Revitalization Area. The Community Appearance Commission reviews applications for the grant program and forwards a recommendation of approval or denial to City Council. The grants are designed as a reimbursement grant in which the City of Hickory will match the applicant on a 50/50 basis. The maximum grant amount from the City of Hickory is \$5,000.00.

**ANALYSIS**

The grant proposal put forth by Resource Recovery Company involves the renovation of existing non-residential building. The proposal involves the replacement of existing windows, kick plates, and moldings on the building's exterior façade. The subject property is located within the City's Urban Revitalization Area, which makes the application eligible for funding under the Community Appearance Grant program.

The applicant has provided two (2) bids for the items listed above, which total \$11,383.51 and \$16,610.62. Being both estimates are in excess of \$10,000, the request qualifies for the full \$5,000 grant.

The current tax value of the property is \$90,600.00. The value of the grant represents approximately 5.5% of the property's tax value.

**RECOMMENDATION**

The application was reviewed by the Community Appearance Commission at its October 5, 2016 special call meeting. Upon review the Community Appearance Commission scored the application utilizing its grant scoring criteria. The Community Appearance Commission's scored the application at 25 points out of a possible 30 points, which placed the application into the high category of scoring. Upon completion of the scoring exercise, the Community Appearance Commission voted unanimously (6-0) to recommend funding of the grant application in the amount of \$5,000.00.

**BUDGET ANALYSIS:**

**Budgetary Action**

Is a Budget Amendment required?

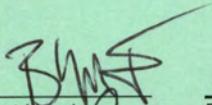
Yes

No

**LIST THE EXPENDITURE CODE:**

**Reviewed by:**

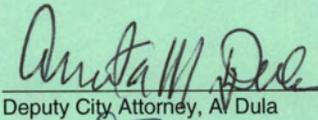
Brian Frazier



10/06/16

Initiating Department Head

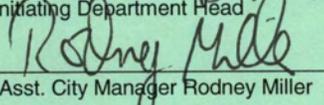
Date



10-14-16

Date

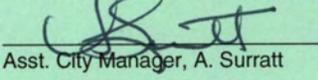
Asst. City Manager Rodney Miller



10-7-16

Date

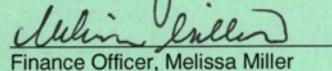
Asst. City Manager, A. Surratt



10/14/16

Date

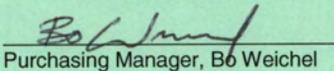
Finance Officer, Melissa Miller



10-7-16

Date

Purchasing Manager, Bo Weichel



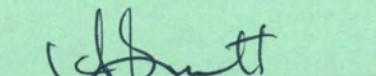
10-10-16

Date

Date

Recommended for approval and placement on \_\_\_\_\_ Council agenda (as Consent, Public Hearing, Informational, Department Report, etc).

Interim City Manager, A. Surratt



Date

10/14/16



Life. Well Crafted.

Office of Planning and Development

**MEMORANDUM**

To: Hickory City Council

From: Community Appearance Commission

Re: Resource Recovery Company – Community Appearance Grant

Resource Recovery Company submitted an application for a Community Appearance Grant. The proposal involves improvements to a commercial building 313 Main Avenue NE.

The grant proposal put forth involves the replacement of windows, kick plates, and moldings. The property is located within the City's defined Urban Revitalization Area, and as such is eligible for the consideration of a Community Appearance Grant.

The applicant has provided two (2) bids for the work listed above, which total \$11,383.51 and \$16,610.62. If the Commission moves to approve the proposed grant at the lower of the two estimates, the request would qualify for a \$5,000.00 grant.

The application was reviewed by the Community Appearance Commission at its October 5, 2016 special call meeting. Upon review the Community Appearance Commission scored the application utilizing its grant scoring criteria. The Community Appearance Commission's scored the application at 25 points out of a possible 30 points, which placed the application into the high category of scoring. Upon completion of the scoring exercise, the Community Appearance Commission voted unanimously (6-0) to recommend funding of the grant application in the amount of \$5,000.00.

Please refer to the attached materials for complete information.



**Resource Recovery Company  
Community Appearance Grant**



313 Main Avenue NE



NOT TO SCALE

**Community Appearance Grant  
Application Form**

Project Location Address: 313 MAIN AVE. NE, Hickory, NC 28601

Applicant's Name: RESOURCE RECOVERY COMPANY  
DONAVON SMITH - Project Engineering Manager

Applicant's Mailing Address: 313 MAIN AVE. NE, Hickory, NC 28601

Telephone: Day: 828 345-6036 Mobile: 828 234-6893

E-mail address: RRC@MAXIMIZERSYSTEMS.COM

Property Owner's Name (if not the Applicant): DEAN POPPE

Mailing Address: 900 SANTA ANA AVE  
RANCHO VIEJO, TX 78575

Telephone: Day: \_\_\_\_\_ Mobile: 828 244-1515

E-mail address: \_\_\_\_\_

Project Description: FRONT WINDOWS UPGRADE

Total Estimated Project Cost \$ 11,383.51  
Grant Request Amount \$ 5,000.00

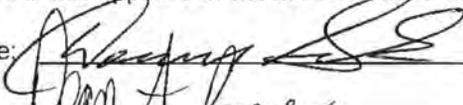
**Required Attachments**

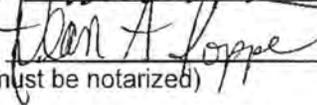
- Property Deed or Lease
- Color photographs of the existing site or project area
- A plan (drawing) of the site showing the exact location of proposed improvements
- A detailed list of the materials to be used
- A detailed project narrative that fully explains how the application meets the grant guidelines; and
- Two cost estimates/bids.** Cost estimates must be from two different companies or individuals who are capable of performing the proposed work as outlined.

**Certification by Applicant and Owner**

I have completed the enclosed application and attached the items requested above. I have informed the owner of the project prior to obtaining his/her signature on this application. I have been adequately informed of the requirements of this grant (including eligible and ineligible activities) and the process for review of my application.

I understand that the grant money will only apply for approved work that is completed in accordance with the information I have provided in this grant application. Additional work that may be done on site but that is not described in this application will not be reimbursed.

Applicant Signature:  Date: 9-13-2016

Owners Signature:  Date: 6-13-2016  
(Owners signature must be notarized)

**NORTH CAROLINA  
CATAWBA COUNTY**

I, Betty B. Smith, a Notary Public for said County and State, do hereby certify that Dean A. Poppe personally appeared before me this day and acknowledge the due execution of the foregoing instrument.

Witness my hand and official seal, this the 13 day of June, 2016

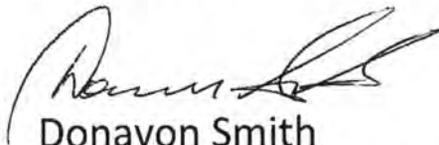
Betty B. Smith  
Notary Public

My Commission Expires: May 25, 2021

To Whom It May Concern:

We are seeking a Community Appearance Grant to improve the appearance of our building façade which is located in the Urban Revitalization Area of the city of Hickory. The improvement we are proposing is the replacement of the front windows of our office which faces Main Ave NE. Our location is not only in the Urban Revitalization Area but also sits prominently along the new Citywalk which links Lenoir-Rhyne University through the downtown area. This project would dramatically impact the visibility and appearance of the property along this important thoroughfare and is in line with the City's initiative to revitalize the city in the central business district.

Thank you,



Donavon Smith  
Project Engineering Manager  
Resource Recovery Company

1996 1088

Prepared by Joe N. Cagle, Attorney, P. O. Box 2050, Hickory, NC 28603

NORTH CAROLINA ) 013464  
CATAWBA COUNTY ) WARRANTY DEED

THIS WARRANTY DEED is made this the 13th day of June, 1996, from Leland Richard Parris and wife, Vicky P. Parris (hereinafter called "Grantor") to Dean A. Poppe, whose mailing address is 313 Main Avenue, N.E., Hickory, North Carolina 28601 (hereinafter called "Grantee").

REVENUE \$250.00

WITNESSETH:

THAT the Grantor, for a good and valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, does hereby give, grant, bargain, sell, and convey unto the Grantee, his heirs and assigns, in fee simple, that certain tract or parcel of real estate located in Hickory Township, Catawba County, North Carolina, and more particularly described as follows:

BEGINNING on an iron pin located at the point of intersection of the Northern margin of the right of way of Main Avenue, N.E., with the Western margin of the right of way of 4th Street, N.E., in the City of Hickory, and runs thence from said Point of Beginning with the Western right of way margin of 4th Street, N.E., North 16 degrees 10 minutes 45 seconds West 130.27 feet to an iron pin; thence with the Park Square Associates property line (now or formerly) South 87 degrees 18 minutes 50 seconds West 45.28 feet to an iron pin; thence continuing with another property line Park Square Associates (now or formerly) South 13 degrees 44 minutes East 63.60 feet to an iron pin, thence continuing with Park Square Associates (now or formerly) South 14 degrees 11 minutes East 80.14 feet to an iron pin located in the Northern margin of the right of way of Main Avenue, N.E., thence with the Northern right of way margin of Main Avenue, N.E., North 65 degrees 29 minutes 10 seconds East 50.26 feet to the Point of Beginning.

The foregoing description was taken from a plat prepared by Miller Surveying, Inc., dated June 7, 1996.

For partial chain of title, see Book 1482 at Page 233, Catawba County Registry.

TO HAVE AND TO HOLD the aforesaid parcel of real estate with all improvements thereon and all privileges and appurtenances thereto belonging, to the Grantee, his heirs and assigns, in fee simple forever.

And the Grantor covenants with the Grantee, that the Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances (with the exceptions above stated, if any), and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever.

CATAWBA 754

46-13-96



Rsm \$250.00 Real Estate Excise Tax

RECORDED  
NORTH CAROLINA  
JUN 13 PM 3 57  
CATAWBA CO., N.C.

300A11 36 . 1089

When reference is made to the Grantor or Grantee, the singular shall include the plural and the masculine shall include the feminine or the neuter.

IN WITNESS WHEREOF, the Grantor herein has executed this Deed the day and year first above-written.

Leland R. Parris (Seal)  
Leland Richard Parris

Vicky P. Parris (Seal)  
Vicky P. Parris

NORTH CAROLINA  
CATAWBA COUNTY

I, a Notary Public of the County and State aforesaid, hereby certify that Leland Richard Parris and wife, Vicky P. Parris, as Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official seal, this the 13th day of June, 1996.

Susan C. Kirby  
Notary Public  
My Commission expires December 2, 1997

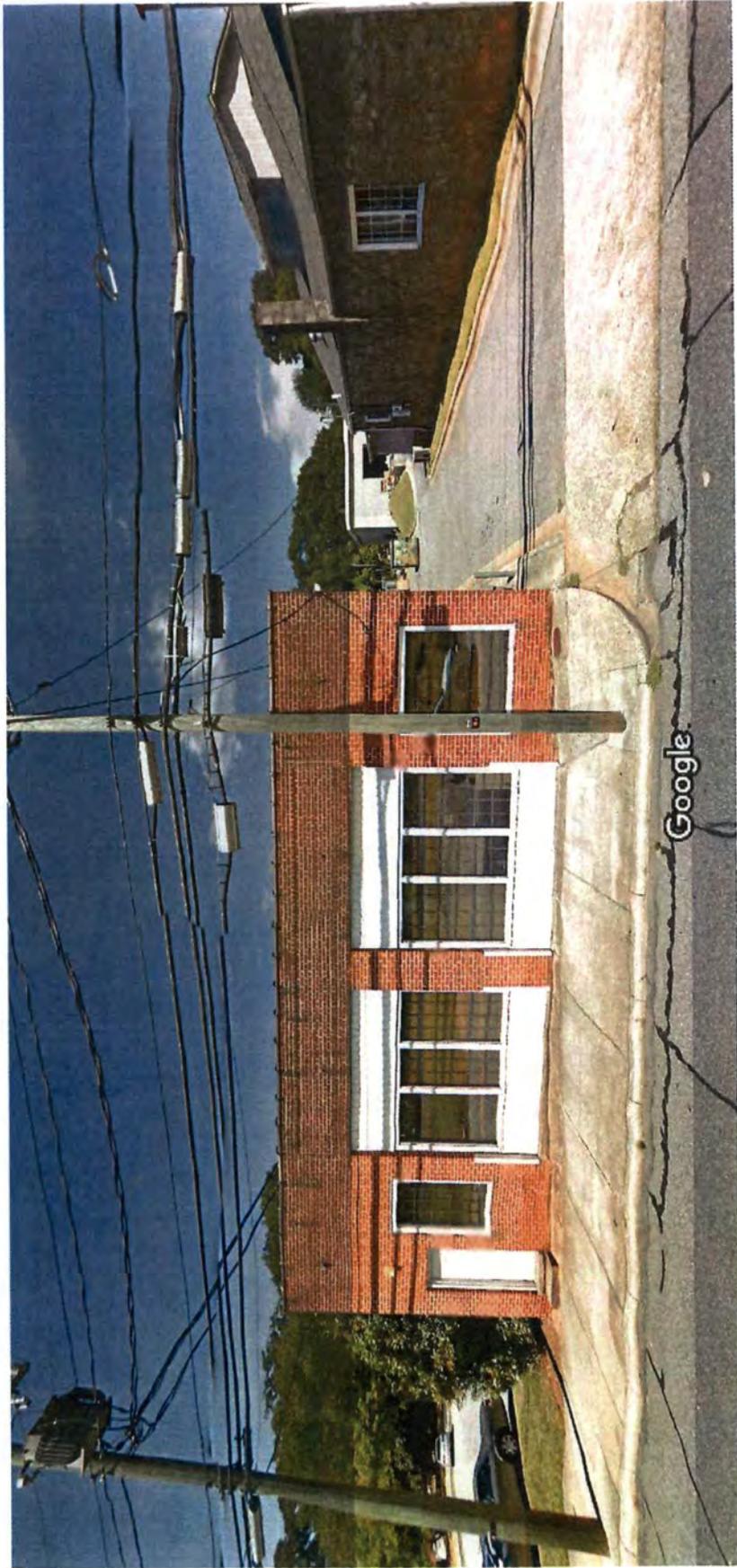
STATE OF NORTH CAROLINA CATAWBA COUNTY

The foregoing certificate for Susan C. Kirby, a Notary Public of Caldwell County, N.C., is certified to be correct. This instrument was presented for registration this 13th day of June, 1996 at 3:57 P.M. and duly recorded in the office of the Register of Deeds of Catawba County, N.C. in Book 1986 at Page 1088.

Ruth Mackie  
RUTH MACKIE - REGISTER OF DEEDS

Renee Martin  
By: ASSISTANT REGISTER OF DEEDS, 19s

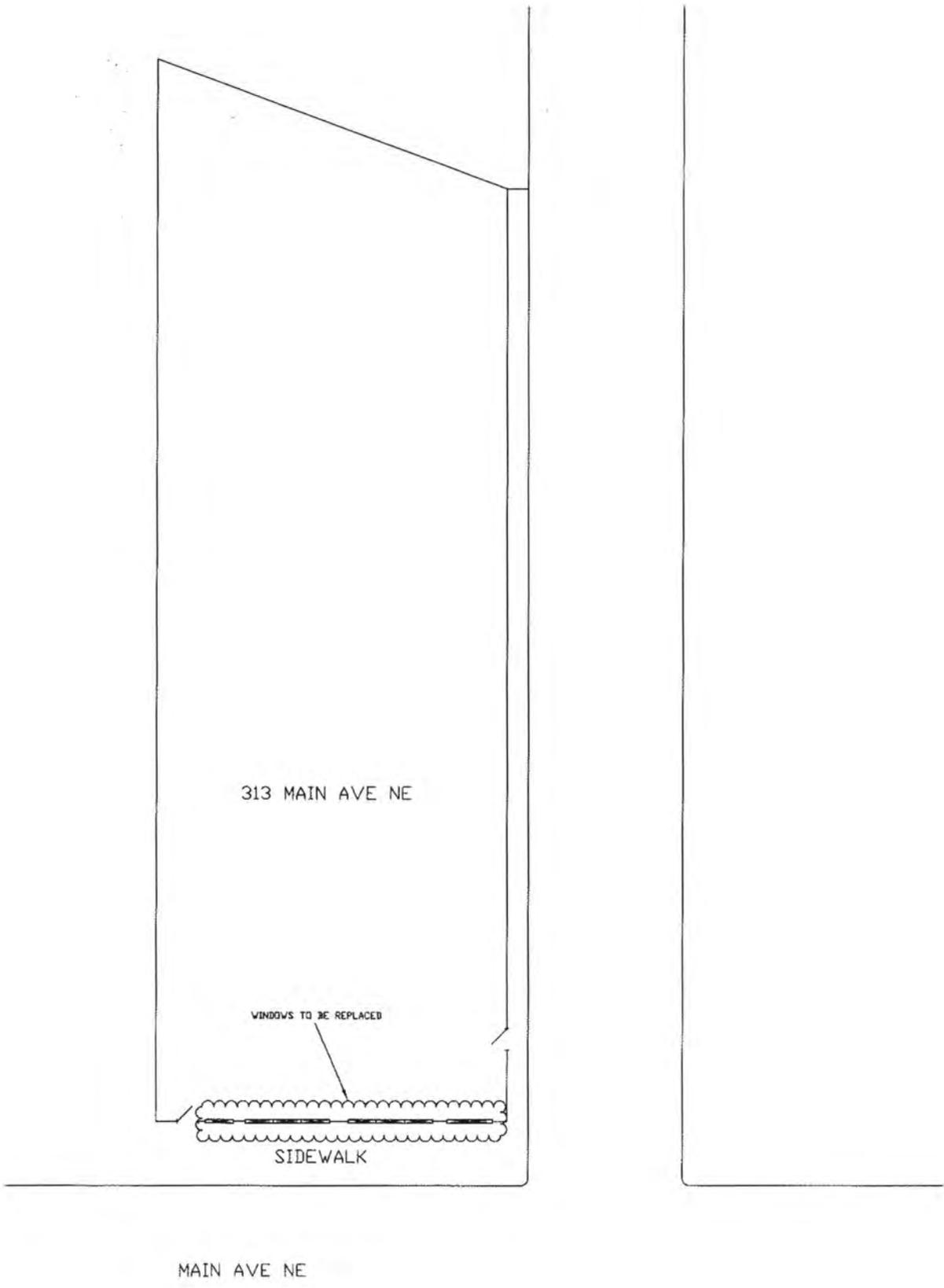
Google Maps Main Ave NE



Google

Image capture: Sep 2012 © 2016 Google

Hickory, North Carolina  
Street View - Sep 2012





**Resource Recovery Company Window Repair copy 3**

215 11th St. NW  
Hickory, NC 28601

Submitted by:

**Travis Waller & Rick Winkler**  
**Imperial Builders & Renovations, LLC**

5037 Wallace Circle  
Hickory, NC 28602  
Mobile: 828-312-8765 828-308-2280  
Fax: 828-330-0092

info@imperialbuildersnc.com  
imperialbuildersnc.com  
License #: 72072

## Resource Recovery Company Window Repair copy 3

August 18, 2016

Travis Waller & Rick Winkler  
 Imperial Builders & Renovations, LLC  
 5037 Wallace Circle  
 Hickory, NC 28602  
 Mobile 828-312-8765 828-308-2280  
 Fax 828-330-0092  
 info@imperialbuildersnc.com  
 imperialbuildersnc.com  
 License #: 72072

**Estimate****Project**

Resource Recovery Company Window Repair copy 3  
 215 11th St. NW  
 Hickory, NC 28601

**Customer**

Donavon Smith  
 Resource Recovery Company  
 215 11th St. NW  
 Hickory, NC 28601

Office 828-322-4044  
 Mobile 828-234-6893  
 ds@maximizersystems.com  
 www.maximizersystems.com

## Replacement of Windows

Description	Quantity	Hours	Material	Labor	Other	Subcontract	Cost
<b>Demo &amp; Debris Removal</b>							<b>1,161.91</b>
<b>Windows</b>							<b>1,161.91</b>
<b>Doors, Remove window jamb, &amp; casing</b>	7 Ea	5.95	0.00	522.12	0.00	0.00	522.12
Labor to remove all woodwork around Windows				74.59/Ea			74.59/Ea
<b>Windows, Remove window, large (17 to 29 sf)</b>	7 Ea	7	25.49	614.30	0.00	0.00	639.79
Tear-out and debris removal to a truck or dumpster on site. Does not include hauling, dumpster, or dump fees. No salvage value is assumed.			3.64/Ea	87.76/Ea			91.40/Ea
<b>Construction</b>							<b>10,221.60</b>
<b>Cleanup</b>							<b>224.25</b>
<b>Debris removal</b>	1 Ea	2.5	0.00	146.25	78.00	0.00	224.25
Haul away old windows & debris and disposal at landfill							
<b>Drywall</b>							<b>639.96</b>
<b>Drywall, Drywall patch, drywall patch (match existing texture or finish)</b>	3 Ea	4.26	266.14	373.82	0.00	0.00	639.96
			88.71/Ea	124.61/Ea			213.32/Ea
<b>Painting</b>							<b>1,489.45</b>
<b>Painting, Drywall, plaster and woodwork, 2 coats</b>	7 Ea	13.65	274.37	1,215.08	0.00	0.00	1,489.45
Paint repaired areas to match existing wall and paint new window jambs & casing			39.20/Ea	173.58/Ea			212.78/Ea
<b>Siding &amp; Trim</b>							<b>1,175.40</b>
<b>PVC Coil, Wrap Exterior</b>	7 Ea	9.73	321.59	853.81	0.00	0.00	1,175.40
Wrap exterior of trim & seals with PVC trim coil.			45.94/Ea	121.97/Ea			167.91/Ea

## Resource Recovery Company Window Repair copy 3

August 18, 2016

Description	Quantity	Hours	Material	Labor	Other	Subcontract	Cost
<b>Construction</b>							
<b>Windows</b>							<b>6,692.54</b>
<b>Cost of replacement windows</b> Vinyl frame with grids between glass white in color	1 Ea	0	5,814.16	0.00	0.00	0.00	5,814.16
<b>Windows, Vinyl fixed (picture) window</b> All vinyl windows install	7 Ea	10.01	0.00	878.38 <i>125.48/Ea</i>	0.00	0.00	878.38 <i>125.48/Ea</i>
<b>Project Total</b>		<b>53.1</b>	<b>6,701.75</b>	<b>4,603.76</b>	<b>78.00</b>	<b>0.00</b>	<b>11,383.51</b>
						Tax	0.00
						<b>Total with Tax</b>	<b>11,383.51</b>

We appreciate your business and look forward to working with you.

Approved By: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_

Contractor \_\_\_\_\_ Customer \_\_\_\_\_

# Jeremy Harstick Construction

3351 30th St NE  
 Hickory, NC 28601  
 Cell: 828-455-7837  
 Office: 828-441-4700  
[harstick1005@gmail.com](mailto:harstick1005@gmail.com)

# PROPOSAL

DATE: 4/13/2016  
 Proposal # 

1
---

  
 Customer ID 

RRC
-----

**TO:**

Resource Recovery Company  
 313 Main Av NE  
 Hickory, NC 28601

DESCRIPTION	TAXED	AMOUNT
We hereby propose to:		
Provide materials and labor necessary to:		
Remove and replace eight store front windows, reframe around openings as required, replace trim metal around windows. Windows to be vinyl picture windows with tempered, "low-e" glass with grids inside the glass. Vinyl on windows to be white.		\$11,675.84
Remove and replace knee walls underneath six windows on front of building due to rotten wood. Remove and replace vinyl siding above and below six windows on front of building. Replacing knee walls include replacing plywood on outside and covering with house wrap, replacing drywall and trim below and around windows and paint walls and trim as required.		\$4,934.78

**OTHER COMMENTS**

Subtotal	\$ 16,610.62	
Taxable	\$ -	
Tax rate	<table border="1" style="display: inline-table;"><tr><td>7.000%</td></tr></table>	7.000%
7.000%		
Tax due	\$ -	
Other	<table border="1" style="display: inline-table;"><tr><td>\$ -</td></tr></table>	\$ -
\$ -		
<b>TOTAL Due</b>	<b>\$ 16,610.62</b>	

Please make all checks payable to  
**Jeremy Harstick**

If you have any questions about this proposal, please contact  
 Jeremy Harstick - 828-455-7837 - [harstick1005@gmail.com](mailto:harstick1005@gmail.com)  
**Thank You For Your Business!**

PREPARED BY: Legal Department, City of Hickory  
PO Box 398, Hickory, NC 28603

**STATE OF NORTH CAROLINA**

**APPEARANCE  
GRANT AGREEMENT**

**COUNTY OF CATAWBA**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the **CITY OF HICKORY**, a municipal corporation of Catawba County, North Carolina, hereinafter referred to as the CITY, and having a mailing address of P.O. Box 398, Hickory, North Carolina 28603, and **RESOURCE RECOVERY COMPANY.**, referred to as the RECIPIENT, and having a mailing address of 313 Main Avenue NE, Hickory, NC 28601.

**WITNESSETH**

THAT WHEREAS, the City is dedicated to the visual and functional improvements of properties within one mile of the City Center area, as defined by the City Center Plan, dated October 20, 1998; and

WHEREAS, the City is willing to award grants for physical improvements for the purpose of assisting in the visual enhancement of certain existing properties provided the Recipient agrees to certain conditions.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained the parties agree as follows:

1. The Recipient agrees to utilize the grant funds to fulfill that project described in the Downtown Appearance Improvement Incentive Grant Application attached hereto as Exhibit "A" and to utilize said funds solely for physical improvements. Said application is made a part of this Agreement and incorporated herein by reference as if more fully set forth.
2. The Recipient agrees to improve those premises described in Exhibit "A" in accordance with the intent of the City Center Plan to enhance the aesthetic integrity of the premises in accordance with the specifications established in attached "Exhibit A".
3. The Recipient agrees to maintain the design integrity of the proposed improvements, creating, retaining and/or modifying those elements, which enhance the premises.
4. The Recipient agrees to abide by and conform all construction, rehabilitation, renovation, demolition, and landscaping undertaken pursuant to this agreement to all applicable laws of the United States, the State of North Carolina, and those applicable provisions of the ordinances of the City of Hickory directly or indirectly related to the subject matter of this agreement.
5. The amount of this grant is Five Thousand Dollars and 00/100 (\$5,000.00), payable upon completion of said project, and submission of documentation confirming payment of all

contractors and/or subcontractors, provided said project is completed within 120 days from the date of this agreement being signed in accordance with those provisions specified in the Downtown Appearance Improvement Incentive Grant Application.

- 6. The Recipient agrees that in the event the actual project costs are less than the estimated costs, the City grant will be reduced to solely the amount of the actual project costs that would be eligible for participation in this program.
- 7. Technical assistance provided by the City will be advisory only. The City will not be a party in negotiations between the Recipient and any contractor employed by the Recipient nor will the City provide legal advice or services to any party. The Recipient agrees to hold the City harmless for any defects in workmanship or from any liability, damages, or other costs relative to this project.
- 8. This Agreement may be terminated and the City may withhold grant monies upon the Recipient's breach of or failure to perform any of the terms of this agreement. The City shall give the Recipient notice in writing of any potential breach of this Agreement, after which the applicant shall have ten (10) calendar days in which to cure said breach. In the event of a failure to cure a breach of this Agreement, the City of Hickory may pursue any remedy available, either in equity or at law.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed upon the day and year first written above.

**CITY OF HICKORY**  
A North Carolina Municipal Corporation

By: \_\_\_\_\_  
Rudy Wright, Mayor

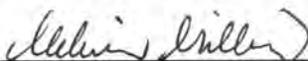
ATTEST: (SEAL)

\_\_\_\_\_  
Debbie D. Miller, City Clerk

Approved as to form and legality on behalf of the City of Hickory only:

\_\_\_\_\_  
Attorney for the City of Hickory

This document has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

  
\_\_\_\_\_  
Melissa Miller, Finance Officer

  
DONOVAN SMITH, PROJECT ENGINEER

STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA

I, \_\_\_\_\_ a Notary Public of said county and state, certify that **Debbie D. Miller** personally came before me this day and acknowledged that she is City Clerk of the City of Hickory, a North Carolina municipal corporation, and that by authority duly given and as the act of the City Council of the City of Hickory, the foregoing instrument was signed in its name and by its Mayor, sealed with its corporate seal and attested by her as its City Clerk.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

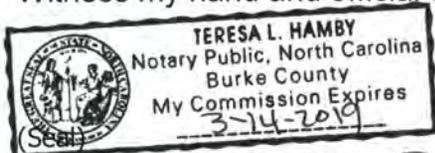
(Seal) \_\_\_\_\_  
Notary Public

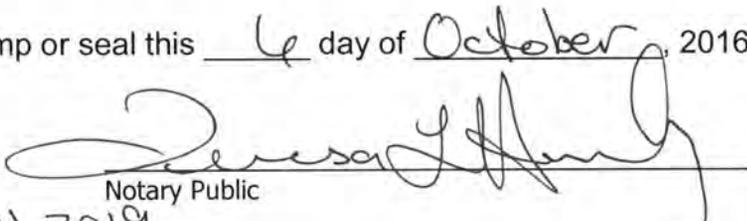
My Commission Expires: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA

I, Teresa L Hamby, a Notary Public of the County and State aforesaid certify that **Donovan Smith**, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal this 6 day of October, 2016.



  
Notary Public

My Commission Expires: 3-14-2019

**COUNCIL AGENDA MEMOS**

**To: City Manager's Office**  
**From: Community Appearance Commission**  
**Contact Person: Cal Overby, Planning Department**  
**Date: October 6, 2016**  
**Re: Community Appearance Grant – Schmidt Real Estate Investors**

**REQUEST**

The Community Appearance Commission recommends City Council approval of a Community Appearance Grant for non-residential property owned by Schmidt Real Estate Investors at 1122 Highland Avenue NE in the amount of \$3,500.00.

**BACKGROUND**

The City Council created the Community Appearance Grant program in 1999 to provide economic incentives for property owners to improve the general appearance of properties located within the City's designated Urban Revitalization Area. The Community Appearance Commission reviews applications for the grant program and forwards a recommendation of approval or denial to City Council. The grants are designed as a reimbursement grant in which the City of Hickory will match the applicant on a 50/50 basis. The maximum grant amount from the City of Hickory is \$5,000.00.

**ANALYSIS**

The grant proposal put forth by Schmidt Real Estate Investors involves the renovation of existing non-residential building. The proposal involves the installation of windows, and a garage door on the building's exterior façade. The subject property is located within the City's Urban Revitalization Area, which makes the application eligible for funding under the Community Appearance Grant program.

The applicant has provided two (2) bids for the items listed above, which total \$18,077.00 and \$29,919.00. Being both estimates are in excess of \$10,000, the request qualifies for the full \$5,000 grant.

The current tax value of the property is \$60,900.00. The value of the grant represents approximately 8.2% of the property's tax value.

**RECOMMENDATION**

The application was reviewed by the Community Appearance Commission at its October 5, 2016 special call meeting. Upon review the Community Appearance Commission scored the application utilizing its grant scoring criteria. The Community Appearance Commission scored the application at 14 points out of a possible 30 points, which placed the application into the medium category of scoring. Upon completion of the scoring exercise, the Community Appearance Commission voted unanimously (7-0) to recommend funding of the grant application in the amount of \$3,500.00.

**BUDGET ANALYSIS:**

**Budgetary Action**

Is a Budget Amendment required?

Yes

No

**LIST THE EXPENDITURE CODE:**

**Reviewed by:**

Brian Frazier

10/06/16

Initiating Department Head

Date

10-14-16

Deputy City Attorney, A. Dula

Date

10-7-16

Asst. City Manager Rodney Miller

Date

10/14/16

Asst. City Manager, A. Surratt

Date

10-7-16

Finance Officer, Melissa Miller

Date

10-10-16

Purchasing Manager, Bo Weichel

Date

Date

Recommended for approval and placement on \_\_\_\_\_ Council agenda (as Consent, Public Hearing, Informational, Department Report, etc).

Interim City Manager, A. Surratt

10/14/16

Date



**Glass Works of Hickory, Inc**  
 Phone: 828-322-2122 Fax: 828-322-2522  
 glassworksofhickory@gmail.com  
 Residential & Commercial Windows  
 Custom Shower Doors  
 Glass Cutting, Mirrors, Acrylics  
 Door Repair & Closers

Owner: David Fowler  
 Sales: Daniel Fowler  
 881 Highland Ave, NE Hickory, NC 28601

**Glass Works Of Hickory Inc.**  
 881 Highland Ave. NE  
 Hickory, NC 28601  
 828-322-2122

8-17-16

Job on  
Highland Ave

Quote only

Holmes  
204-622-  
8102

Labor Tax and material to install  
 All Bronze Store Front Frames  
 190 Doors off set pivot no Panichardwork  
 Bronze Tempered and Annealed in IG  
 where code calls for All surface mount  
 Closers 1/4 Bronze Tempered Glass in Doors  
 material 3 doors 190 spec  
 3 Frames with Transoms  
 3 Closers  
 9 Fixed Bronze Frames  
 All Glass Bronze in IG units  
 Annealed and Tempered  
 1/4 Bronze Glass in 3 doors

Total cost material labor Tax  
 and labor to Tear out All  
 the old.

Total \$ 16,000.00

Thanks  
David

 **IRS** DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
CINCINNATI OH 45999-0023

Date of this notice: 08-18-2016

Employer Identification Number:  
81-3597578

Form: SS-4

Number of this notice: CP 575 B

SCHMIDT REAL ESTATE INVESTMENTS LLC  
CHARLES I SCHMIDT MBR  
PO BOX 873  
CHERRYVILLE, NC 28021

For assistance you may call us at:  
1-800-829-4933

IF YOU WRITE, ATTACH THE  
STUB AT THE END OF THIS NOTICE.

**WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER**

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 81-3597578. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, payments, and related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear off stub and return it to us.

Based on the information received from you or your representative, you must file the following form(s) by the date(s) shown.

Form 1065

03/15/2017

If you have questions about the form(s) or the due date(s) shown, you can call us at the phone number or write to us at the address shown at the top of this notice. If you need help in determining your annual accounting period (tax year), see Publication 538, *Accounting Periods and Methods*.

We assigned you a tax classification based on information obtained from you or your representative. It is not a legal determination of your tax classification, and is not binding on the IRS. If you want a legal determination of your tax classification, you may request a private letter ruling from the IRS under the guidelines in Revenue Procedure 2004-1, 2004-1 I.R.B. 1 (or superseding Revenue Procedure for the year at issue). Note: Certain tax classification elections can be requested by filing Form 8832, *Entity Classification Election*. See Form 8832 and its instructions for additional information.

A limited liability company (LLC) may file Form 8832, *Entity Classification Election*, and elect to be classified as an association taxable as a corporation. If the LLC is eligible to be treated as a corporation that meets certain tests and it will be electing S corporation status, it must timely file Form 2553, *Election by a Small Business Corporation*. The LLC will be treated as a corporation as of the effective date of the S corporation election and does not need to file Form 8832.

To obtain tax forms and publications, including those referenced in this notice, visit our Web site at [www.irs.gov](http://www.irs.gov). If you do not have access to the Internet, call 1-800-829-3676 (TTY/TDD 1-800-829-4059) or visit your local IRS office.

(IRS USE ONLY)

575B

08-18-2016 SCHM B 999999999 SS-4

**IMPORTANT REMINDERS:**

- \* Keep a copy of this notice in your permanent records. **This notice is issued only one time and the IRS will not be able to generate a duplicate copy for you.** You may give a copy of this document to anyone asking for proof of your EIN.
- \* Use this EIN and your name exactly as they appear at the top of this notice on all your federal tax forms.
- \* Refer to this EIN on your tax-related correspondence and documents.

If you have questions about your EIN, you can call us at the phone number or write to us at the address shown at the top of this notice. If you write, please tear off the stub at the bottom of this notice and send it along with your letter. If you do not need to write us, do not complete and return the stub.

Your name control associated with this EIN is SCHM. You will need to provide this information, along with your EIN, if you file your returns electronically.

Thank you for your cooperation.

Keep this part for your records.

CP 575 B (Rev. 7-2007)

Return this part with any correspondence so we may identify your account. Please correct any errors in your name or address.

CP 575 B

9999999999

Your Telephone Number Best Time to Call  
( ) -

DATE OF THIS NOTICE: 08-18-2016  
EMPLOYER IDENTIFICATION NUMBER: 81-3597578  
FORM: SS-4 NOBOD

INTERNAL REVENUE SERVICE  
CINCINNATI OH 45999-0023



SCHMIDT REAL ESTATE INVESTMENTS LLC  
CHARLES I SCHMIDT MBR  
PO BOX 873  
CHERRYVILLE, NC 28021



P.O. BOX 1933 • Hildebran, NC • 28637  
Phone • 828.328.4008 Fax • 828.328.5008  
www.adamdoors.com

**Quote**  
8/29/16

CUSTOMER: **Scott Holmes**  
ADDRESS: **1122 Highland Ave. NE Hickory, NC 28601**  
CONTACT:  
JOB NAME:  
PHONE: **704-622-8102**  
FAX:  
EMAIL: [five\\_holmes@yahoo.com](mailto:five_holmes@yahoo.com)

QUANTITY	MODEL	DESCRIPTION	PRICE
2	3285	10'x7'6" Insulated Steel-Backed Sandwich Door Micro-Grooved Commercial 2" Section Brown (1) Low Headroom Torsion (1) 12" Radius Torsion (1) Inside Lock	\$2,077
1	Synoris 550	Sommer Direct Drive DC Operator Remote Mounted Head Wireless Transmitter Weatherstripping Installation	

**TOTAL: \$ 2,077.00**

Prepared by: *Roman Troyer*

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

*Note:*  
All quoted prices are valid for 60 days. Warranty begins from date of installation. All electrical wiring & air supply for operators/control stations/safety devices by others unless otherwise stated. Installation quoted assuming properly prepared openings, adequate headroom, and no other special requirements unless otherwise noted. Basic trip included. Unloading/storage of material on jobsite by others. May be invoiced for materials upon receipt.

From: ProTec Garage Door kyle.gdsnc@gmail.com  
Subject: Estimate from ProTec Garage Door  
Date: August 23, 2016 at 11:16 AM  
To: five\_holmes@yahoo.com, fide\_holmes@yahoo.com

Dear Scott:

Thank you for giving us an opportunity to take care of your service needs.

Below and attached is your estimate for the services you requested. Should you have any questions or concerns, please feel free to call us at (704) 251-9714

Description	Qty	Unit Cost	Total
Haas 700 Series Garage Door 10'2x7'3, no glass, torsion, low headroom track, vinyl trim, 11 ball nylon rollers Model: SKU: Type: Part Number:	2.00	\$945.00	\$1,890.00
Liftmaster 8500 Model: SKU: Type: Part Number:	1.00	\$415.00	\$415.00
	<b>Estimate Total:</b>		<b>\$2,305.00</b>

Thank You,

ProTec Garage Door  
(704) 251-9714  
131 Fentress Dr.  
Stony Point, North Carolina 28678

All Glass Company of Hickory

262 1<sup>st</sup> Ave SE  
Hickory, NC 28602  
828-324-8609

25-Aug-16



Mr. Scott Holmes

Schmidt Investments  
1122 Highland Ave  
Hickory NC 28601  
704-622-8102

Scope of Work:

Construct and Install:

Two storefront window and door assemblies. Left window/door set: exterior weather flashing around frame, 1-single tempered glass door w/transom, 6-IG tempered windows, metal framing and sealing. Right window/door set: exterior weather flashing around frame, 1-double tempered glass door, 4-IG tempered windows, metal framing and sealing. All windows are 1" insulated units, 1/4" over 1/4" glass thickness (exterior bronze tint, interior clear), 10 year warrantee.

- a.

East room window replacements: Replace 2-east side wall windows, 2-large south wall windows and 2-medium size south wall windows. Provide disassembly and removal of current window frames, surface preparation, metal framing, 1" insulated window units, 1/4" over 1/4" glass thickness (exterior bronze tint, interior clear), annealed, 10 year warrantee.

- b.

West room window replacements: Replace 2-large south wall windows and 2-medium size south wall window. Provide disassembly and removal of current window frames, surface preparation, metal framing, 1" insulated window units, 1/4" over 1/4" glass thickness (exterior bronze tint, interior clear), annealed, 10 year warrantee.

- c.

Customer Responsibilities:

Upon approval of project, provide final approval of window set dimensions/materials and prepare store front construction to accommodate planned installation drawing. Drawings of window sets will be supplied by All Glass Company of Hickory for this purpose.

- a. Provide work area in upper or lower rooms for metal framing construction, 110 Voltage.

Project Costs:

Frame flashing, metal window framing, glass IG units, doors and sealants:	\$ 14,575.00
Lift rental:	\$ 1,250.00
Demolition and installation labor:	\$ 9,983.00
Sub-total:	\$ 25,808.00
Tax @ 7%:	\$ 1,806.56

Total Project Cost: \$ 27,614.56

Terms: 60% deposit at time of order  
40% at time of completion

Contacts: Christie Hamby, Office Manager 828-324-8609  
Ted Karre 828-308-4474

The mailing address, if different from the street address, of the principal office of the company is:

Number and Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ County: \_\_\_\_\_

b.  The limited liability company does not have a principal office.

7. Any other provisions which the limited liability company elects to include (e.g., the purpose of the entity) are attached.

8. (Optional): Please provide a business e-mail address:

kimberlyspicer@kimberlyspicer.com \_\_\_\_\_

The Secretary of State's Office will e-mail the business automatically at the address provided above at no cost when a document is filed. The e-mail provided will not be viewable on the website. For more information on why this service is offered, please see the instructions for this document.

9. These articles will be effective upon filing, unless a future date is specified:

\_\_\_\_\_

This is the 12 day of August, 20 16.

Kimberly Spicer  
Signature

Kimberly Spicer, Organizer

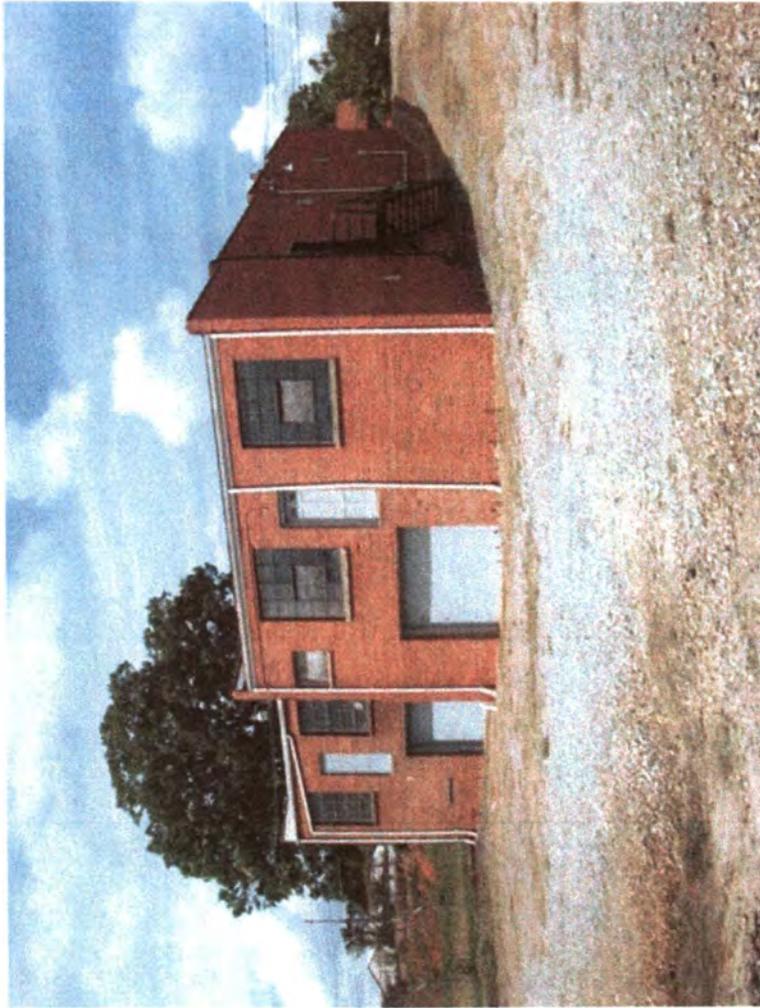
\_\_\_\_\_  
Type or Print Name and Title

1122 HIGHLAND AVE NE WICKOIZY, NC



- 1) NEW GLASS STORE FRONTS (2)
- 2) PAINT BUILDING BROWN
- 3) ROCK FACE OF BUILDING-





- 1) NEW WINDOWS
- 2) NEW GARAGE DOORS

From: **Tommy Stratton** strattonelec@gmail.com  
Subject: ELECTRICAL PROPSAL FOR 1122 HIGHLAND AVE. NE HICKORY,NC  
Date: August 31, 2016 at 2:47 PM  
To: five\_holmes@yahoo.com

We Propose To Move The Existing Electrical Meter Base And Riser To The Location Previously Agreed Upon For The Sum Of...One Thousand One Hundred Dollars (\$1,100.00).DUKE ENERGY Would Be Responsible For Moving And Reconnecting The Service Drop To The Building.We Also Propose To Furnish And Install Six LED 175 Watt Equal Wallpack Security Lights With Dusk To Dawn Controls For The Sum Of...Three Thousand One Hundred Twenty Five Dollars (\$3,125.00). Stratton Electric,Inc.

*Custom Coatings, Inc.*

652 10<sup>th</sup> Ave Dr SE

Hickory, NC 28602

Phone (828) 326-0953

Fax (828) 326-0954

**PROPOSAL**

**Project:** CSC Wholesale

**Date:** August 23, 2016

**Areas:** Exterior painting and repair

**Proposal Number:** 16-521

Proposal includes all labor, materials, and equipment to complete painting at the exterior of the CSC Wholesale building located at 1122 Highland Ave. in Hickory NC.

- We have included the following surfaces to be painted- only the brick at the exterior.
- We did not include metal stairs, wood siding, doors or overhead doors, or metal steps.

**Cleaning** - all exterior surfaces including painted areas will be cleaned to remove mildew and other contaminants using mild chemicals and LOW pressure psi pressure from a pressure washer. The chemicals are environmentally friendly and will not harm plants or animals.

**Prep** – filling of larger holes and caulking of cracks is included. We did not include tuck pointing and mortar repair. Please note that in the cleaning some of the mortar may come out especially in areas where it has failed. We intend to clean the building very gently but some mortar may still be removed in the process.

**Painting** – all painted surfaces will receive two full coats Sherwin Williams Super Paint acrylic coatings. Color to be selected prior to beginning the project.

**Other Work** – we will lay down drop clothes to keep your yard, plants & ground free from paint as much as practical and protect glass and other pre-finished surfaces. We will take the time to treat your business as we would our own so that the best job possible can be performed. We will clean up at the end of the project so you are left with an outstanding paint job and not a mess.

TOTAL: \$6400.00 ACCEPTED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

Payment due at completion

Thank you for calling CCI about this project. After twenty-five years in the coatings business we know a little

PREPARED BY: Legal Department, City of Hickory  
PO Box 398, Hickory, NC 28603

**STATE OF NORTH CAROLINA**

**APPEARANCE  
GRANT AGREEMENT**

**COUNTY OF CATAWBA**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the **CITY OF HICKORY**, a municipal corporation of Catawba County, North Carolina, hereinafter referred to as the CITY, and having a mailing address of P.O. Box 398, Hickory, North Carolina 28603, and **SCHMIDT REAL ESTATE INVESTMENTS, LLC.**, referred to as the RECIPIENT, and having a mailing address of 214 North Morgan Street, Shelby, NC 28150.

**WITNESSETH**

THAT WHEREAS, the City is dedicated to the visual and functional improvements of properties within one mile of the City Center area, as defined by the City Center Plan, dated October 20, 1998; and

WHEREAS, the City is willing to award grants for physical improvements for the purpose of assisting in the visual enhancement of certain existing properties provided the Recipient agrees to certain conditions.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained the parties agree as follows:

1. The Recipient agrees to utilize the grant funds to fulfill that project described in the Downtown Appearance Improvement Incentive Grant Application attached hereto as Exhibit "A" and to utilize said funds solely for physical improvements. Said application is made a part of this Agreement and incorporated herein by reference as if more fully set forth.
2. The Recipient agrees to improve those premises described in Exhibit "A" in accordance with the intent of the City Center Plan to enhance the aesthetic integrity of the premises in accordance with the specifications established in attached "Exhibit A".
3. The Recipient agrees to maintain the design integrity of the proposed improvements, creating, retaining and/or modifying those elements, which enhance the premises.
4. The Recipient agrees to abide by and conform all construction, rehabilitation, renovation, demolition, and landscaping undertaken pursuant to this agreement to all applicable laws of the United States, the State of North Carolina, and those applicable provisions of the ordinances of the City of Hickory directly or indirectly related to the subject matter of this agreement.
5. The amount of this grant is Three Thousand Five Hundred Dollars and 00/100 (\$3,500.00), payable upon completion of said project, and submission of documentation confirming

payment of all contractors and/or subcontractors, provided said project is completed within 120 days from the date of this agreement being signed in accordance with those provisions specified in the Downtown Appearance Improvement Incentive Grant Application.

- 6. The Recipient agrees that in the event the actual project costs are less than the estimated costs, the City grant will be reduced to solely the amount of the actual project costs that would be eligible for participation in this program.
- 7. Technical assistance provided by the City will be advisory only. The City will not be a party in negotiations between the Recipient and any contractor employed by the Recipient nor will the City provide legal advice or services to any party. The Recipient agrees to hold the City harmless for any defects in workmanship or from any liability, damages, or other costs relative to this project.
- 8. This Agreement may be terminated and the City may withhold grant monies upon the Recipient's breach of or failure to perform any of the terms of this agreement. The City shall give the Recipient notice in writing of any potential breach of this Agreement, after which the applicant shall have ten (10) calendar days in which to cure said breach. In the event of a failure to cure a breach of this Agreement, the City of Hickory may pursue any remedy available, either in equity or at law.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed upon the day and year first written above.

**CITY OF HICKORY**  
A North Carolina Municipal Corporation

By: \_\_\_\_\_  
Rudy Wright, Mayor

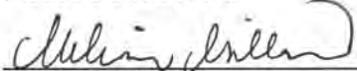
ATTEST: (SEAL)

\_\_\_\_\_  
Debbie D. Miller, City Clerk

Approved as to form and legality on behalf of the City of Hickory only:

\_\_\_\_\_  
Attorney for the City of Hickory

This document has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

  
\_\_\_\_\_  
Melissa Miller, Finance Officer

*Charles Schmidt*  
CHARLES SCHMIDT, MEMBER MANAGER

STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA

I, \_\_\_\_\_ a Notary Public of said county and state, certify that **Debbie D. Miller** personally came before me this day and acknowledged that she is City Clerk of the City of Hickory, a North Carolina municipal corporation, and that by authority duly given and as the act of the City Council of the City of Hickory, the foregoing instrument was signed in its name and by its Mayor, sealed with its corporate seal and attested by her as its City Clerk.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

(Seal)

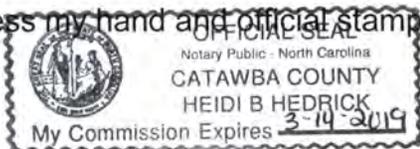
\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA

I, *Heidi B. Hedrick*, a Notary Public of the County and State aforesaid certify that **Charles Schmidt**, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal this *7<sup>th</sup>* day of *October*, 2016.



*Heidi B. Hedrick*

(Seal)

Notary Public

My Commission Expires: *March 14, 2019*

### Community Appearance Grant Application Form

Project Location Address: 1122 HIGHLAND AVE NE

Applicant's Name: SCOTT HOLMES  
OWNERS AGENT / PARTNER

Applicant's Mailing Address: 525 3RD ST NE WILKORY  
NC 28601

Telephone: Day: 704-622-8102 Mobile: 704-622-8102

E-mail address: Sive\_holmes@yahoo.com

Project Description: RENOVATING BUILDING INSIDE  
AND OUT. CHANGING FROM MANUFACTURING  
TO RETAIL / WAREHOUSE. WILL HAVE TWO  
RETAIL SPACES. PAVED PARKING LOT  
WITH SHRUBBERY.

Total Estimated Project Cost \$ 80,000  
Grant Request Amount \$ 5,000

**Required Attachments**

- Property Deed or Lease
- Color photographs of the existing site or project area
- A plan (drawing) of the site showing the exact location of proposed improvements
- A detailed list of the materials to be used
- A detailed project narrative that fully explains how the application meets the grant guidelines; and
- Two cost estimates/bids.** Cost estimates must be from two different companies or individuals who are capable of performing the proposed work as outlined.

**Certification by Owner**

I have completed the enclosed application and attached the items requested above. I have been adequately informed of the requirements of this grant (including eligible and ineligible activities) and the process for review of my application.

I understand that the grant money will only apply for approved work that is completed in accordance with the information I have provided in this grant application. Additional work that may be done on site but that is not described in this application will not be reimbursed.

Owners Signature: Ch Irving Schmidt Date: 8-24-16  
(Owners signature must be notarized)

**NORTH CAROLINA  
CATAWBA COUNTY**

I, Michelle Willis, a Notary Public for said County and State, do hereby certify that Charles Irving Schmidt personally appeared before my this day and acknowledge the due execution of the foregoing instrument.

Witness my hand and official seal, this the 24<sup>th</sup> day of August, 2016



Michelle Willis  
Notary Public

My Commission Expires: 11-26-2018

FILED Catawba County

on Sep 27, 2016 at 01:11:00 pm

Excise Tax \$173.00 (MC)

INST. # 16653

DONNA HICKS SPENCER,  
Register of Deeds

Ex 03363 Pg 1890-1892

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$ 173.00

Parcel Identifier No. \_\_\_\_\_ Verified by \_\_\_\_\_ County on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_  
By: \_\_\_\_\_

✓ Mail/Box to: Pendleton Law Firm, PA, 211 North Academy Street, Lincolnton, NC 28092

This instrument was prepared by: Pendleton Law Firm, PA, 211 North Academy Street, Lincolnton, NC 28092

Brief description for the Index: \_\_\_\_\_

THIS DEED made this 27th day of September, 2016, by and between

GRANTOR	GRANTEE
C. Lawrence Swaney and wife Joan M. Swaney 1950 Fairgrove Church Road Newton, NC 28658-8531	Schmidt Real Estate Investments, LLC 4110 Goodson Road Maiden, NC 28650

Enter in appropriate block for each Grantor and Grantee: name, mailing address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

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

See Attached Exhibit "A"

The property hereinabove described was acquired by Grantor by instrument recorded in Book \_\_\_\_\_ page \_\_\_\_\_.

All or a portion of the property herein conveyed \_\_\_ includes or X does not include the primary residence of a Grantor.

A map showing the above described property is recorded in Plat Book \_\_\_\_\_ page \_\_\_\_\_.

1891

**EXHIBIT A**

**BEGINNING** at an old ½ inch diameter iron rod located in the southern line of the right-of-way of Highland Avenue, N.E., with the intersection of the western line of the right-of-way of 12<sup>th</sup> Street, N.E., and running from said Beginning Point, along the line of the right-of-way of 12<sup>th</sup> Street, N.E., South 07° 16' 13" West 168.12 feet to an iron pin located in the centerline of Southern Railway Mainline Track; thence with the centerline of the Southern Railway Mainline Track, North 88° 50' 20" West 95.74 feet to an iron pin; thence North 02° 30' 13" East 169.78 feet to an old ½ inch diameter iron rod located in the southern line of the right-of-way of Highland Avenue, N.E.; thence with the southern line of the right-of-way of Highland Avenue, N.E., South 87° 29' 47" East 109.69 feet to the point of **BEGINNING**.

*This description taken from a map entitled, "Boundary Survey for C. Lawrence Swaney, d/b/a Larlin Cushion Co.", Catawba County, Hickory Township, North Carolina, dated May 22, 1990, and made by Donald S. Miller, Registered Land Surveyor.*

*Subject to right-of-way for Norfolk Southern Railway.*

*See Deed Book 1701, Page 853 of the Catawba County Register of Deeds.*

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

1892

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

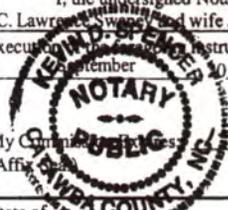
By: \_\_\_\_\_ (Entity Name) C. Lawrence Swaney (SEAL)  
 Print/Type Name: C. Lawrence Swaney

By: \_\_\_\_\_ Joan M. Swaney (SEAL)  
 Print/Type Name & Title: \_\_\_\_\_  
 Print/Type Name: Joan M. Swaney

By: \_\_\_\_\_ (SEAL)  
 Print/Type Name & Title: \_\_\_\_\_  
 Print/Type Name: \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
 Print/Type Name & Title: \_\_\_\_\_  
 Print/Type Name: \_\_\_\_\_

State of North Carolina - County or City of Catawba  
 I, the undersigned Notary Public of the County or City of Catawba and State aforesaid, certify that  
C. Lawrence Swaney and wife Joan M. Swaney personally appeared before me this day and acknowledged the due  
 execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 26th day of  
September, 2016.

My Commission Expires: 19-2018  
 (Affix Seal)  Kevin D. Spencer Notary Public  
 Notary's Printed or Typed Name

State of \_\_\_\_\_ - County or City of \_\_\_\_\_  
 I, the undersigned Notary Public of the County or City of \_\_\_\_\_ and State aforesaid, certify that  
 \_\_\_\_\_ personally appeared before me this day and acknowledged the due  
 execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of  
 \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_ Notary Public  
 (Affix Seal) Notary's Printed or Typed Name

State of \_\_\_\_\_ - County or City of \_\_\_\_\_  
 I, the undersigned Notary Public of the County or City of \_\_\_\_\_ and State aforesaid, certify that  
 \_\_\_\_\_ personally came before me this day and acknowledged that  
 \_\_\_\_\_ he is the \_\_\_\_\_ of \_\_\_\_\_ a North Carolina or  
 \_\_\_\_\_ corporation/limited liability company/general partnership/limited partnership (strike through the  
 inapplicable), and that by authority duly given and as the act of such entity, \_\_\_\_\_ he signed the foregoing instrument in its name on its  
 behalf as its act and deed. Witness my hand and Notarial stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_ Notary Public  
 (Affix Seal) Notary's Printed or Typed Name



# NORTH CAROLINA

## Department of the Secretary of State

To all whom these presents shall come, Greetings:

I, Elaine F. Marshall, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

### ARTICLES OF ORGANIZATION

OF

### SCHMIDT REAL ESTATE INVESTMENTS, LLC

the original of which was filed in this office on the 22nd day of August, 2016.



Scan to verify online.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 22nd day of August, 2016.

Secretary of State

State of North Carolina  
Department of the Secretary of State

SOSID: 1538540  
Date Filed: 8/22/2016 11:01:00 AM  
Elaine F. Marshall  
North Carolina Secretary of State  
C2016 231 00160

Limited Liability Company  
ARTICLES OF ORGANIZATION

Pursuant to §57D-2-20 of the General Statutes of North Carolina, the undersigned does hereby submit these Articles of Organization for the purpose of forming a limited liability company.

1. The name of the limited liability company is: Schmidt Real Estate Investments, LLC

2. The name and address of each person executing these articles of organization is as follows: (State whether each person is executing these articles of organization in the capacity of a member, organizer or both.  
**Note: This document must be signed by all persons listed.)**

Kimberly Spicer 214 North Morgan Street Shelby, NC 28150 Organizer  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The name of the initial registered agent is:  
Kimberly Spicer

4. The street address and county of the initial registered agent office of the limited liability company is:

Number and Street 214 North Morgan Street

City Shelby State: NC Zip Code: 28150 County: Cleveland

5. The mailing address, if different from the street address, of the initial registered agent office is:

Number and Street \_\_\_\_\_

City \_\_\_\_\_ State: NC Zip Code: \_\_\_\_\_ County: \_\_\_\_\_

6. Principal office information: (Select either a or b.)

a.  The limited liability company has a principal office.

The principal office telephone number: \_\_\_\_\_

The street address and county of the principal office of the limited liability company is:

Number and Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ County: \_\_\_\_\_



Life. Well Crafted.

Office of Planning and Development

**MEMORANDUM**

To: Hickory City Council

From: Community Appearance Commission

Re: Schmidt Real Estate Investments, LLC – Community Appearance Grant

Schmidt Real Estate Investments, LLC submitted an application for a Community Appearance Grant. The proposal involves improvements to a commercial building 1122 Highland Avenue NE.

The grant proposal put forth involves the installation of windows, and a garage door. The applicant will also be painting the exterior of the building as well, but those activities were not included as part of the application. The property is located within the City's defined Urban Revitalization Area, and as such is eligible for the consideration of a Community Appearance Grant.

The applicant has provided two (2) bids for the work listed above, which total \$18,077.00 and \$29,919.00. If the Commission moves to approve the proposed grant at the lower of the two estimates, the request would qualify for a \$5,000.00 grant.

The application was reviewed by the Community Appearance Commission at its October 5, 2016 special call meeting. Upon review the Community Appearance Commission scored the application utilizing its grant scoring criteria. The Community Appearance Commission scored the application at 14 points out of a possible 30 points, which placed the application into the medium category of scoring. Upon completion of the scoring exercise, the Community Appearance Commission voted unanimously (7-0) to recommend funding of the grant application in the amount of \$3,500.00.

Please refer to the attached materials for complete information.

Schmidt Real Estate Investments, LLC  
Community Appearance Grant



1122 Highland Avenue NE



Exhibit VIII.J.



10

COUNCIL AGENDA MEMOS

Exhibit VIII.K.

**To:** City Manager's Office

**From:** Chuck Hansen, Director of Public Services

**Contact Person:** Rick Patton, Engineering

**Date:** September 7, 2016

**Re:** Utility Relocation Agreement with Duke Energy for Replacement of Bridge on Falling Creek Road

**REQUEST**

Request to approve agreement with Duke Energy to relocate utilities on the Falling Creek Road bridge replacement project in the amount of \$137,296.97.

**BACKGROUND**

The bridge on Falling Creek Road is structurally deficient and is functionally obsolete. The design of the replacement structure is complete. Duke Energy is owner of the overhead utilities at the site and has provided a detailed cost estimate for the necessary relocation of their equipment to allow construction of the replacement structure.

**ANALYSIS**

The original municipal agreement between the City of Hickory and NCDOT for the Falling Creek Road bridge replacement project did not include utility relocation costs. The cost of utility relocation could not be accurately predicted until the project plans were completed and approved. Upon NCDOT approval of the bridge replacement construction plans, Duke Energy performed their design and provided a construction cost estimate for relocation of their facilities at the project site. Once approved, Duke Energy will begin their portion immediately. When Duke Energy is through with the relocation, the contract for the bridge replacement will be let to bid. Eighty percent of the cost will be borne by NCDOT and the City will be responsible for 20% of the costs. Upon approval of the contract, the City will be obligated to pay \$137,296.97 up front to Duke Energy for their work. NCDOT will reimburse the City 80% of that cost, amounting to \$109,837.58, leaving \$27,459.39 as the City's responsibility.

**RECOMMENDATION**

Staff recommends that the agreement with Duke Energy in the amount of \$137,296.97 for utility relocation associated with the replacement of the bridge on Falling Creek Road bridge be approved.

**Informational**

(Some info items will not have to appear on the Council agenda, but will be communicated to Council in weekly Communication format. These items will still require a Council Agenda Memo)

**Requires Council Approval**

(All new or revisions in Ordinances or Council enacted policies, as well as contracts/agreements over \$100,000 will be placed on Agenda)

**BUDGET ANALYSIS:**

**Budgetary Action**

Is a Budget Amendment required?

Yes

No

**LIST THE EXPENDITURE CODE:**

~~010-5460-537-77-01-~~

061-5460-577.72-07

**Reviewed by:**

Chuck Hansen

*CH*

10-06-16

Date

Instituting Department Head

*A. Bula*

10-14-16

Date

Deputy City Attorney, A. Bula

*Rodney Miller*

10-12-16

Date

Asst. City Manager Rodney Miller

*A. Surratt*

10/14/16

Date

Asst. City Manager, A. Surratt

*Melissa Miller*

10-12-16

Date

Finance Officer, Melissa Miller

*Bo Weichel*

10-10-16

Date

Purchasing Manager, Bo Weichel

\_\_\_\_\_  
Date

Recommended for approval and placement on \_\_\_\_\_ Council agenda (as Consent, Public Hearing, Informational, Department Report, etc.).

*M. Berry*

City Manager, M. Berry

10/14/16  
\_\_\_\_\_  
Date



September 6, 2016

City of Hickory  
Attn.: Mr. Rick Patton  
PO Box 398  
Hickory, NC 28603

RE: City Project #: 55047.1.1  
TIP#: B-5549  
Company Project #: SHRF85218  
County: Catawba  
Location / State: Hickory, NC  
Proj Requirements: Utility Relocation Agreement; Actual Cost Billing; Non-Betterment Work  
Proj Description: Bridge No.170327 over Falling Creek on Falling Creek Road

Dear Mr. Patton:

Attached are copies of our detailed estimate in the amount of \$137,296.97 and copies of our relocation design drawings covering our proposed relocation of Duke Energy's facilities in conflict with this project. This estimate is valid for 90 days and is based on the design as shown on the attached drawings. Estimates may be revised due to change in scope or if right of way is not obtained. The estimate will be updated if the authorization to proceed is received after the 90 day deadline.

If you find this estimate in order, please authorize us to proceed with this work and upon completion thereof, to bill the Department of Transportation per the project requirements located at the top of this letter. If you have any questions related to this agreement, plans, estimate, or final bill, please contact one of the following:

Fred Liles, Engineering Designer at [Fred.Liles@duke-energy.com](mailto:Fred.Liles@duke-energy.com) or 828-323-2773  
Steve Ferrell, Lead Engineering Designer at [Steve.Ferrell2@duke-energy.com](mailto:Steve.Ferrell2@duke-energy.com) or 704-395-4437  
Larry Morris, Program Mngr. at [Larry.Morris@duke-energy.com](mailto:Larry.Morris@duke-energy.com) or 803-283-5084

Sincerely,

On Behalf Of Larry Morris  
Highway Relocation Program Manager  
Duke Energy

JC:loj

Cc Fred Liles, [Fred.Liles@duke-energy.com](mailto:Fred.Liles@duke-energy.com)  
Steve Ferrell, [Steve.Ferrell2@duke-energy.com](mailto:Steve.Ferrell2@duke-energy.com)

Utility Relocation Agreement  
 City of Hickory – Falling Creek Road Bridge  
 Duke Energy Carolinas Project Number SHRF85218  
 County: Catawba                      State: NC

This agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between City of Hickory, hereinafter referred to as CoH and Duke Energy Carolinas, LLC, hereinafter referred to as the COMPANY. The CoH and Company acknowledge that this Agreement and any Agreement amendment documents requiring signatures may be transmitted electronically. CoH and Company stipulate that if this Agreement is transmitted electronically, the electronic transmittal of the original execution signatures shall be treated as original signatures and given the same legal effect as an original.

WITNESSETH:

THAT WHEREAS, CoH, will submit a project for construction as follows: relocate electric distribution facilities to accommodate Bridge No.170327 over Falling Creek on Falling Creek Road.

WHEREAS, the construction of said project will require certain adjustments to be made to the existing facilities of the COMPANY: See attached Drawing.

NOW, THEREFORE, In order to facilitate the orderly and expeditious relocation of the said facilities of the COMPANY, CoH and the COMPANY have agreed as follows:

1. That any work performed under this agreement shall comply with the NCDOT "POLICIES AND PROCEDURES FOR ACCOMMODATING UTILITIES ON HIGHWAY RIGHT OF WAY", dated January 1, 1975 and such amendments thereto as may be in effect at the date of this agreement. The work to be performed by the COMPANY shall conform with Federal Highway Administration's Federal-Aid Policy Guide, Subchapter G, Part 645, Subpart A hereinafter referred to as FAPG dated December 9, 1991, and such agreements thereto as may be in effect at the date of this agreement. The provisions of said FAPG and amendments thereto are incorporated in this agreement by reference as fully as if herein set out. Any work performed under this agreement not in compliance with FAPG shall constitute unauthorized work and CoH shall be relieved of

participating in the costs of such unauthorized work unless such work is done pursuant to a supplemental agreement attached to and made a part hereof.

2. That the COMPANY will prepare an estimate, broken down as to estimated cost of labor, construction overhead, materials, and supplies, handling charges, transportation and equipment, rights of way, preliminary engineering and construction engineering, including itemization of appropriate credits for salvage and betterment's, all in sufficient detail to provide CoH, a reasonable basis for analysis. Unit cost, such as broad gauge units of property, may be used for estimating purposes where the COMPANY uses such units in its own operations. The COMPANY will also prepare plans, sketches or drawings showing their existing facilities, temporary and permanent changes to be made with reference to the CoH new right of way using appropriate nomenclature, symbols, legend, notes, color coding or the like. The before mentioned estimate and plans are attached hereto and made a part hereof. There are no costs for changes not necessitated by the construction of the highway project, nor for changes made solely for the benefit or convenience of the COMPANY, or its contractor. The attached estimate is valid for 90 days and is based on design shown in the attached drawings. The estimates will be updated and an amendment to the original Utility Relocation Agreement may be initiated if the scope of the project changes (causing cost to exceed original estimate) or new right of way cannot be obtained (causing a delay in the relocation construction).
3. That CoH's authority, obligation, or liability to pay for relocations as set forth in the agreement is based on the COMPANY having a right of occupancy in its existing location by reason of holding the fee, as easement or other real property interest, the damaging or taking of which is compensable in eminent domain.
4. That payment for all work done hereunder shall be made in accordance with the requirements of FAPG unless payment is being made pursuant to a supplemental agreement attached to and made a part of this agreement.
5. That the construction work provided for in this agreement will be performed by the method or methods as specified below:

X BY COMPANY's REGULAR FORCE: The COMPANY proposes to use its regular construction or maintenance crews and personnel at its standard schedule of wages and working hours in accordance with the terms of its agreement with such employees.

X BY EXISTING WRITTEN CONTINUING CONTRACT: The COMPANY proposes to use an existing written continuing contract under which certain work as shown by the COMPANY's estimate is regularly performed for the COMPANY and under which the lowest available costs are developed.

BY CONTRACT: The COMPANY does not have adequate staff or equipment to perform the necessary work with its own forces. The COMPANY proposes to award a contract to the lowest qualified bidder who submits a proposal in conformity with the requirements and specifications for the work to be performed as set forth in an appropriate solicitation for bids.

6. a. It is contemplated by the parties hereto that the construction of this CoH project is in progress.

b. Based on the best information available at the present time to the COMPANY, indicated applicable paragraph, below:

Materials are available and it is expected that work will be complete prior to road construction.

All work will take place during CoH construction and arrangements for said work will be coordinated with CoH construction operations at pre-construction conference.

X Work will begin promptly upon notification by CoH; however, it is not expected to be complete prior to road construction, any remaining work will be coordinated with MUNICIPALITY construction operation at pre-construction conference.

Other (Specify) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

7. That the method used by the COMPANY in developing the relocation costs shall be as indicated by Paragraph (a), (b), or (c) as follows:

a.  X Actual direct and related indirect costs accumulated in accordance with a work order accounting procedure prescribed by the applicable Federal or State regulatory body.

- b. \_\_\_\_\_ Actual direct and related indirect costs accumulated in accordance with an established accounting procedure developed by the COMPANY and approved by CoH.
- c. \_\_\_\_\_ On a lump -sum basis where the estimated cost to the CoH does not exceed \$100,000.00, Except where unit costs are used and approved, the estimate shall show such details as man-hours by class and rate; equipment charges by type, size and rate; materials and supplies by items and price; and payroll additives and other overhead factors.

8. Indicate If (a), (b), or (c) applicable:

- a. X That the replacement facility is not of greater functional capacity or capability than the one it replaces, and includes no COMPANY betterments.
- b. \_\_\_\_\_ That the replacement facility involves COMPANY betterments, or is of greater functional capacity or capability than the one it replaces.
- c. \_\_\_\_\_ That the replacement facility is other than a segment of the COMPANY'S service, distribution, or transmission lines, such as a building, pumping station, ration plant, power plant or substation, production or transfer of storage facilities and other similar operating units of the COMPANY's physical plant or operating facilities,

If (c) is applicable, set forth credit to the project for the accrued depreciation of the facility being replaced.

9. That the total estimated cost of the work proposed herein, including all cost to the COMPANY less any credit for salvage, to complete the project is estimated to be \_\_\_\_\_ \$ \$137,296.97

The estimated non-betterment cost to CoH, including all cost less any credits for salvage, betterment and additional work done by the COMPANY will be \_\_\_\_\_ \$ \$137,296.97

The estimated cost to the COMPANY including betterments and any additional work done by the COMPANY will be \_\_\_\_\_ \$ \_\_\_\_\_

(The above costs shall be supported by attached estimate and plans)

10. That in the event it is determined there are changes in the scope of work, extra work, or major changes from the statement of work covered by this agreement, MUNICIPALITY understands this agreement is an actual cost agreement and will reimburse the Company full actual costs incurred for the work completed for this project.

11. Periodic progress billings of incurred costs will be made by the COMPANY to CoH not to exceed monthly intervals for no less than \$3,000.00 each; however, total progress billing payments shall not exceed 95% of the approved non-betterment estimate. One final and detailed complete billing of all cost shall be made by the COMPANY to CoH at the earliest practicable date after completion

of work. The statement of final billing shall follow as closely as possible the order of the items in the estimate portion of this agreement.

12. That CoH shall have the right to inspect non-reusable materials of the COMPANY recovered on this project prior to disposal by sale or scrap.
13. That CoH shall have the right to inspect all books, records, accounts and other documents of the COMPANY pertaining to the work performed by it under this agreement at any time after work begins and for a period of 3 years from the date final payment has been received by the COMPANY.
14. That the COMPANY obligates itself to erect, service and maintain the facilities to be retained and installed over and along the roadway within the roadway right of way limits in accordance with the mandate of the Statute and such other laws, rules, and regulations as have been or may be validly enacted or adopted, now or hereafter.
15. That if, in the future, it becomes necessary due to roadway construction or improvement to adjust or relocate utilities covered in this agreement being relocated at the expense of the requesting party that are crossing or otherwise occupying roadway right of way, the non-betterment cost of same will be that of the requestor.
16. That if, at any time, the CoH shall require the relocation of or changes in the location of the encroaching facilities covered in this agreement being relocated at COMPANY expense, the COMPANY binds itself, its successors and assigns, to promptly relocate or alter the facilities, in order to conform to the said requirements, without any cost to CoH.
17. That the COMPANY agrees to relinquish their rights in that portion of right of way vacated by their existing facilities now absorbed within roadway right of way.

IN WITNESS WHEREOF, the parties hereby have affixed their names by their duly authorized officers the day and year first above written.

City of Hickory

BY: \_\_\_\_\_

City of Hickory Engineer

DUKE ENERGY CAROLINAS, LLC

BY: Jacqueline Coley

On behalf of Larry Morris, Program Manager

OPTIONAL FORM NO. 10-1917  
STATE OF NORTH CAROLINA, County of Catawba

KNOW ALL MEN BY THESE PRESENTS That E. C. Bausch and wife, Leola Bausch of said County and State in consideration of the sum of One Dollars to them paid by the SOUTHERN PUBLIC UTILITIES COMPANY, the receipt whereof is hereby acknowledged, do hereby grant unto the said SOUTHERN PUBLIC UTILITIES COMPANY, its successors and assigns, the right, privilege, and easement to go in and upon that certain tract or lot of land situated in said County and State and bounded by lands of

- North - Daniel Eckard
- South - E. H. T. Moore
- East - E. T. Eckard
- West - J. J. Norman

and to construct and maintain in, over, and through said premises, in a proper manner, with poles, wires and other necessary apparatus and appurtenances a line for the purpose of transmitting power by electricity, together with the right at all times to enter upon said premises for the purpose of inspecting said lines and making necessary repairs and alterations thereon; together with the right to cut a way and keep clear of said lines all trees and other obstructions that may, in any way, endanger the proper operation of the same.

IN WITNESS WHEREOF, the said E. C. Bausch and wife, Mrs. Leola Bausch servants set their hand and seal, this 14th day of April, 1924.

Witness:  
W. H. Hipp E. C. Bausch (Seal)  
W. H. Hipp Mrs. Leola Bausch (Seal)

STATE OF NORTH CAROLINA, County of CATAWBA  
I, W. H. Hipp, a N.P.  
do hereby certify that E. C. Bausch and wife, Mrs. Leola Bausch personally appeared before me this day and acknowledged the due execution of the foregoing instrument, and that the said Mrs. Leola Bausch being by me privately examined, separate and apart from her said husband, she signed the same freely and voluntarily, without fear or compulsion of her said husband or any other person, and that she said voluntarily consent thereto.  
WITNESS my hand and official seal, this the 14th day of April, A.D. 1924.  
(L.C.) My commission expires Sept. 22, 1925.  
W. H. Hipp

STATE OF NORTH CAROLINA, County of CATAWBA  
The due execution of the within instrument was this day duly proven before me by the oath and examination of E. C. Bausch and wife, Mrs. Leola Bausch, subscribing witness thereto.  
IN WITNESS WHEREOF, I have hereunto set my hand and official seal, this 14th day of April, A.D. 1924.

NORTH CAROLINA, CATAWBA County, W. H. Hipp If the System Owner  
The foregoing certificate of W. H. Hipp is assigned to be executed by a Notary Public of Catawba County, W. H. Hipp and recorded in Book 189 Page 542  
Witness my hand, this 14th day of May, 1924  
Trevor L. Varlish, Deputy  
Notary Public  
Filed 7th day of May A.D. 1924 and recorded in Book 189 Page 542  
Register of Deeds  
County, N. C.

RECORDED AND VERIFIED

*[Handwritten Signature]*

DUKE POWER COMPANY—State of New York—1925—N. Y. 4501. (Rev. 2-1-25) Michael F. Finkbeiner, Esq., Raleigh, N. C.

State of North Carolina, County of Catawba

KNOW ALL MEN BY THESE PRESENTS That W. A. Killian and Nora Killian

grantor(s) of said County and State, in consideration of the sum of \$ 1.00 to me (us) in hand paid by DUKE POWER COMPANY, the receipt whereof is hereby acknowledged, do hereby grant unto said DUKE POWER COMPANY, its successors and assigns, the right, privilege and easement to go in and upon that certain tract or lot of land situated in said County and State, bounded by lands of

North - P. J. Brown and Earnest Whiggant and others

South - Jack Keller

West - W E Keller

East - G.T. Eckard

and to construct, maintain and operate in, upon, and through said premises, in a proper manner, with poles, wires and other necessary apparatus and appliances, a line for the purpose of transmitting power by electricity, together with the right at all times to enter upon said premises for the purpose of inspecting said line and making necessary repairs and alterations thereon; together with the right at all times to cut away and keep clear of said line all trees and other obstructions that may, in any way, endanger the proper maintenance and operation of the same.

IN WITNESS WHEREOF, the said grantor(s) do hereby set their hands and seals, this 10th day of August, 1937

W A Killian (Seal)

Nora Killian (Seal)

STATE OF NORTH CAROLINA—County of Catawba  
I, W H. Hipp Notary Public

in and for the County and State aforesaid, do hereby certify that W.A. Killian and Nora Killian personally appeared before me this day and acknowledged the due execution of the foregoing instrument, and that the said Nora Killian

is the wife of W A Killian being by me privately examined, separate and apart from her said husband, testifying that she did state that she signed the same freely and voluntarily, without fear or compulsion of her said husband(s) or any other person, and that she still voluntarily remains there.

Witness my hand and official seal, this 10th day of August, A.D. 1937  
My commission expires Sept. 23, 1937 L.S.

W H. Hipp Notary Public

STATE OF NORTH CAROLINA—County of Catawba  
The foregoing certificate of W H. Hipp Notary Public  
of Catawba County, is adjudged to be correct and sufficient, for the instrument and the certificate be registered.  
This 17th day of August, A.D. 1937

Wade H. Lefler  
Clerk of Superior Court.

Filed for registration 8:50 o'clock A M, 17th day of August, 1937 and registered  
to the office of the Registrar of Deeds of Catawba County, N. C., in book 280 on page 46

L. H. Phillips  
Registrar of Deeds.

4423

57

DUKE POWER COMPANY—Right of Way Deed—123 C—N. C.—2012. (164 121—O. R. N.) Duke Power Company, Raleigh, N. C.

State of North Carolina, County of CATAWBA

KNOW ALL MEN BY THESE PRESENTS, That S. T. ECKARD AND LESLA ECKARD

grant (s) of said County and State, in consideration of the sum of \$ 1.00 in one (one) to and paid by DUKE POWER COMPANY, the receipt whereof is hereby acknowledged, do hereby grant unto said DUKE POWER COMPANY, its successors and assigns, the right, privilege and easement to go in and upon that certain tract or lot of land situated in said County and State, bounded by lands of:

North—Walter Eillian and F.J. Brown

South—H.S. Sigmon

East—Naomi Keller

West—Jack Keller

and to construct, maintain and operate in, upon, and through said premises, in a proper manner, with poles, wires and other necessary apparatus and appliances, a line for the purpose of transmitting power by electricity, together with the right at all times to enter upon said premises for the purpose of inspecting said line and making necessary repairs and alterations thereon; together with the right at all times to cut away and keep clear of said line all trees and other obstructions that may, in any way, endanger the proper maintenance and operation of the same.

IN WITNESS WHEREOF, the said grantor(s) do hereunto set their hand(s) and seal(s), this 10th day of August, 1937

S. T. Eckard (Seal)

Lesla Eckard (Seal)

STATE OF NORTH CAROLINA—County of Catawba  
W. H. Hipp Notary Public

In and for the County and State aforesaid, do hereby certify that S. T. Eckard and Lesla Eckard personally appeared before me this day and acknowledged the due execution of the foregoing instrument, and that the said

Lesla Eckard  
wif. of S. T. Eckard

being by me privately examined, separately and apart from her said husband, touching her voluntary execution of the same, did state that she signed the same freely and voluntarily, without fear or compulsion of her said husband(s) or any other person, and that she still voluntarily executes (s) therein.

Witness my hand and official seal, this 10th day of August, A. D. 1937  
My commission expires Sept. 23, 1937 L. H.

W. H. Hipp Notary Public

STATE OF NORTH CAROLINA—County of Catawba  
The foregoing certificate of W. H. Hipp Notary Public

of Catawba County, is alleged to be correct and sufficient. Let the instrument be registered.  
This 17th day of August, A. D. 1937

Wade H. Lefler  
Clerk of Superior Court.

Filed for registration 8:30 o'clock A. M., 17th day of August, 1937 and registered  
in the office of the Register of Deeds of Catawba County, N. C., in book 280 on page 47

J. H. Phillips  
Register of Deeds.

## EASEMENT

NORTH CAROLINA  
CATAWBA COUNTY

WO 10785218 5230 4080 N Center St  
Prepared By: Amy K. Prophet  
Return to: Duke Energy  
Amy K. Prophet  
6325 Wilkinson Blvd  
Charlotte, NC 28214

THIS EASEMENT ("Easement") is made this 10<sup>th</sup> day of August, 2016  
("Effective Date"), from LAKEVIEW BAPTIST CHURCH OF HICKORY, NC, INC., a North Carolina nonprofit corporation,  
("GRANTOR," whether one or more), to DUKE ENERGY CAROLINAS, LLC, a North Carolina limited liability company  
("DEC"); its successors, licensees, and assigns.

WITNESSETH:

THAT GRANTOR, for and in consideration of the sum of ONE DOLLAR (\$1.00), the receipt and sufficiency of which are hereby acknowledged, does hereby grant unto DEC, its successors, lessees, licensees, transferees, permittees, apportionees, and assigns, the perpetual right, privilege, and easement to go in and upon the land of GRANTOR situated in Hickory Township, described as follows: PIN #371460380200, containing 10.42 acres, more or less, and being the land described in a deed from Trustees of Lakeview Baptist Church to Lakeview Baptist Church of Hickory, NC Inc., dated January 21, 2008, and recorded in Deed Book 2922, Page 933, Catawba County Registry (the "Property"), LESS AND EXCEPT any prior out-conveyances, and to construct, reconstruct, operate, patrol, maintain, inspect, repair, replace, relocate, add to, modify and remove electric and/or communication facilities thereon including but not limited to, supporting structures such as poles, cables, wires, guy wires, anchors, and other appurtenant apparatus and equipment (the "Facilities") within an easement area being thirty (30) feet wide (the "Easement Area"), for the purpose of transmitting and distributing electrical energy and for communication purposes. The center line of the Facilities shall be the center line of the Easement Area.

The right, privilege and easement shall include the following rights granted to DEC: (a) ingress and egress over the Easement Area and over adjoining portions of the Property (using lanes, driveways and paved areas where practical as determined by DEC); (b) to relocate the Facilities and Easement Area on the Property to conform to any future highway or street relocation, widening or improvement; (c) to trim and keep clear from the Easement Area, now or at any time in the future, trees, limbs, undergrowth, structures or other obstructions, and to trim or clear dead, diseased, weak or leaning trees or limbs outside of the Easement Area which, in the opinion of DEC, might interfere with or fall upon the Facilities; (d) to install guy wires and anchors extending beyond the limits of the Easement Area; and (e) all other rights and privileges reasonably necessary or convenient for DEC's safe, reliable and efficient installation, operation, and maintenance of the Facilities and for the enjoyment and use of the Easement Area for the purposes described herein.

It is understood and agreed that the general location of the Easement Area is shown on the sketch attached hereto as Exhibit A and recorded herewith. The final and definitive location of the Easement Area shall become established by and upon the final installation and erection of the facilities by DEC in substantial compliance with Exhibit A hereto

TO HAVE AND TO HOLD said rights, privilege, and easement unto DEC, its successors, licensees, and assigns, forever, and GRANTOR, for itself, its heirs, executors, administrators, successors, and assigns, covenants to and with DEC that GRANTOR is the lawful owner of the Property and the Easement Area in fee and has the right to convey said rights and Easement

IN WITNESS WHEREOF, this EASEMENT has been executed by GRANTOR and is effective as of the Effective Date herein

LAKEVIEW BAPTIST CHURCH OF HICKORY, NC, INC, a North Carolina nonprofit corporation

By Robert M Pegg  
Name Robert M Pegg  
Title Trustee

NORTH CAROLINA, Catawba COUNTY

I, Shelia M. Meade, a Notary Public of Alexander County, North Carolina, certify that Robert M. Pegg, Trustee (title) of LAKEVIEW BAPTIST CHURCH OF HICKORY, NC, INC., a North Carolina nonprofit corporation, personally appeared before me this day and acknowledged the due execution of the foregoing EASEMENT as Trustee (title) on behalf of the corporation.

Witness my hand and notarial seal, this 10<sup>th</sup> day of August, 2016.



Shelia M. Meade  
Notary Public

My commission expires: Oct. 12, 2020

# CU Estimate Project Estimation Bv Compatible Unit

Workorder: 10785218

Work Order Desc: \*J1821-PCW- B5549-City of Hickory / Falling Creek Rd

Estimate: 980387

Designer: Liles, Fred Junior

1	0055	SE-CCA POLE 40 FT CLASS 5	\$131.63	\$403.38	\$0.00	\$0.00	\$0.01
1	0063	SE-CCA POLE 45 FT CLASS 4	\$243.22	\$403.38	\$0.00	\$0.00	\$0.01
3	0073	SE-CCA POLE 50 FT CLASS 3	\$889.37	\$1,210.14	\$0.00	\$0.00	\$0.01
3	0077	SE-CCA POLE 55 FT CLASS 3	\$912.21	\$1,260.56	\$0.00	\$0.00	\$0.01
1	0100	SE-SINGLE CROSSARM 8 FT	\$44.88	\$63.87	\$0.00	\$0.00	\$0.01
5	0112	SE-ARM,FIBERGLASS,8',DEADEND POLE	\$774.16	\$342.87	\$0.00	\$0.00	\$0.01
1	0123556	SE-LINK,FUSE,T,65,FL1T65,COOPER IND	\$2.46	\$0.00	\$0.00	\$0.00	\$0.01
4	0171	SE-PRIMARY INSULATOR GUY AND ANCHOR	\$278.48	\$666.92	\$0.00	\$0.00	\$0.01
6	0172	SE-NEUTRAL/SECONDARY GUY AND ANCHOR	\$316.32	\$1,000.38	\$0.00	\$0.00	\$0.01
8	0182	SE-EXTRA NEUTRAL GUY	\$204.25	\$532.46	\$0.00	\$0.00	\$0.01
9	0240	SE-POLE TOP BRACKET 12 OR 24 KV	\$203.92	\$308.59	\$0.00	\$0.00	\$0.01
12	0260	SE-POST INSULATOR WOOD 12-24 KV	\$144.13	\$330.77	\$0.00	\$0.00	\$0.01
1	0292530	SE-LINK,FUSE,D,5,FL1D5,COOPER POWER	\$4.88	\$0.00	\$0.00	\$0.00	\$0.01
2	0292532	SE-LINK,FUSE,D,10,FL 1D 10,COOPER POWER	\$8.14	\$0.00	\$0.00	\$0.00	\$0.01
1	0302390	SE-TRIPLEX OR NEUTRAL DE 2-1/0	\$951.63	\$0.00	\$0.00	\$0.00	\$0.01
14	0430	SE-DE 4-1/0 ACSR WOOD-ARM 12KV	\$312.01	\$649.44	\$0.00	\$0.00	\$0.01
20	0431	SE-DE 4-1/0 ACSR WOOD-ARM 12KV	\$425.79	\$927.77	\$0.00	\$0.00	\$0.01
1	0462	SE-DE SLK SPN 4-1/0 WOOD 12KV	\$25.42	\$46.39	\$0.00	\$0.00	\$0.01
18	0480	SE-TRIPLEX OR NEUTRAL DE 2-1/0	\$210.48	\$520.36	\$0.00	\$0.00	\$0.01
3	0483	SE-6/3 and 2/3 SEC ATTACHMENT	\$16.93	\$121.01	\$0.00	\$0.00	\$0.01
3	0485	SE-2/0-3 : 4/0-4 SEC ATTACHMENT	\$17.29	\$121.01	\$0.00	\$0.00	\$0.01
3	0510	SE-ONE WIRE RACK	\$15.01	\$80.68	\$0.00	\$0.00	\$0.01

# CU Estimate Project Estimation By Compatible Unit

3682	0570	SE-COND 1/0 AACB BARE PER FT	\$629.99	\$4,950.82	\$0.00	\$0.00	\$0.00
55	0655	SE-CABLE OH 6-3	\$14.88	\$73.95	\$0.00	\$0.00	\$0.00
75	0674	SE-CABLE 1/0-3 AL	\$55.45	\$100.85	\$0.00	\$0.00	\$0.00
3	0704	SE-WOOD POLE DISC OR ARRESTER	\$77.85	\$12.59	\$0.00	\$0.00	\$0.00
1	0705	SE-WOOD XARM DISC OR ARRESTER	\$5.28	\$4.20	\$0.00	\$0.00	\$0.00
1	0740	SE-FUSE DISC 100 AMP 1PH 12KV	\$43.06	\$67.23	\$0.00	\$0.00	\$0.00
3	1600	SE-POLE GROUND WITH 8 FT ROD	\$55.50	\$155.30	\$0.00	\$0.00	\$0.00
3	1620	SE-BASIC CONV TX 1PH 12KV	\$142.11	\$201.69	\$0.00	\$0.00	\$0.00
3	1755	SE-SIDE TIE 1/0 ACSR	\$8.06	\$5.08	\$0.00	\$0.00	\$0.00
20	1780	SE-HAND TIE	\$8.39	\$33.88	\$0.00	\$0.00	\$0.00
1	1782	SE-TIE CONDUCTOR,NEU,EZ,SPOL W/PAD,1/0	\$1.90	\$1.27	\$0.00	\$0.00	\$0.00
1	1810	SE-1PH TX LEADS 10-25KVA	\$11.70	\$13.45	\$0.00	\$0.00	\$0.00
2	1820	SE-1 PH TX LEADS 50KVA	\$37.22	\$26.89	\$0.00	\$0.00	\$0.00
1	1927	SE-MID SPAN 2/0-3 AL TO 2-3 AL	\$21.02	\$41.95	\$0.00	\$0.00	\$0.00
165	2480	SE-4/0 AL CBL 1P 600V - SEC	\$204.60	\$0.00	\$0.00	\$0.00	\$0.00
1	3340	SE-4/0 AL SVC RISER 1P 600V	\$77.21	\$42.83	\$0.00	\$0.00	\$0.00
1	3870	SE-INST 15 TO 50 KVA 1P TX	\$0.00	\$251.84	\$0.00	\$0.00	\$0.00
33	5950	SE-FLAGGING CONSTRUCTION 1/2 MHR	\$0.00	\$1,109.30	\$0.00	\$0.00	\$0.00
47	5970	SE-1MAN-HOUR LABOR OVERHEAD	\$0.00	\$3,159.81	\$0.00	\$0.00	\$0.00
3	CONN-OH-HLC-2/0CU-	SE-CONNECTOR OH HOT LINE CLAMP 2/0CU-	\$21.18	\$0.00	\$0.00	\$0.00	\$0.00
3	CONN-OH-STRP-	SE-CONNECTOR OH STIRRUP COMPRESSION	\$13.02	\$0.00	\$0.00	\$0.00	\$0.00
1	LABADVPOL565	Adder-OH Adverse mechanized access set for	\$0.00	\$551.29	\$0.00	\$0.00	\$0.00
3	LABCUTOFFPOL	Adder-OH-Cut Off Existing Pole in Place Without	\$0.00	\$127.06	\$0.00	\$0.00	\$0.00
1	LABHSPOL4050	Adder-OH-Hand set pole in earth, Wood, up to 40-	\$0.00	\$470.61	\$0.00	\$0.00	\$0.00
17	LABJMP2/0L	Install Jumper up to 2/0 (EA)	\$0.00	\$720.03	\$0.00	\$0.00	\$0.00
2	LABLAYOUT2/0L	Adder-OH-Conductor-Temporary Wire Layout, up to	\$0.00	\$133.12	\$0.00	\$0.00	\$0.00
4	LABPOL35L	LABOR ONLY, 35 FT POLE OR LESS	\$0.00	\$1,075.88	\$0.00	\$0.00	\$0.00
7407.59	SE-10%	10% Contingency Custom Cost	\$6,074.22	\$0.00	\$0.00	\$0.00	\$0.00
1971.70	SE-TURNKEY	Turnkey Services Pole Staking	\$1,616.79	\$0.00	\$0.00	\$0.00	\$0.00
1613.85	SILT FENCE	Adder Misc - Install/Remove, Sill Fence Erosion	\$0.00	\$3,775.77	\$0.00	\$0.00	\$0.00

## CU Estimate Project Estimation By Compatible Unit

ID	Description	Unit	Rate	Quantity	Total	Material	Installation	Other	Subtotal	Rate	Quantity	Total
1	165 ULABCABL 1-2	Cable in Trench, Medium Wire	\$0.00		\$57.13	\$0.00	\$0.00	\$0.00	\$57.13	\$0.00		\$0.00
1	165 ULABTREN18WX30D	Install. Trench in Normal Soil, up to 18" wide and up	\$0.00		\$252.48	\$0.00	\$0.00	\$0.00	\$252.48	\$0.00		\$0.00
R	1 [0] 0055	SE-CCA POLE 40 FT CLASS 5 [\$131.62]	\$0.00	1	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	1	\$0.00
R	5 [0] 0063	SE-CCA POLE 45 FT CLASS 4 [\$131.62]	\$0.00	5	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	5	\$0.00
R	2 [0] 0100	SE-SINGLE CROSSARM 8 FT [\$131.62]	\$0.00	2	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	2	\$0.00
R	2 [0] 0112	SE-ARM, FIBERGLASS, 8', DEADEND POLE	\$0.00	2	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	2	\$0.00
R	1 [0] 0123556	SE-LINK, FUSE, T.65, FL 11T65, COOPER IND	\$0.00	1	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	1	\$0.00
R	2 [0] 0171	SE-PRIMARY INSULATOR GUY AND ANCHOR	\$0.00	2	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	2	\$0.00
R	2 [0] 0172	SE-NEUTRAL/SECONDARY GUY AND ANCHOR	\$0.00	2	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	2	\$0.00
R	4 [0] 0182	SE-EXTRA NEUTRAL GUY [\$131.62]	\$0.00	4	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	4	\$0.00
R	6 [0] 0240	SE-POLE TOP BRACKET 12 OR 24 KV [\$131.62]	\$0.00	6	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	6	\$0.00
R	8 [0] 0260	SE-POST INSULATOR WOOD 12-24 KV [\$131.62]	\$0.00	8	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	8	\$0.00
R	1 [0] 0292530	SE-LINK, FUSE, D.5, FL 1D5, COOPER POWER	\$0.00	1	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	1	\$0.00
R	1 [0] 0292532	SE-LINK, FUSE, D.10, FL 1D 10, COOPER POWER	\$0.00	1	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	1	\$0.00
R	8 [0] 0430	SE-DE 4-1/0 ACSR WOOD-POLE 12KV [\$131.62]	\$0.00	8	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	8	\$0.00
R	8 [0] 0431	SE-DE 4-1/0 ACSR WOOD-ARM 12KV [\$131.62]	\$0.00	8	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	8	\$0.00
R	1 [0] 0462	SE-DE SLK SPN 4-1/0 WOOD 12KV [\$131.62]	\$0.00	1	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	1	\$0.00
R	9 [0] 0480	SE-TRIPLEX OR NEUTRAL DE 2-1/0 [\$131.62]	\$0.00	9	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	9	\$0.00
R	8 [0] 0483	SE-6/3 and 2/3 SEC ATTACHMENT [\$131.62]	\$0.00	8	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	8	\$0.00
R	9 [0] 0486	SE-2/0-3 : 4/0-4 SEC ATTACHMENT [\$131.62]	\$0.00	9	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	9	\$0.00
R	10 [0] 0510	SE-ONE WIRE RACK [\$131.62]	\$0.00	10	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	10	\$0.00
R	2 [0] 0520	SE-THRU BOLT BRACKET [\$131.62]	\$0.00	2	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	2	\$0.00
R	1788 [0] 0570	SE-COND 1/0 AAAC BARE PER FT [\$131.62]	\$0.00	1788	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	1788	\$0.00
R	208 [0] 0655	SE-CABLE OH 6-3 [\$131.62]	\$0.00	208	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	208	\$0.00
R	301 [0] 0674	SE-CABLE 1/0-3 AL [\$131.62]	\$0.00	301	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	301	\$0.00
R	2 [0] 0704	SE-WOOD POLE DISC OR ARRESTER	\$0.00	2	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	2	\$0.00
R	1 [0] 0705	SE-WOOD XARM DISC OR ARRESTER	\$0.00	1	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	1	\$0.00
R	1 [0] 0740	SE-FUSE DISC 100 AMP 1PH 12KV [\$131.62]	\$0.00	1	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	1	\$0.00
R	2 [0] 1600	SE-POLE GROUND WITH 9 FT ROD [\$131.62]	\$0.00	2	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	2	\$0.00
R	2 [0] 1620	SE-BASIC CONV TX 1PH 12KV [\$131.62]	\$0.00	2	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	2	\$0.00

# Project Estimation By Compatible Unit

QTY	UNIT	DESCRIPTION	EST. COST	MAN HOURS	EST. COST	MAN HOURS	EST. COST	MAN HOURS
R	6 [0]	SE-TOP TIE 1/0 ACSR [\$131.62]	\$0.00	\$0.00	\$5.08	\$0.00	\$0.00	\$0.00
R	13 [0]	SE-HAND TIE [\$131.62]	\$0.00	\$0.00	\$11.01	\$0.00	\$0.00	\$0.00
R	2 [0]	SE-TIE CONDUCTOR, NEU, EZ, SPOOL W/PAD, 1/0	\$0.00	\$0.00	\$1.28	\$0.00	\$0.00	\$0.00
R	1 [0]	SE-1PH TX LEADS 10-25KVA [\$131.62]	\$0.00	\$0.00	\$4.71	\$0.00	\$0.00	\$0.00
R	1 [0]	SE-1 PH TX LEADS 50KVA [\$131.62]	\$0.00	\$0.00	\$4.71	\$0.00	\$0.00	\$0.00
R	8 [0]	SE-1MAN-HOUR LABOR OVERHEAD [\$0.00]	\$0.00	\$0.00	\$537.84	\$0.00	\$0.00	\$0.00
R	2 [0]	CONN-OH-HL-C-2/0CU- SE-CONNECTOR OH HOT LINE CLAMP 2/0CU-	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
R	2 [0]	CONN-OH-STRP- SE-CONNECTOR OH STRIRUP COMPRESSION	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
R	8 [0]	LABJMP2/0L Install Jumper up to 2/0 (EA) [\$0.00]	\$0.00	\$0.00	\$177.49	\$0.00	\$0.00	\$0.00
R	4 [0]	LABPOL35L LABOR ONLY, .35 FT POLE OR LESS [\$0.00]	\$0.00	\$0.00	\$537.84	\$0.00	\$0.00	\$0.00
T	2	SE-INST 15 TO 50 KVA 1P TX	\$0.00	\$0.00	\$0.00	\$656.16	\$0.00	\$0.00
T	4	LABTRFDEE2/0-556 Adder Conductor-Transfer Dead End, Greater than	\$0.00	\$0.00	\$0.00	\$403.38	\$0.00	\$0.00
T	4	LABTRFLGHT8L LABOR ONLY, Transfer complete light assembly on	\$0.00	\$0.00	\$0.00	\$398.54	\$0.00	\$0.00
T	16	LABTRFSL2/0L Adder Conductor-Transfer Straight Line, up to 2/0	\$0.00	\$0.00	\$0.00	\$882.06	\$0.00	\$0.00
T	3	LABTRFSLPLEX2/0L Adder Conductor-Transfer Multiplex Straight Line,	\$0.00	\$0.00	\$0.00	\$155.30	\$0.00	\$0.00
<b>Totals:</b>			\$15,252.01	\$26,406.08	\$6,418.13	\$2,495.44	\$0.00	\$0.00
<b>Overhead Costs:</b>			\$2,821.62	\$19,276.44	\$4,685.23	\$1,821.67	\$0.00	\$0.00
<b>Total Materials:</b>			\$18,073.63					
<b>Total Labor:</b>				\$45,682.51	\$11,103.36	\$4,317.12		
<b>Total Install Cost:</b>			\$63,756.15					
<b>Total Removal Cost:</b>			\$11,103.36					
<b>Total Transfer Cost:</b>			\$4,317.12					
<b>Total Salvage Value:</b>								\$0.00

<b>Total Install Man Hours:</b>	392.77
<b>Total Remove Man Hours:</b>	95.47
<b>Total Transfer Man Hours:</b>	37.12

Host: http://entdukerpl.duke-energy.com/ReportServer

### CU Estimate Project Estimation By Compatible Unit

Report Last Refreshed c  
08/26/2016 06:21

**Total Project Cost:**  
Show Report Criteria

\$79,176.62

Total Man Hours

525.36

# CU Estimate Project Estimation By Compatible Unit

**Workorder:** 10952639  
**Work Order Desc:** \*J18821- PCW- Cih Of Hickory Falling Ck B5549 TREE  
**Estimate:** 993720  
**Designer:** Liles, Fred Junior

QTY	DESCRIPTION	UNIT	EST. COST	MAN HOURS	EST. COST	EST. COST	EST. COST
1	LABOR-TREE	SE-LABOR, 1MH TREE	\$0.00	\$67.23	\$0.00	\$0.00	\$0.00
1	ROW-BRUSH5	SE-RW, HVY BRUSH OH CHIP	\$0.00	\$1.88	\$0.00	\$0.00	\$0.00
1	5426.36 SE-10%	10% Contingency Custom Cost	\$4,449.62	\$0.00	\$0.00	\$0.00	\$0.00
1	54263.66 SE-TURNKEY	Turnkey Services Right of Way Clearing	\$44,496.20	\$0.00	\$0.00	\$0.00	\$0.00
<b>Totals:</b>			\$48,945.82	\$69.11	\$0.00	\$0.00	\$0.00

**Overhead Costs:** \$48,945.82  
**Total Materials:** \$9,054.98  
**Total Labor:** \$58,000.80  
**Total Install Cost:** \$119.55  
**Total Removal Cost:** \$58,120.35  
**Total Transfer Cost:** \$0.00  
**Total Salvage Value:** \$0.00

**Total Project Cost:** \$58,120.35  
**Show Report Criteria:** Total Install Man Hours: 1.03



**To:** City Manager's Office  
**From:** Chuck Hansen, Director of Public Services  
**Contact Person:** Rick Patton, Engineering  
**Date:** September 15, 2016  
**Re:** Utility Relocation Agreement with Centurylink for Replacement of Bridge on Falling Creek Road

**REQUEST**

Request to approve agreement with Centurylink to relocate utilities on the Falling Creek Road bridge replacement project in the amount of \$31,623.04.

**BACKGROUND**

The bridge on Falling Creek Road is structurally deficient and is functionally obsolete. The design of the replacement structure is complete. Centurylink is owner of the overhead utilities at the site and has provided a detailed cost estimate for the necessary relocation of their equipment to allow construction of the replacement structure.

**ANALYSIS**

The original municipal agreement between the City of Hickory and NCDOT for the Falling Creek Road bridge replacement project did not include utility relocation costs. The cost of utility relocation could not be accurately predicted until the project plans were completed and approved. Upon NCDOT approval of the bridge replacement construction plans, Centurylink performed their design and provided a construction cost estimate for relocation of their facilities at the project site. Once approved, Centurylink will begin their portion immediately. When Centurylink is through with the relocation, the contract for the bridge replacement will be let to bid. Eighty percent of the cost will be borne by NCDOT and the City will be responsible for 20% of the costs. Upon approval of the contract, the City will be obligated to pay \$31,623.04 up front to Centurylink for their work. NCDOT will reimburse the City 80% of that cost, amounting to \$25,298.43, leaving \$6,324.61 as the City's responsibility.

**RECOMMENDATION**

Staff recommends that the agreement with Centurylink in the amount of \$31,623.04 for utility relocation associated with the replacement of the bridge on Falling Creek Road bridge be approved.

**Informational**  
(Some info items will not have to appear on the Council agenda, but will be communicated to Council in weekly Communication format. These items will still require a Council Agenda Memo)

**Requires Council Approval**  
(All new or revisions in Ordinances or Council enacted policies, as well as contracts/agreements over \$100,000 will be placed on Agenda)

**BUDGET ANALYSIS:**

**Budgetary Action**

Is a Budget Amendment required?

Yes  No

**LIST THE EXPENDITURE CODE:**

~~010-5460-537-7701~~  
061-5460-577.72-07

**Reviewed by:**

Chuck Hansen CH  
Initiating Department Head

10-06-16  
Date

Amanda M. Dula  
Deputy City Attorney, A. Dula

10-14-16  
Date

Rodney Miller  
Asst. City Manager Rodney Miller

10-12-16  
Date

A. Surratt  
Asst. City Manager, A. Surratt

10/14/16  
Date

Melissa Miller  
Finance Officer, Melissa Miller

10-12-16  
Date

Bo Weichel  
Purchasing Manager, Bo Weichel

10-10-16  
Date

\_\_\_\_\_  
Date

Recommended for approval and placement on \_\_\_\_\_ Council agenda (as Consent, Public Hearing, Informational, Department Report, etc.).

M. Berry  
City Manager, M. Berry

10/14/16  
Date

Utility Relocation Agreement  
City of Hickory – Falling Creek Road Bridge Project  
Centurylink Project Number N.008151  
County: Catawba                      State: NC

This agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between City of Hickory, hereinafter referred to as MUNICIPALITY and Centurylink, hereinafter referred to as the COMPANY. The MUNICIPALITY and Company acknowledge that this Agreement and any Agreement amendment documents requiring signatures may be transmitted electronically. MUNICIPALITY and Company stipulate that if this Agreement is transmitted electronically, the electronic transmittal of the original execution signatures shall be treated as original signatures and given the same legal effect as an original.

WITNESSETH:

THAT WHEREAS, MUNICIPALITY, will submit a project for construction as follows: relocate electric distribution facilities to accommodate City project number 55047.1.1 and Tip number B-5549 in Catawba County.

WHEREAS, the construction of said project will require certain adjustments to be made to the existing facilities of the COMPANY: See attached Drawing.

NOW, THEREFORE, In order to facilitate the orderly and expeditious relocation of the said facilities of the COMPANY, MUNICIPALITY and the COMPANY have agreed as follows:

1. That any work performed under this agreement shall comply with the NCDOT "POLICIES AND PROCEDURES FOR ACCOMMODATING UTILITIES ON HIGHWAY RIGHT OF WAY", dated January 1, 1975 and such amendments thereto as may be in effect at the date of this agreement. The work to be performed by the COMPANY shall conform with Federal Highway Administration's Federal-Aid Policy Guide, Subchapter G, Part 645, Subpart A hereinafter referred to as FAPG dated December 9, 1991, and such agreements thereto as may be in effect at the date of this agreement. The provisions of said FAPG and amendments thereto are incorporated in this agreement by reference as fully as if herein set out. Any work performed under this agreement

not in compliance with FAPG shall constitute unauthorized work and MUNICIPALITY shall be relieved of participating in the costs of such unauthorized work unless such work is done pursuant to a supplemental agreement attached to and made a part hereof.

2. That the COMPANY will prepare an estimate, broken down as to estimated cost of labor, construction overhead, materials, and supplies, handling charges, transportation and equipment, rights of way, preliminary engineering and construction engineering, including itemization of appropriate credits for salvage and betterment's, all in sufficient detail to provide MUNICIPALITY, a reasonable basis for analysis. Unit cost, such as broad gauge units of property, may be used for estimating purposes where the COMPANY uses such units in its own operations. The COMPANY will also prepare plans, sketches or drawings showing their existing facilities, temporary and permanent changes to be made with reference to the MUNICIPALITY's new right of way using appropriate nomenclature, symbols, legend, notes, color coding or the like. The before mentioned estimate and plans are attached hereto and made a part hereof. There are no costs for changes not necessitated by the construction of the highway project, nor for changes made solely for the benefit or convenience of the COMPANY, or its contractor. The attached estimate is valid for 90 days and is based on design shown in the attached drawings. The estimates will be updated and an amendment to the original Utility Relocation Agreement may be initiated if the scope of the project changes (causing cost to exceed original estimate) or new right of way cannot be obtained (causing a delay in the relocation construction).
3. That MUNICIPALITY's authority, obligation, or liability to pay for relocations as set forth in the agreement is based on the COMPANY having a right of occupancy in its existing location by reason of holding the fee, as easement or other real property interest, the damaging or taking of which is compensable in eminent domain.
4. That payment for all work done hereunder shall be made in accordance with the requirements of FAPG unless payment is being made pursuant to a supplemental agreement attached to and made a part of this agreement.
5. That the construction work provided for in this agreement will be performed by the method or methods as specified below:

BY COMPANY's REGULAR FORCE: The COMPANY proposes to use its regular construction or maintenance crews and personnel at its standard schedule of wages and working hours in accordance with the terms of its agreement with such employees.

  X   BY EXISTING WRITTEN CONTINUING CONTRACT: The COMPANY proposes to use an existing written continuing contract under which certain work as shown by the COMPANY's estimate is regularly performed for the COMPANY and under which the lowest available costs are developed.

           BY CONTRACT: The COMPANY does not have adequate staff or equipment to perform the necessary work with its own forces. The COMPANY proposes to award a contract to the lowest qualified bidder who submits a proposal in conformity with the requirements and specifications for the work to be performed as set forth in an appropriate solicitation for bids.

6. a. It is contemplated by the parties hereto that the construction of this MUNICIPALITY project is in progress.

b. Based on the best information available at the present time to the COMPANY, indicated applicable paragraph, below:

           Materials are available and it is expected that work will be complete prior to road construction.

           All work will take place during MUNICIPALITY construction and arrangements for said work will be coordinated with MUNICIPALITY construction operations at pre-construction conference.

           Work will begin promptly upon notification by MUNICIPALITY; however, it is not expected to be complete prior to road construction, any remaining work will be coordinated with MUNICIPALITY construction operation at pre-construction conference.

  X   Other (Specify) Work will begin promptly upon Duke Energy Carolinas relocation completion.

7. That the method used by the COMPANY in developing the relocation costs shall be as indicated by Paragraph (a), (b), or (c) as follows:

a.            Actual direct and related indirect costs accumulated in accordance with a work order accounting procedure prescribed by the applicable Federal or State regulatory body.

b.   X   Actual direct and related indirect costs accumulated in accordance with an established accounting procedure developed by the COMPANY and approved by MUNICIPALITY.

c. \_\_\_\_\_ On a lump -sum basis where the estimated cost to the MUNICIPALITY does not exceed \$100,000.00, Except where unit costs are used and approved, the estimate shall show such details as man-hours by class and rate; equipment charges by type, size and rate; materials and supplies by items and price; and payroll additives and other overhead factors.

8. Indicate If (a), (b), or (c) applicable:

a.  X  That the replacement facility is not of greater functional capacity or capability than the one it replaces, and includes no COMPANY betterments.

b. \_\_\_\_\_ That the replacement facility involves COMPANY betterments, or is of greater functional capacity or capability than the one it replaces.

c. \_\_\_\_\_ That the replacement facility is other than a segment of the COMPANY'S service, distribution, or transmission lines, such as a building, pumping station, ration plant, power plant or substation, production or transfer of storage facilities and other similar operating units of the COMPANY's physical plant or operating facilities,

If (c) is applicable, set forth credit to the project for the accrued depreciation of the facility being replaced.

9. That the total estimated cost of the work proposed herein, including all cost to the COMPANY less any credit for salvage, to complete the project is estimated to be \_\_\_\_\_ \$ 31,623.04

The estimated non-betterment cost to MUNICIPALITY, including all cost less any credits for salvage, betterment and additional work done by the COMPANY will be \_\_\_\_\_ \$ 0.00

The estimated cost to the COMPANY including betterments and any additional work done by the COMPANY will be \_\_\_\_\_ \$ 31,623.04

(The above costs shall be supported by attached estimate and plans)

10. That in the event it is determined there are changes in the scope of work, extra work, or major changes from the statement of work covered by this agreement, MUNICIPALITY understands this agreement is an actual cost agreement and will reimburse the Company full actual costs incurred for the work completed for this project.

11. Periodic progress billings of incurred costs will be made by the COMPANY to MUNICIPALITY not to exceed monthly intervals for no less than \$3,000.00 each; however, total progress billing payments shall not exceed 95% of the approved non-betterment estimate. One final and detailed complete billing of all cost shall be made by the COMPANY to MUNICIPALITY at the earliest practicable date after completion of work. The statement of final billing shall follow as closely as possible the order of the items in the estimate portion of this agreement.

12. That MUNICIPALITY shall have the right to inspect non-reusable materials of the COMPANY recovered on this project prior to disposal by sale or scrap.
13. That MUNICIPALITY TOWE shall have the right to inspect all books, records, accounts and other documents of the COMPANY pertaining to the work performed by it under this agreement at any time after work begins and for a period of 3 years from the date final payment has been received by the COMPANY.
14. That the COMPANY obligates itself to erect, service and maintain the facilities to be retained and installed over and along the roadway within the roadway right of way limits in accordance with the mandate of the Statute and such other laws, rules, and regulations as have been or may be validly enacted or adopted, now or hereafter.
15. That if, in the future, it becomes necessary due to roadway construction or improvement to adjust or relocate utilities covered in this agreement being relocated at the expense of the requesting party that are crossing or otherwise occupying roadway right of way, the non-betterment cost of same will be that of the requestor.
16. That if, at any time, the MUNICIPALITY shall require the relocation of or changes in the location of the encroaching facilities covered in this agreement being relocated at COMPANY expense, the COMPANY binds itself, its successors and assigns, to promptly relocate or alter the facilities, in order to conform to the said requirements, without any cost to MUNICIPALITY.
17. That the COMPANY agrees to relinquish their rights in that portion of right of way vacated by their existing facilities now absorbed within roadway right of way.

IN WITNESS WHEREOF, the parties hereby have affixed their names by their duly authorized officers the day and year first above written.

City of Hickory

BY: \_\_\_\_\_

City of Hickory Engineer

Centurylink

BY: Steve M. Sand

Engineering/Construction Manager

## TOTAL ESTIMATED COST

## B-5549, CATAWBA COUNTY, NC – CENTURYLINK ESTIMATED COST

## CENTURYLINK PROJECT N.008151, HICKORY EXCHANGE

Engineering/Construction Inspection/Facilities:	\$ 7,770.96
Place aerial copper:	\$ 15,007.18
Place aerial fiber:	\$ 7,301.07
Remove aerial copper:	\$ 1,048.63
Remove aerial fiber:	\$ 390.20
Remove pole:	\$ <u>105.00</u>
<b>TOTAL ESTIMATED COST CENTURYLINK RELCOATION B-5549</b>	<b>\$ 31,623.04</b>

NOTE: There is no BETTERMENT, only replacement like for like.

V1 Projects New V1 Project V2 Projects Reports Search Budgeting Queue KAC906389 Logout

The FWBM Support phones will be off on the week of August 29th. Please submit FWBM Customer Care tickets. If you have an emergency situation, please contact Cindy Johns or Pam Crim directly by IM or email or call Cindy at 318.331.4077

**Project Planning**



Details Structure Planning PR/PO Details Tracking CPR Inside CPR Outside Retirements Face Sheet Narrative Notes ROI Close Report

N:008151 NC - HCKR - RDMR - KCR B-5549 FALLING CREEK BRIDGE Version 1 Legacy ID: [REDACTED]

Company: T860 Central Telephone Company-North Carolina  
 Exchange: 7863 HICKORY User Status: Created  
 Legacy ID: Supervisor Status: Un-Approved  
 Site: System Status: Partially released  
 Investment Reason: ROADMOVES(CABLE AND DLC'S) Planner Name:  
 Verb: RDMR ROADMOVE REIMBURSED  
 Business Reason: A Base Budget Project Est. Constr. Start: [REDACTED]  
 Category: SPECIFICS Est. Constr. Complete: [REDACTED]  
 Responsible Person: MCCLAIN, AMY - ALM067519  
 Network Notice: 100 Team Field: LEEA12  
 Host Project:  
 Project Plan Cost Est:  
 Additional Permissible Cost:  
 Bid No.: ENG - WORKORDER - NCHCKRRDMR KCR B-5549 FALLING CREEK BRIDGE  
 ENG - WORKORDER - NCHCKRRDMR KCR B-5549 FALLING CREEK BRIDGE

Eng/Insp Bidmaster Other

Engineering / Inspections

Plan Year 2016 History

Copy from: [REDACTED] GO

Special Circuits

**Company Forces**

WBS Element State-Exchange-Wire Center	Mnemonic	Est. Hours	Est. Plan
N.008151.C.01 NC-7863-HCKRNCA	EENG - EENG - Company - EMPLOYEE ENGINEERING	2.00	176.00
N.008151.C.02 NC-7863-HCKRNCA	EISP - EISP - Company - EMPLOYEE INSPECTION	6.00	528.00
N.008151.C.03 NC-7863-HCKRNCA	SLOW - SLOW - Company - STRUCTURE LOADER CAPITAL WORK	2.00	176.00

**Contract Forces**

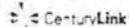
WBS Element State-Exchange-Wire Center	Mnemonic	Est. Plan
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Total 880.00

V1 Projects New V1 Project V2 Projects Reports Search Budgeting Queue KAC908369 - Logout

The FWBM Support phones will be off on the week of August 29th. Please submit FWBM Customer Care tickets, if you have an emergency situation, please contact Cindy Johns or Pam Crim directly by IM or email or call Cindy at 318.331.4077

Project Planning



Details Structure Planning PR/PO Details Tracking CPR Inside CPR Outside Retirements Fair Sheet Narrative Notes R01 Close Report

N.008151: NC - HCR - ADMR - KCR B-5549 FALLING CREEK BRIDGE Vers on 1 Legacy ID

Company: **TS60 Central Telephone Company-North Carolina**  
 Exchange: **7863 HICKORY** User Status: **Created**  
 Legacy ID: Supervisor Status: **Un-Approved**  
 Site: System Status: **Partially released**  
 Investment Reason: **ROADMOVES(CABLE AND DLC'S)** Planner Name:  
 Verb: **ADMR ROADHOVE REIMBURSED**  
 Business Reason: **A Base Budget Project** Est. Constr. Start:  
 Category: **SPECIFICS** Est. Constr. Complete:  
 Responsible Person: **MCCLAIN, AMY - ALH067519**  
 Network Notice: **100** Team Field: **LEEA12**  
 Host Project:  
 Project Plan Cost Est: .  
 Additional Permissible Cost: .

Bid No.: **ENG - WORKORDER - NCHCKRRDMR KCR B-5549 FALLING CREEK BRIDGE**  
**ENG - WORKORDER - NCHCKRRDMR KCR B-5549 FALLING CREEK BRIDGE**

Eng/Insp BidMaster Other  
OSP

Plan Year 2016 History

Copy from: B - BidMaster: F - Fireworks Disable After WO Approve BM Units Pending for Approval

Contract: 2016LE000082 - Engineering Contract - TN/GA/NC/SC/WI - Squan All WBS  
 Constr. Proj. Admin: LAND, STEVEN - SML067960 Year 2016 Contract Factored No Vendor Pricing Yes

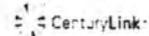
WBS Element	State-Exchange-Wire Center	Mnemonic	Est Cost	Est Cost	Est Cost	Est Cost	Est Cost	Est Cost	Est Cost	Est Cost	Est Cost	Total	L	M	VM	MM
Vendor	Assembly Unit	ID Desc	Est Qty	Commitment	Cont Labor *per unit	Cont Mat *per unit	Vendor Mat *per unit	Minor Mat *per unit	Sales Tax %*per unit	Freight %*per unit	CenturyLink *per unit					
+ N.008151.C.16	NC-7863-HCKRNCXA				CENG - CONTRACT ENGINEERING											
F X N/A	CAD DRAFTING	Squan	24.00	0.00	30.00	0.00	0.00	0.00	0.00	0.00	0.00	720.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F X N/A	OSP FACILITY	KC	40.00	0.00	42.00	0.00	0.00	0.00	0.00	0.00	0.00	1680.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F X N/A	VEHICLE MILEAGE	Travel	1.00	0.00	0.48	0.00	0.00	0.00	0.00	0.00	0.00	0.48	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
					<b>Sub-Total</b>	2,400.48	0.00	0.00	0.00	0.00	0.00	2400.48				
					<b>Total</b>	2,400.48	0.00	0.00	0.00	0.00	0.00	2400.48				

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V1 Projects New V1 Project V2 Projects Reports Search Budgeting Queue KAC908389 Logout

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Project Planning



Details Structure Planning PR/PO Details Tracking CPR Inside CPR Outside Retirements Face Sheet Narrative Notes ROI Close Report

N.008151 NC - HOXR - RDMR - KCR B-5549 FALLING CREEK BRIDGE Version 1 Legacy ID:

Company: **7860 Central Telephone Company-North Carolina**  
 Exchange: **7863 HICKORY** User Status: **Created**  
 Legacy ID: Supervisor Status: **Un-Approved**  
 Site: System Status: **Partially released**  
 Investment Reason: **ROADMOVES(CABLE AND DLC'S)** Planner Name:  
 Verb: **RDMR ROADMOVE REIMBURSED**  
 Business Reason: **A Base Budget Project** Est. Constr. Start: **..**  
 Category: **SPECIFICS** Est. Constr. Complete: **..**  
 Responsible Person: **MCCLAIN, AMY - ALM067519**  
 Network Notice: **100** Team Field: **LEEA12**  
 Host Project:  
 Project Plan Cost Est:  
 Additional Permissible Cost:

Bid No.: **ENG - WORKORDER - NCHCKRRDMR KCR B-5549 FALLING CREEK BRIDGE**  
**ENG - WORKORDER - NCHCKRRDMR KCR B-5549 FALLING CREEK BRIDGE**

Eng/Insp Bid Master Other

OSP

Plan Year 2015 History

Copy from:

B - BidMaster F - Fireworks Disable After WO Approve BM Units Pending for Approval

Contract 2014LE000110 - TN-GA-West NC-SC & Wisconsin Engineering Contract

All WBS

Constr. Proj. Admin: LAND, STEVEN - SML067960

Year 2015 Contract Factored No Vendor Pricing No

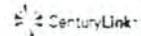
WBS Element State-Exchange-Wire Center Mnemonic

Vendor	Assembly Unit	ID Desc	Est Qty	Commitment	Est Cost Labor *per unit	Est Cost Cont Mat *per unit	Est Cost Vendor Mat *per unit	Est Cost Minor Mat *per unit	Est Cost Sales Tax %	Est Cost Freight %*per unit	Est Cost CenturyLink *per unit	Total	L	M	VM	MM
+ N.008151.C.04 NC-7863-HCKRNCXA CENG - CONTRACT ENGINEERING																
F	N/A	CAD DRAFTING Osmose	16	16.00	30	0	0	0	0	0	0	480.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F	N/A	OSP FACILITY KC	60	75.00	42	0	0	0	0	0	0	2520.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F	N/A	ENG I VEHICLE MILEAGE travel	450	225.00	0.45	0	0	0	0	0	0	216.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(Work Order Approved!)					Sub-Total	3,216.00	0.00	0.00	0.00	0.00	0.00	3216.00				
+ N.008151.C.11 NC-7863-HCKRNCXA CENG - CONTRACT ENGINEERING																
F	X N/A	CAD DRAFTING Osmose	8	0.00	30	0	0	0	0	0	0	240.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F	X N/A	OSP FACILITY KC	20	0.00	42	0	0	0	0	0	0	840.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(Work Order Approved!)					Sub-Total	1,080.00	0.00	0.00	0.00	0.00	0.00	1080.00				
					Total	4,296.00	0.00	0.00	0.00	0.00	0.00	4296.00				

V1 Projects New V1 Project V2 Projects Reports Search Budgeting Queue KAC003385 - Logout

The FWM Support phones will be off on the week of August 29th. Please submit FWM Customer Care tickets. If you have an emergency situation, please contact Cindy Johns or Pam Crim directly by IM or email or call Cindy at 318.331.4077

Project Planning



Details Structure Planning PR/PO Details Tracking CPR Inside CPR Outside Retirements False Sheet Narrative Notes ROI Close Report

N.008151 NC - HCKR - RDNR - KCR B-5549 FALLING CREEK BRIDGE Version 1 History Legacy ID: [REDACTED]

Company: **T860 Central Telephone Company-North Carolina**  
 Exchange: **7863 HICKORY** User Status: **Created**  
 Legacy ID: Supervisor Status: **Un-Approved**  
 Site: System Status: **Partially released**  
 Investment Reason: **ROADMOVES(CABLE AND DLC'S)** Planner Name:  
 Verb: **RDMR ROADMOVE REIMBURSED**  
 Business Reason: **A Bme Budget Project** Est. Constr. Start:  
 Category: **SPECIFICS** Est. Constr. Complete:  
 Responsible Person: **MCCLAIN, AMY - ALM067519**  
 Network Notice: **100** Team Field: **LEEA12**  
 Host Project:  
 Project Plan Cost Est:  
 Additional Permissible Cost:

Bid No.: **ENG - WORKORDER - NCHCKRRDMR KCR B-5549 FALLING CREEK BRIDGE**  
**ENG - WORKORDER - NCHCKRRDMR KCR B-5549 FALLING CREEK BRIDGE**

Eng/Insp BidMaster Other  
 OSP

Plan Year 2015 History

Copy from: [REDACTED] S - BidMaster F - Fireworks Disable After WO Approve BM Units Pending for Approval

Contract 2014LE000104 - OSP Audit and Inspection Services

All WBS

Constr. Proj. Admin: **LAND, STEVEN - SML067960**

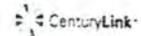
Year 2015 Contract Factored  Vendor Pricing

WBS Element	State-Exchange-Wire Center	Mnemonic	Est Cost	Est Cost	Est Cost	Est Cost	Est Cost	Est Cost	Est Cost	Est Cost	Est Cost	Est Cost	Total	L	M	VH	MM
Vendor	Assembly Unit	ID Desc	Est Qty	Commitment	Cont Labor *per unit	Cont Mat *per unit	Vendor Mat *per unit	Minor Mat *per unit	Sales Tax %*per unit	Freight %*per unit	CenturyLink *per unit						
GISP - CONTRACT INSPECTION																	
+ N.008151.C.05	NC-7863-HCKR.NCXA																
F X N/A	OSP	AUDITOR	4.00	0.00	48.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	194.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F X N/A	VEHICLE	MILEAGE	1.00	0.00	0.48	0.00	0.00	0.00	0.00	0.00	0.00	0.48	0.48	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
					<b>Sub-Total</b>	194.48	0.00	0.00	0.00	0.00	0.00	0.00	194.48				
					<b>Total</b>	194.48	0.00	0.00	0.00	0.00	0.00	0.00	194.48				

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Project Planning



Details Structure Planning PR/PO Details Tracking CPR Inside CPR Outside Retirements Face Sheet Narrative Notes ROI Close Report

N:008151 NC - HCKR - RDMR - KCR B-5549 FALLING CREEK BRIDGE Version 1 Legacy ID: [REDACTED]

Company: **7860 Central Telephone Company-North Carolina**  
 Exchange: **7863 HICKORY** User Status: **Created**  
 Legacy ID: Supervisor Status: **Un-Approved**  
 Site: System Status: **Partially released**  
 Investment Reason: **ROADMOVES(CABLE AND DLC'S)** Planner Name:  
 Verb: **RDMR ROADMOVE REIMBURSED**  
 Business Reason: **A Base Budget Project** Est. Constr. Start: .  
 Category: **SPECIFICS** Est. Constr. Complete:  
 Responsible Person: **MCCLAIN, AMY - ALM067519** Team Field: **LEEA12**  
 Network Notice: **100**  
 Host Project:  
 Project Plan Cost Est:  
 Additional Permissible Cost:

Bid No.: **ENG - WORKORDER - NCHCKRRDMR KCR B-5549 FALLING CREEK BRIDGE**  
**ENG - WORKORDER - NCHCKRRDMR KCR B-5549 FALLING CREEK BRIDGE**

Eng/ Insp Bidmaster Other  
OSP

Copy from: [REDACTED] Plan Year 2015 [REDACTED]

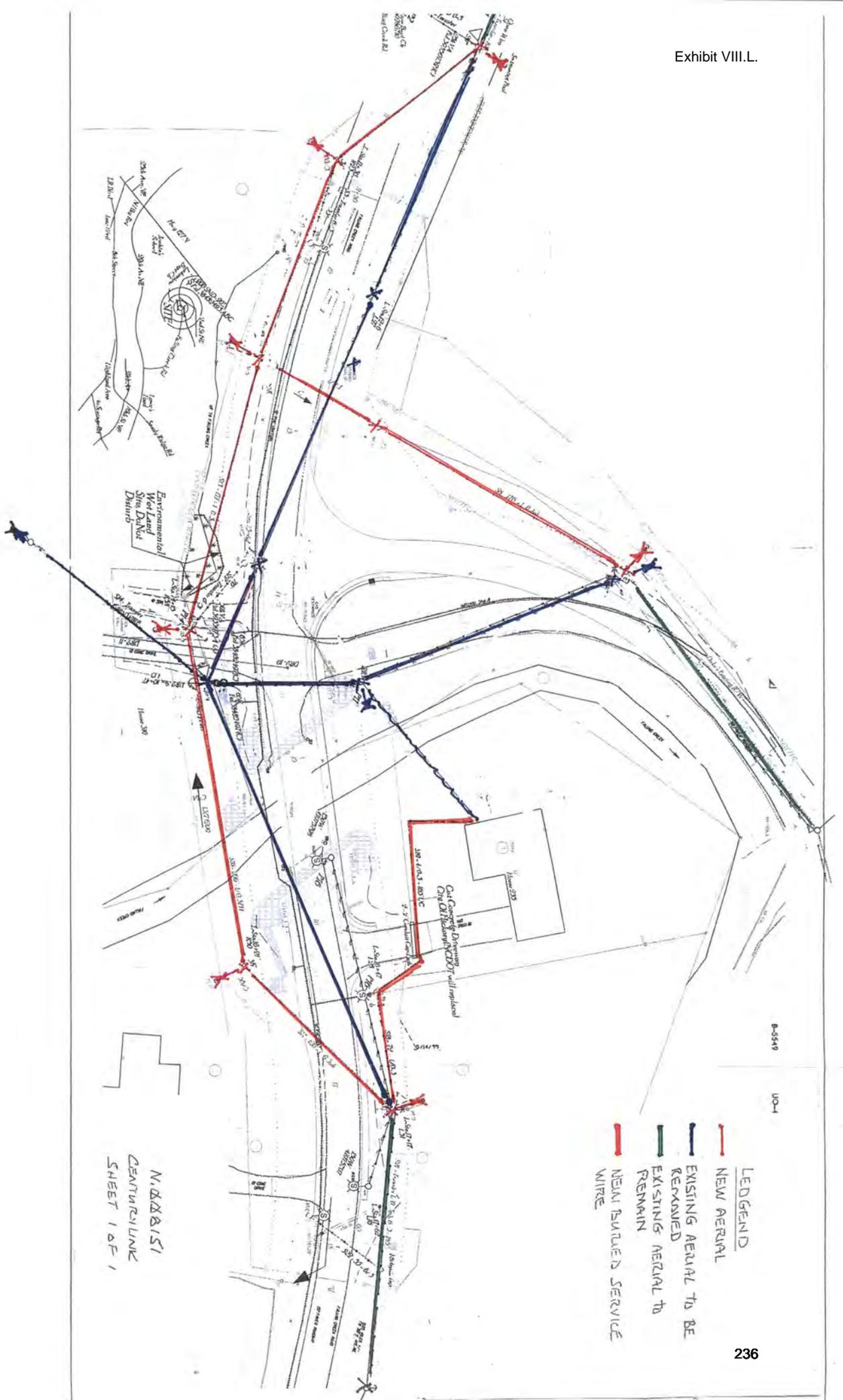
Contract: 2014LE000008 - EA NC 2014-2016 WEST NORTH CAROLINA [REDACTED] All WBS [REDACTED]

Constr. Proj. Admin: **LAND, STEVEN - SML067960** Year: 2015 Contract Factored  Vendor Pricing

WBS Element	State-Exchange-Wire Center	Mnemonic	Est Cost	Est Cost	Est Cost	Est Cost	Est Cost	Est Cost	Est Cost	Est Cost	Est Cost	Total	L	M	VM	MM
Vendor	Assembly Unit	ID Desc	Est Qty	Commitment	Cont Labor *per unit	Cont Mat *per unit	Vendor Mat *per unit	Minor Mat *per unit	Sales Tax %*per unit	Freight %*per unit	CenturyLink *per unit					
+ N:008151.C.06.NC-7863-HCKRNCXA PLAC - PLACE OSP-AERIAL CABLE																
F X PNT	CW100-24 (10M)		261.00	0.00	2.29	0.00	1.35	0.44	7.00	0.00	0.00	1097.56	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X PNT	CW100-24E		15.00	0.00	1.83	0.00	1.35	0.02	7.00	0.00	0.00	49.44	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X PNT	CW300-24 (10M)		503.00	0.00	3.75	0.00	3.81	0.44	7.00	0.00	0.00	4173.64	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X PNT	CW400-24 (10M)		242.00	0.00	4.49	0.00	5.08	0.44	7.00	0.00	0.00	2515.93	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X N/A	GPS		8.00	0.00	2.00	0.00	0.00	0.00	7.00	4.25	0.00	16.00	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	HAC (3.6x33)		4.00	0.00	92.71	0.00	20.67	6.39	7.00	4.25	0.00	491.26	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	HC1 (>100)		1.00	0.00	1.22	0.00	0.00	0.09	7.00	4.25	0.00	1.32	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	HC1E		100.00	0.00	2.87	0.00	0.00	0.09	7.00	4.25	0.00	297.01	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	HC3		400.00	0.00	1.07	0.00	0.00	0.05	7.00	4.25	0.00	450.24	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	HC3E		800.00	0.00	2.67	0.00	0.00	0.05	7.00	4.25	0.00	2180.48	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	HR1(2) (25)		1.00	0.00	94.10	0.00	50.94	54.32	7.00	4.25	0.00	211.20	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	HR2(2) (25)		1.00	0.00	125.10	0.00	64.46	53.58	7.00	4.25	0.00	256.42	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	PE1-3G		9.00	0.00	53.23	0.00	0.00	21.36	7.00	4.25	0.00	692.94	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	PF3-S		2.00	0.00	154.44	0.00	0.00	44.35	7.00	4.25	0.00	407.56	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	PF3-SA		7.00	0.00	154.44	0.00	0.00	44.35	7.00	4.25	0.00	1426.45	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	PM11		9.00	0.00	15.63	0.00	0.00	2.97	7.00	4.25	0.00	170.41	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	PM2A		10.00	0.00	18.26	0.00	0.00	12.44	7.00	4.25	0.00	301.00	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	PM52		8.00	0.00	10.65	0.50	0.00	1.46	7.00	4.25	0.00	98.37	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	WC-1		2.00	0.00	71.47	0.00	0.00	3.98	7.00	4.25	0.00	151.80	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	WHC1		1.00	0.00	3.95	0.00	0.00	0.09	7.00	4.25	0.00	4.05	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	WSEA		2.00	0.00	41.63	0.00	0.00	0.37	7.00	4.25	0.00	84.08	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Sub-Total</b>					<b>9,543.88</b>	<b>0.00</b>	<b>3,716.47</b>	<b>1,408.64</b>	<b>358.77</b>	<b>49.42</b>	<b>0.00</b>	<b>15077.16</b>				
+ N:008151.C.07.NC-7863-HCKRNCXA RMAC - REMOVE OSP-AERIAL CABLE																
F X N/A	XXC(300-60)		593.00	0.00	0.75	0.00	0.00	0.00	7.00	4.25	0.00	414.75	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X N/A	XXC(6-200)		536.00	0.00	0.58	0.00	0.00	0.00	7.00	4.25	0.00	310.88	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X N/A	XXH4		1.00	0.00	15.00	0.00	0.00	0.00	7.00	4.25	0.00	15.00	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X N/A	XXPE		5.00	0.00	20.00	0.00	0.00	0.00	7.00	4.25	0.00	100.00	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X N/A	XXPE-2		1.00	0.00	20.00	0.00	0.00	0.00	7.00	4.25	0.00	20.00	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X N/A	XXPI		5.00	0.00	25.00	0.00	0.00	0.00	7.00	4.25	0.00	125.00	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X N/A	XXSEA		225.00	0.00	0.26	5.00	0.00	0.00	7.00	4.25	0.00	63.00	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Sub-Total</b>					<b>1,048.63</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>1048.63</b>				

+ N.008151.C.08 NC-7863-HCKRMCXA		RMPC - REMOVE OSP-POLES(COPPER)													
F X N/A	XXA	1.00	0.00	105.00	0.00	0.00	0.00	7.00	4.25	0.00	105.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Sub-Total</b>				105.00	0.00	0.00	0.00	0.00	0.00	0.00	105.00				
+ N.008151.C.13 NC-7863-HCKRMCXA		PLAF - PLACE OSP-AERIAL FIBER													
F X PNT	CO48 (10M) HASD	945.00	0.00	1.45	0.00	0.35	0.45	7.00	0.00	0.00	2179.17	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	{11.5X30} D36G	2.00	0.00	309.05	0.00	327.70	47.58	7.00	4.25	0.00	1441.97	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	HO1(49-96)	96.00	0.00	21.09	0.00	0.00	0.17	7.00	4.25	0.00	2042.79	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	PE1-3G	7.00	0.00	53.23	0.00	0.50	21.30	7.00	4.25	0.00	538.49	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	PM11	7.00	0.00	15.63	0.00	0.00	2.97	7.00	4.25	0.00	132.54	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	PM2A	6.00	0.00	16.26	0.00	0.05	12.37	7.00	4.25	0.00	180.13	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
F X KGP	WCO	555.00	0.00	1.38	0.00	0.05	0.01	7.00	4.25	0.00	785.98	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Sub-Total</b>				5,372.27	0.00	976.15	786.49	123.40	42.76	0.00	7301.07				
+ N.008151.C.15 NC-7863-HCKRMCXA		RMAF - REMOVE OSP-AERIAL FIBER													
F X N/A	XXCO	542.00	0.00	0.60	0.00	0.00	0.00	7.00	4.25	0.00	325.20	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F X N/A	XXPE	1.00	0.00	20.00	0.00	0.00	0.00	7.00	4.25	0.00	20.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F X N/A	XXPE-2	1.00	0.00	20.00	0.05	0.00	0.00	7.00	4.25	0.00	20.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F X N/A	XXPF	1.00	0.00	25.00	0.00	0.00	0.00	7.00	4.25	0.00	25.00	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Sub-Total</b>				390.20	0.00	0.00	0.00	0.00	0.00	0.00	390.20				
<b>Total</b>				16,459.98	0.00	4,692.62	2,195.13	482.17	92.18	0.00	23922.08				

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ver: 05.16.14



- LEGEND**
- NEW AERIAL
  - EXISTING AERIAL TO BE REMOVED
  - EXISTING AERIAL TO REMAIN
  - NEW BURIED SERVICE WIRE

N. D. & S. I.  
CENTURILINK  
SHEET 1 OF 1

COUNCIL AGENDA MEMOS

**To:** City Manager's Office  
**From:** Dave Leonetti, Community Development Manager  
**Contact Person:** Dave Leonetti, Community Development Manager  
**Date:** October 6, 2016  
**Re:** Citizen's Advisory Committee Recommendations

**REQUEST** Recommendations for assistance through the City of Hickory's Housing Programs.

**BACKGROUND** The mission of the City of Hickory's Community Development Division is to preserve the existing housing base, enhance ownership opportunities for all of its citizens to obtain decent housing and provide a quality environment conducive to the safe and healthy growth of its citizenry. The seven member Citizens' Advisory Committee was formed to provide for citizen input in the facilitation of the City's CDBG program, as well as any other similar community enhancement funding the City may receive.

**ANALYSIS** The following requests were considered by the Citizens' Advisory Committee at their regular meeting on October 6, 2016:

Each of the following applicants are being recommended for approval for assistance under the City of Hickory's 2016 Urgent Repair Program. This program provides qualified low income citizens with assistance for emergency-related repairs not to exceed \$8,000.

- T. Cozette Bean, 1365 4<sup>th</sup> Street NW, Hickory,
- Franklin Propst Jr., 270 7<sup>th</sup> Street SE, Hickory,
- Anita Rhoney, 477 14<sup>th</sup> Avenue Drive NE, Hickory,
- Jimmy Ritter, 1633 1<sup>st</sup> Avenue Place NW, Hickory,

**RECOMMENDATION** The Citizens' Advisory Committee recommends approval of the aforementioned requests for assistance through the City of Hickory's housing assistance programs. Dave Leonetti, Community Development Manager, will be in attendance to answer any questions. Additional information that may be required can be discussed in closed session.

**BUDGET ANALYSIS:**

**Budgetary Action**

Is a Budget Amendment required?

Yes

No

**LIST THE EXPENDITURE CODE:**

**Reviewed by:**

Brian M. Frazier *BMF* 10/06/16  
Initiating Department Head Date

Armita M. Dula *Armita M. Dula* 10-14-16  
Deputy City Attorney, A. Dula Date

R. Miller *R. Miller* 10-12-16  
Asst. City Manager, R. Miller Date

A. Surratt *A. Surratt* 10-14-16  
Asst. City Manager, A. Surratt Date

Melissa Miller *Melissa Miller* 10-7-16  
Finance Officer, Melissa Miller Date

Bo Weichel *Bo Weichel* 10-10-16  
Purchasing Manager, Bo Weichel Date

Recommended for approval and placement on \_\_\_\_\_ Council agenda (as Consent, Public Hearing, Informational, Department Report, etc).

A. Surratt *A. Surratt*  
Interim City Manager, A. Surratt  
10/14/16  
Date

13

**COUNCIL AGENDA MEMOS**

**To: City Manager's Office**  
**From: Dave Leonetti, Community Development Manager**  
**Contact Person: Dave Leonetti, Community Development Manager**  
**Date: October 6, 2016**  
**Re: Consider modification of loan with Habitat for Humanity for Glen at Green Park Subdivision**

**REQUEST**

Consider modifying loan with Habitat for Humanity for the Glen at Green Park Subdivision to a five year payoff schedule.

**BACKGROUND**

In 2010, Habitat for Humanity of the Catawba Valley purchased the land from the City of Hickory that was to become the Glen at Green Park, an 11 lot single family subdivision. The land was sold for the price of \$60,500 to be financed by the City of Hickory. The promissory note stated that Habitat would make payments of \$5,454.54 to the City when each house was sold. In addition, the note stated, that the remaining amount would come due to the City in the spring of 2015 if any balance remained. Seven homes have been built to date, and four remain in Habitat's control. The loan balance is \$21,818.16.

**ANALYSIS**

Rather than pay the remaining balance in a lump sum, Habitat for Humanity has requested that the City set them up to make monthly payments on the remainder on a monthly basis. If the balance is paid off over a five year period, the payments would be approximately \$370 per month. Habitat would still need to pay the entire remaining balance when the final property is sold, provided that sale occurs prior to the payoff of the loan. If the arrangement is approved by City Council, the City Attorney would draft a revised promissory note and modification to the deed of trust that would reflect the new payment arrangement.

The Citizen's Advisory Committee has reviewed the request and recommends approval.

**RECOMMENDATION**

Staff recommends that City Council approve the modifications to the loan with Habitat for Humanity for the Glen at Green Park that would permit monthly payments over a five year period to pay off the outstanding loan.

**BUDGET ANALYSIS:**

**Budgetary Action**

Is a Budget Amendment required?

Yes

No

**LIST THE EXPENDITURE CODE:**

**Reviewed by:**

Brian Frazier 10/6/16  
Initiating Department Head Date

Rodney Miller 10-12-16  
Asst. City Manager Rodney Miller Date

Melissa Miller 10-10-16  
Finance Officer, Melissa Miller Date

A. Dula  
Deputy City Attorney, A. Dula

A. Surratt  
Asst. City Manager, A. Surratt

Bo Weichel  
Purchasing Manager, Bo Weichel

16-1416  
Date

10/14/16  
Date

10-10-16  
Date

Recommended for approval and placement on \_\_\_\_\_ Council agenda (as Consent, Public Hearing, Informational, Department Report, etc).

A. Surratt  
Interim City Manager, A. Surratt

10/14/16  
Date

**To:** City Manager's Office  
**From:** Kevin B. Greer, PE, Assistant Public Services Director-Public Utilities  
**Contact Person:** Kevin B. Greer, PE  
**Date:** October 18, 2016  
**Re:** Geitner Basin Replacement/Rehabilitation Project Utility Easement

**REQUEST**

Staff requests acceptance of a Temporary Construction and Permanent easement for the property of Carolotta K Spruill described as PIN: 3702-06-47-8996 for installation of utilities infrastructure.

**BACKGROUND**

The easements are necessary for completion of the Geitner Basin Replacement/Rehabilitation Project. This project is completely funded through a loan to the City as a State Revolving Loan by NCDEQ-IFS in 2016 in the amount of \$3.5 Million.

**ANALYSIS**

The easements are necessary for the construction of the infrastructure required to serve this area and will not increase the cost of this construction project. The easement was negotiated for a total sum of \$1,500.00 plus recording fees in exchange for the easement.

**RECOMMENDATION**

Staff recommends acceptance of a Temporary Construction and Permanent easement for the property of Carolotta K Spruill described as PIN: 3702-06-47-8996 for installation of utilities infrastructure.

**BUDGET ANALYSIS:**

**Budgetary Action**

Is a Budget Amendment required?

Yes

No

**LIST THE EXPENDITURE CODE:**

**Reviewed by:**

Chuck Hansen  
Initiating Department Head

10/06/2016  
Date

Amita M. Dula  
Deputy City Attorney, A. Dula

10-14-16  
Date

Rodney Miller  
Asst. City Manager, Rodney Miller

10-7-16  
Date

A. Surratt  
Asst. City Manager, A. Surratt

10/14/16  
Date

Melissa Miller  
Finance Officer, Melissa Miller

10-10-16  
Date

Bo Weichel  
Purchasing Manager, Bo Weichel

10-10-16  
Date

\_\_\_\_\_  
Date

Recommended for approval and placement on \_\_\_\_\_ Council agenda (as Consent, Public Hearing, Informational, Department Report, etc).

A. Surratt  
Interim City Manager, A. Surratt

10/14/16  
Date

DRAWN BY: Arnita M. Dula, Deputy City Attorney, City of Hickory  
P.O. Box 398, Hickory, NC 28603

**STATE OF NORTH CAROLINA**

**DEED OF EASEMENT  
(Sewer)**

**COUNTY OF CATAWBA**

THIS DEED OF EASEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between **Carolotta K. Spruill**, having a mailing address of **126 31<sup>st</sup> Ave NE, Hickory, North Carolina 28601; (Heir of William H. Chamblee)** (hereinafter referred to as "Grantors", whether singular or plural), and the **City of Hickory**, a North Carolina Municipal Corporation duly organized and existing under the laws of the State of North Carolina, having a mailing address of **Post Office Box 398, Hickory, North Carolina 28603**, and being situated in Catawba County, (hereinafter referred to as "Grantee");

THAT WHEREAS, said Grantor owns a certain tract of land located in Hickory Township, Catawba County, State of North Carolina Deed Book 1487 at Page 248 in the Office of the Register of Deeds of Catawba County, State of North Carolina; which deed is hereby referred to for greater certainty of description; and

WHEREAS, the City Council of the City of Hickory has determined that it is in the public interest to install, construct and maintain a sanitary sewer to serve the public throughout the City of Hickory.

NOW, THEREFORE, said Grantor, for and in consideration of the sum of **TEN AND NO/100 DOLLARS (\$10.00)** and other valuable consideration paid to the Grantor

**DEED OF EASEMENT**

- 1 -

by Grantee, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto the said Grantee, its successors and assigns, a perpetual right and easement to install, construct and maintain a sanitary sewer, together with the attendant customary uses, including drainage and utilities, over, under, through, across, along and upon all that certain lot, tract, or parcel of land of the Grantor situated in Hickory Township, Catawba County, North Carolina, and more particularly described as follows, to-wit:

Being all of that area as shown on the attached Exhibit "A" entitled "Sewer Line Easement for: City of Hickory across the property of: Carolotta K. Spruill", prepared by Christopher F. Jordan, Professional Land Surveyor L-4956, dated August 17, 2016 to which reference is hereby made for greater certainty of description. And being a portion of that certain property described in Deed Book 1487 at Page 0248 of the Catawba County Registry. The subject property's North Carolina Parcel Identification Number is 3702-06-47-8996.

TO HAVE AND TO HOLD the said grant of right and easement unto it, the said Grantor, its successors and assigns forever.

The Grantor acknowledges that the City is acquiring this easement for the purpose of erecting, constructing and installing a sanitary sewer within the described easement, and specifically grants unto the Grantee the right to construct such structures or make the improvements on that grade according to such plans and specifications, as will, in the Grantee's opinion, best serve the public purpose. The Grantor further grants unto the Grantee or its agents the right to exceed this easement to cut and fill slopes, construct drainage structures and erosion control structures beyond the described easement. The payment of the purchase price for the easement conveyed shall be considered full compensation for the easement, and for any diminution in value that may result to the remaining property by virtue of proximity to the project, grade alignment, utility installation, or the alteration of drainage patterns and facilities.

The Grantor retains the right to use and cultivate said land along and upon said right-of-way.

Grantee shall use its best efforts to minimize the removal of grass, shrubbery, plants, or other vegetation occasioned by the Grantee in constructing, maintaining, or altering said sewer line.

Grantee agrees to plant grass seed on and/or mulch the area disturbed during the sewer line construction process or after any maintenance or repair to the sewer line.

Should one or more of the Grantors be natural persons not joined by their respective spouses, it is conclusively presumed that the land conveyed is not the residence or business homestead of such Grantor. Should one or more of the Grantors

**DEED OF EASEMENT**

- 2 -

be a legal entity other than a natural person, it shall be conclusively presumed that the person signing on behalf of that party has been duly and legally authorized to so sign and there shall be no necessity for a seal or attestation.

TO HAVE AND TO HOLD the same, together with all the rights and appurtenances belonging thereto, unto the City of Hickory, its successors and assigns forever, and Grantor is hereby bound, together with all heirs, executors, administrators, or successors, to warrant and forever defend the easement granted herein unto the City of Hickory, its successors and assigns, against every person lawfully claiming the easement or any part thereof.

IN TESTIMONY WHEREOF, the said Grantor has hereunto set his hand and seal the day and year first above written.

Carolotta K. Spruill (SEAL)  
CAROLOTTA K SPRUILL

STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA

I, Milos Jugovic, a Notary Public of CATAWBA County, North Carolina, do hereby certify that Carolotta K Spruill, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and seal this 5<sup>TH</sup> day of October, 2016.



Milovan Spota  
Notary Public

My Commission Expires: 7-30-2020

**ACCEPTANCE**

Accepted by the Hickory City Council for and on behalf of the City of Hickory, North Carolina, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**THE CITY OF HICKORY,**  
A North Carolina Municipal Corporation

**ATTEST:**

(SEAL)

\_\_\_\_\_  
Andrea Surratt, Interim City Manager

\_\_\_\_\_  
Debbie D. Miller, City Clerk

Approved as to form on behalf of the City of Hickory this \_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Deputy City Attorney for the City of Hickory

**STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA**

I, \_\_\_\_\_ a Notary Public of said county and state, certify that **Debbie D. Miller** personally came before me this day and acknowledged that she is City Clerk of the City of Hickory, a North Carolina municipal corporation, and that by authority duly given and as the act of the City Council of the City of Hickory, the foregoing instrument was signed in its name and by its Interim City Manager, sealed with its corporate seal and attested by her as its City Clerk.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

(Seal)

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

My Commission Expires: \_\_\_\_\_

# ATTACHMENT

Exhibit VIII.O.

R:\Jobs\2015\15-136-2 Geiner Branch Additional Survey\DWG\Plats\15-136-2 Spruill Plat.dwg 8/19/2016 9:29 AM GORDON



VICINITY MAP NOT TO SCALE

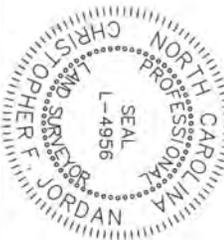
- LEGEND**
- ☀ SPINDLE FOUND
  - ☒ NGS CM = NATIONAL GEODETIC SURVEY CONCRETE MONUMENT
  - ☒ CM = CONCRETE MONUMENT
  - ☒ RFB = REBAR FOUND
  - OTPE = OPEN TOP IRON PIN FOUND
  - CTPE = CRIMPED TOP IRON PIN FOUND
  - △ CP = CALCULATED POINT
  - PK/NL = PK NAIL FOUND
  - ⊙ PROPOSED SANITARY SEWER MANHOLE
  - ⊙ SSMH = EXISTING SANITARY SEWER MANHOLE
  - ⊙ SDMH = EXISTING STORM DRAIN MANHOLE
  - (H) HORIZONTAL GROUND DISTANCE
  - (G) NC STATE PLANE GRID DISTANCE
  - INDICATES PROPERTY LINE
  - INDICATES LINE NOT SURVEYED AT THIS TIME
  - INDICATES UTILITY LINE
  - INDICATES DITCH LINE
  - INDICATES TIE LINE
  - INDICATES GRAVEL/DIRT DRIVE
  - INDICATES FENCE LINE
  - INDICATES STREAM OR RIVER LINE
  - INDICATES CULVERT
  - S INDICATES PROPOSED SEWER LINE
  - \*\*\*\*\* INDICATES SEWER LINE TO BE ABANDONED
  - INDICATES PERMANENT EASEMENT LINE
  - INDICATES PERMANENT EASEMENT AREA

**SURVEYOR'S CERTIFICATIONS:**

I, Christopher F. Jordan, certify that this plot was drawn under my supervision from an actual survey made under my supervision from deed description recorded in Book 168/Pg 258, Book 960/Pg 285, Book 1487/Pg 248, Book 2011E/Pg 982, Book 2225/Pg 1921, Book 3338/Pg 1059 Plot Book 6/Pg 12 and Plat Book 8/Pg 6; that the positional accuracy meets or exceeds the requirements for a Class A survey; and that this plot meets the requirement of G.S. 47-30 section F-11-d, that the survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision.

I further certify that this is a survey for a proposed sewer line easement.

*Christopher F. Jordan*  
CHRISTOPHER F. JORDAN, INC. PLS L-4956  
AUGUST 29, 2016  
DATE



SEWER LINE EASEMENT FOR:  
**CITY OF HICKORY**  
ACROSS THE PROPERTY OF:  
CAROLLOTTA K. SPRULL  
PIN 370206478996  
DB 1487/Pg 248  
PB 6/Pg 12  
HICKORY TOWNSHIP  
CATAWBA COUNTY, NORTH CAROLINA

EASEMENT TABLE		
PIN NO.	PERMANENT EASEMENT SQ. FT.	ACRES
370206478996	1,203	0.028

**NOTES:**

1. Field work completed: August 2, 2016  
Office work completed: August 29, 2016
2. All coordinates shown are Horizontal Datum: NAD83(2011)  
Vertical Datum: NAVD88 (Geoid12a)
3. Areas computed by coordinate method.
4. Property shown hereon is subject to all right-of-ways, easements, reservations and restrictions which exist as a matter of record or exist de facto.
5. Property shown hereon is subject to the rules, regulations, ordinances and/or jurisdictions of local, state, and/or federal agencies if any. The requirements of said rules, regulations, ordinances, and/or the limits of said jurisdictions are not shown hereon unless stated otherwise.
6. Underground installations or improvements including building foundations have not been located except as shown hereon. Call NC811 at 811 before digging.
7. Not all above ground improvements are shown.
8. All distances shown on this map are horizontal ground lengths unless otherwise noted. To convert to grid distances, multiply by the average combined scale factor of 0.999851454.
9. No missing corners were set by surveyor except as shown hereon as "RBS".
10. Easement areas designated as proposed shall remain proposed until a document of title is filed in the office of the Register of Deeds in the county where the land lies, that is signed by the owner/owners, stating their intent and referencing this plat.
11. This survey was prepared without the benefit of an abstract of title. Matters of property title should be referred to an attorney-at-law.
12. Adjoining property owner, deed, plat and PIN information taken from the Catawba County Courthouse and GIS Website.

State of North Carolina  
County of Catawba, *Ced. V. V. V.*  
Catawba County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.  
*Ced. V. V. V.*  
Review Officer  
Date 9-6-2016

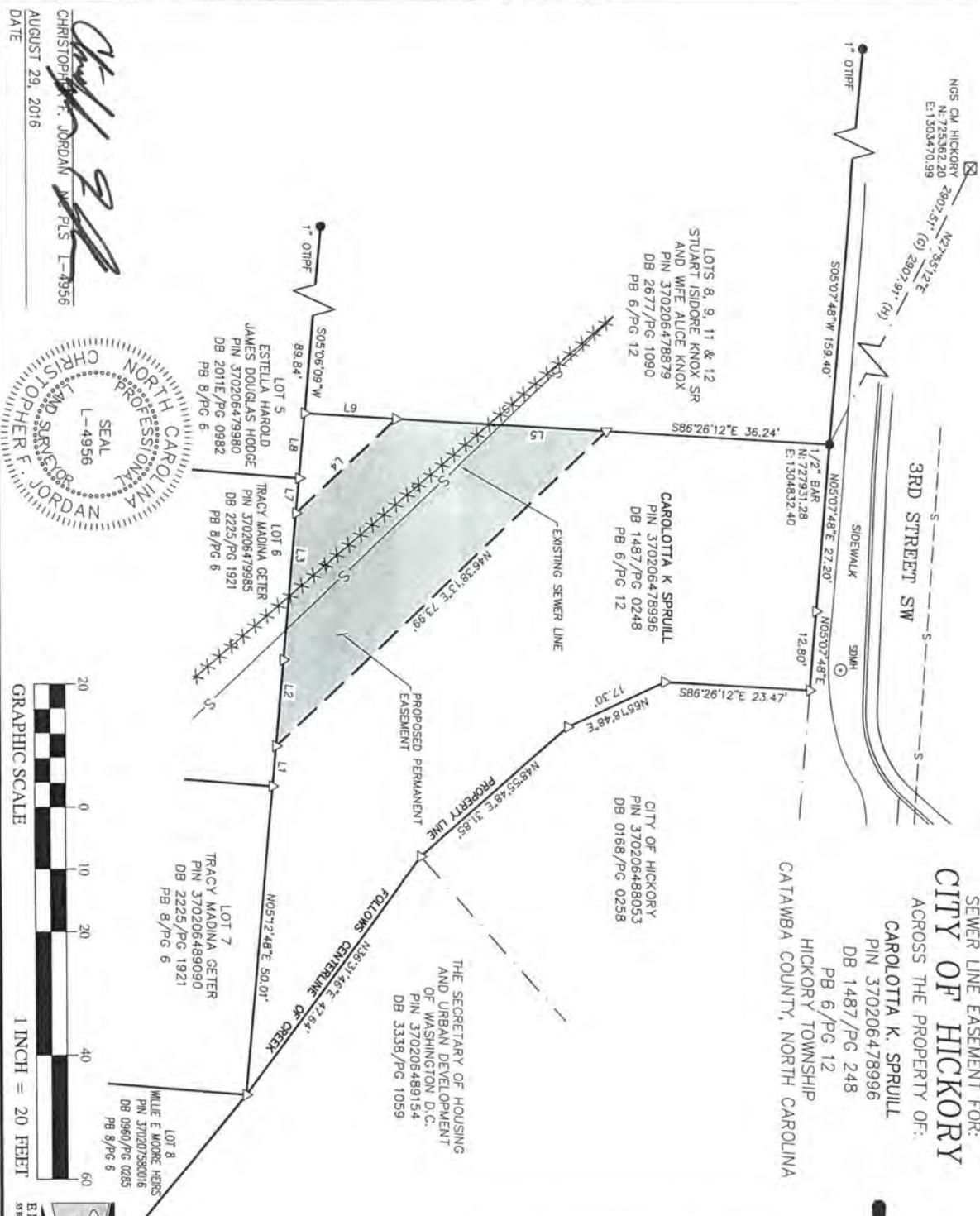
**SHEET 2 OF 2**

McGill ASSOCIATES  
ENGINEERING-PLANNING-FINANCE  
31 BROAD STREET, ABERDEEN, NC 28001 TEL: (610) 253-0773 FAX: (610) 253-0773

# ATTACHMENT

Exhibit VIII.O.

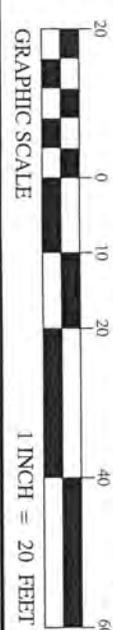
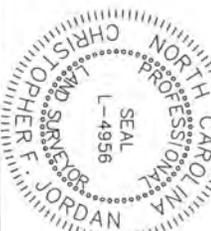
R:\Jobs\2015\15-136-2 Geitner Branch Additional Survey\DWG\Plats\15-136-2 Spruill Plat.dwg 8/19/2016 9:29 AM GORDON



SEWER LINE EASEMENT FOR:  
**CITY OF HICKORY**  
 ACROSS THE PROPERTY OF:  
**CARLOTTA K. SPRULL**  
 PIN 370206478996  
 DB 1487/Pg 248  
 PB 6/Pg 12  
 HICKORY TOWNSHIP  
 CATAMBA COUNTY, NORTH CAROLINA

LINE	BEARING	DISTANCE (H)
L1	N51°2'48"E	6.49'
L2	S51°2'48"W	14.07'
L3	N51°2'48"E	23.71'
L4	N46°38'13"E	22.28'
L5	S86°26'12"E	34.22'
L7	S51°2'48"W	5.73'
L8	S51°2'48"W	10.55'
L9	S86°26'12"E	14.75'

CHRISTOPHER F. JORDAN, PLS L-4956  
 AUGUST 29, 2016



**McGill**  
 ASSOCIATES  
 ENGINEERING-PLANNING-FINANCE  
 35 BROAD STREET AUBURNVILLE, NC 27002 TEL: (704) 552-5075 FAX: (704) 552-5076



15

**COUNCIL AGENDA MEMOS**

**To:** City Manager's Office  
**From:** Terry Clark, Airport Director  
**Contact Person:** Terry Clark  
**Date:** 10-6-16  
**Re:** Approve Renewal Option of Corporate Hangar Lease dated September 18, 2012 with CommScope, Inc. of North Carolina for an additional five (5) year period

**REQUEST:**

City Council's approval to renew the Corporate Hangar Lease with CommScope, Inc. of North Carolina for an additional five (5) years as noted in the original lease dated September 18, 2012.

**BACKGROUND:**

CommScope, Inc. entered into a Corporate Hangar Lease with the City of Hickory dated September 18, 2012 with an expiration date of December 31, 2016. The Lease includes an option to extend said lease for one (1) additional five (5) year term upon the same terms and conditions with the exception of the annual rent. Said annual rent is currently \$72,000.00 with an increase of ten percent (10%) under the renewal option. CommScope has requested to exercise its right to said renewal period. The 5-year renewal period shall extend through December 31, 2021 and increase the annual rent to \$79,200.

**ANALYSIS:**

CommScope wishes to continue to operate its corporate flight department from the Hickory Regional Airport and to retain its use of the hangar and office space currently being utilized under the Corporate Hangar Lease. Renewing the lease option is in direct line with the Airport Task Forces' mission to develop and expand the future of the Hickory Regional Airport. CommScope is a long standing, well-established company in Hickory and continues to grow its business and workforce.

**RECOMMENDATION:**

City staff highly recommends approval to renew the lease option with CommScope, Inc. of North Carolina for an additional five (5) years and increase the annual rent to \$79,200.

**Informational**

(Some info items will not have to appear on the Council agenda, but will be communicated to Council in weekly Communication format. These items will still require a Council Agenda Memo)

**Requires Council Approval**

(All new or revisions in Ordinances or Council enacted policies, as well as contracts/agreements over \$100,000 will be placed on Agenda)

**BUDGET ANALYSIS:**

**Budgetary Action**

Is a Budget Amendment required?

Yes

No

Source of City/State/Federal funds?

**Revenues**

State/Federal Funds: (Codes)

- - . -  
- - . -

City Funds: (Codes)

- - . -  
- - . -

Other Financial Resources: (Codes)

- - . -  
- - . -

\$  
\$

In-kind Services: (Describe)

\$

**TOTAL**

\$

**Expenditures:** (Codes)

- - . -  
- - . -  
- - . -  
- - . -

\$  
\$  
\$  
\$

**TOTAL:**

**Reviewed by:**

Terry Clark  
Initiating Department Head

10-6-16  
Date

Annita M. Dula  
Deputy City Attorney, A. Dula

10-14-16  
Date

Robby Miller  
Asst. City Manager, R. Miller

10-11-16  
Date

A. Surratt  
Asst. City Manager, A. Surratt

10/14/16  
Date

M. Miller  
Finance Officer, M. Miller

10-10-16  
Date

B. Weichel  
Purchasing Manager, B. Weichel

10-10-16  
Date

Recommended for approval and placement on \_\_\_\_\_ Council agenda (as Consent, Public Hearing, Informational, Department Report, etc).

\_\_\_\_\_  
Interim City Manager, Andrea Surratt

\_\_\_\_\_  
Date

CITY OF HICKORY, NC  
HICKORY REGIONAL AIRPORT  
CORPORATE HANGAR LEASE  
with  
COMMSCOPE, INC. OF NORTH CAROLINA

Date: September 18, 2012

## TABLE OF CONTENTS

ARTICLE I	Leased Premises.....	2
ARTICLE II	Lease Term and Restrictions on Use.....	6
ARTICLE III	Rents, Fees and Charges .....	12
ARTICLE IV	Maintenance, Alterations, Repairs and Upkeep.....	13
ARTICLE V	Indemnification and Insurance .....	14
ARTICLE VI	Damage or Destruction to Leased Premises .....	17
ARTICLE VII	Equal Employment Opportunity, Non-Discrimination Public Use.....	17
ARTICLE VIII	Assignment and Subletting .....	20
ARTICLE IX	Events of Default-Termination by City .....	21
ARTICLE X	Termination by Cancellation and Default by Lessee .....	22
ARTICLE XI	Termination by Cancellation and Default by City.....	23
ARTICLE XII	General Provisions.....	24

CITY OF HICKORY  
HICKORY REGIONAL AIRPORT  
CORPORATE HANGAR LEASE  
With  
COMMSCOPE, INC. OF NORTH CAROLINA

THIS AGREEMENT AND LEASE (hereinafter referred to as "Agreement"), made and entered into this the 18<sup>th</sup> day of September, 2012 ("Effective Date"), by and between the CITY OF HICKORY, a municipal corporation of the State of North Carolina (hereinafter referred to as "City"), and COMMSCOPE, INC. OF NORTH CAROLINA, a North Carolina corporation (hereinafter referred to as "Lessee"),

WITNESSETH:

THAT, WHEREAS, the City owns and operates an airport located partially in Catawba County and partially in Burke Counties, North Carolina known as Hickory Regional Airport (hereinafter "Airport");

WHEREAS, Lessee is a corporation with its headquarters in the City of Hickory, NC and desires to lease that certain corporate hangar on the Airport designated as Hangar S-4 to accommodate its corporate aviation operation; and

WHEREAS, the City is willing to lease Hangar S-4 to Lessee upon mutually agreeable terms and conditions;

NOW, THEREFORE, for and in consideration of the premises set forth above, and the covenants, agreements and conditions set forth below, City does hereby demise and let unto Lessee, and Lessee does hereby lease and hire from City Hangar S-4 along with certain other premises and facilities, and City does hereby grant unto Lessee certain rights, licenses and privileges on and in connection with the Airport, and in connection therewith City and Lessee hereby agree as follows:

ARTICLE I  
LEASED PREMISES

1.1 Leased Premises. City hereby assigns for use by Lessee and Lessee hereby accepts from City the hangar and associated land described and depicted on **Exhibit A** hereto, which land consists of 0.67 +/- acres. Said hangar and land, along with the improvements thereon consisting of a hangar building containing approximately 13,600 square feet of space, paved areas and other improvements (the "Leasehold Improvements") shall be called the "Leased Premises."

1.2 Leasehold Improvements. Lessee hereby accepts the Leased Premises "as is" and neither City nor Lessee is required to make any improvements to the Leased Premises as part of this agreement.

1.3 Title to Leased Premises in City. At all times, City shall have title to the Leased Premises including the Leasehold Improvements. Lessee agrees that its sole interest in the Leased Premises shall be that of a tenant.

1.4 Date of Beneficial Occupancy. The Date of Beneficial Occupancy of the Leased Premises by Lessee preceded the Effective Date and is deemed to be December 9, 2011.

1.5 Encumbrances on Leased Premises. The Leased Premises shall be accepted by Lessee subject to any and all then existing easements or other encumbrances, provided that City warrants and represents that such easements and encumbrances will not unreasonably interfere with use of the Leased Premises or Airport by Lessee for their intended purposes. City shall have the right to install, lay, construct, maintain, repair and operate such sanitary sewers, drains, storm water sewers, pipelines, manholes, connections, water, oil or gas pipelines, and telephone and telegraph power lines and such other appliances and appurtenances necessary or convenient in connection therewith, over, in, upon, through, across and along the Leased Premises, or any part thereof, and to enter thereupon at reasonable times upon not less than 24 hours prior written notice for any and all such purposes; provided, however, that no right of City provided for in this

section shall be so exercised as to interfere unreasonably with the Lessee's property or operations at the Leased Premises, or use of the Airport.

1.6 Condition of Leased Premises. Lessee accepts the Leased Premises in "as is" condition.

1.7 Utilities. Lessee agrees to pay for all utilities used by it at the Leased Premises, provided that such utilities are separately metered for the Leased Premises or otherwise fairly and equitably allocated to the Premises to reflect Lessee's usage. City warrants and represents to Lessee that electricity, water, sewer and other utilities needed for operations at the Leased Premises are available without the need for Lessee to pay any deposits, meter deposits or other special charges other than normal utility charges at regular rates. No such payment shall be considered a payment of rent entitling the Lessee to a credit under any other provision of this Agreement. In all instances of any damages to any utility service line caused by the negligence or intentional misconduct of Lessee, its employees, contractors, suppliers, agents or invitees, Lessee shall be responsible for the cost of repair.

1.8 Rights on Airport. In connection with this Agreement Lessee shall have the following rights and privileges on the Airport:

(a) Access To and From Airfield. The right, (which shall extend to Lessee's employees, agents, contractors, patrons, guests and invitees) in common with others, of free ingress and egress by aircraft between the Leased Premises and the airfield.

(b) Use of Taxiway. The right, in common with others, to use all taxiways along boundaries of the Leased Premises for the purpose of access by Lessee's aircraft to and from the Public Aircraft Facilities so long as such use does not unreasonably interfere with its use as a taxiway by any other lessees, licensees or permittees of the City.

(c) Public Aircraft Facilities. The right in common with others to use existing and future facilities on the Airport that provide for the landing, taking off and taxiing of aircraft, including navigational aids, hazard designation and warning devices, air field security roads and fences, lighting and clear zone areas (sometimes known as "Public

Aircraft Facilities” or “PAF”) subject to the applicable fees set from time to time by the City (which shall not exceed the fees charged to any other user of the PAF).

(d) Common Facilities. The right (which shall extend to Lessee’s employees, agents, contractors, patrons, guests and invitees), in common with others, to use the public portions of the Airport and appurtenances thereto.

(e) Ingress and Egress. The right (which shall extend to Lessee’s employees, agents, contractors, patrons, guests, invitees, suppliers of materials and furnishers of service, and their equipment, vehicles and other property), in common with others, of free ingress to and egress from the Leased Premises over Airport roads, driveways and common areas, as the same shall be reasonably specified as such from time to time by the City, such access to be available at all times on a 24 hour a day, 7 days a week basis; provided, however, the foregoing is not intended in any way to relieve Lessee of its obligations to comply with the Airport’s Security Plan (“ASP”) in force from time to time as required by the Federal Aviation Administration or the Transportation Security Administration.

(f) Signs. The right to install identification and directional signs on and about the Leased Premises, subject to prior written approval of the City, which approval shall not be unreasonably withheld, unless the City shall have provided such signs as part of an overall sign program, and in all events, such signs shall conform to any reasonable overall sign program of the City.

1.9 Tenant Security Obligations. Lessee shall be responsible for, among other things, controlling access to its airplanes and the air operations area. If requested by City, Lessee shall enter into a tenant security agreement (“Tenant Security Agreement”) with the City, required to enable the City and Lessee to comply with the laws and regulations of the United States and agencies thereof cognizant with and responsible for transportation security.

1.10 City’s Right to Enter and Inspect. Upon reasonable (not less than 24 hours) prior written notice to Lessee (except for emergency or safety matters, in which event, no notice shall be required) the City shall have the right to enter any part of the Leased Premises at reasonable or necessary times for the purposes of inspection, protection or exercising any rights under this

Agreement, provided that such entry and inspection by City shall not interfere unreasonably with Lessee's use of or operations at the Leased Premises or Airport. It shall also have the right, upon reasonable (not less than 24 hours) prior written notice to Lessee, to show the Leased Premises at any time within six (6) months of the termination of this Agreement.

1.11 City's Right to Enter to Install Utilities. The City shall have the right to enter any part of the Leased Premises at reasonable or necessary times upon not less than 3 days prior written notice for the purposes of installing any utility lines or related equipment necessary for the Lessee or other users of the Airport, provided that City shall not interfere unreasonably with Lessee's use of or operations at the Leased Premises or Airport.

1.12 Surrender of Leased Premises at Termination. Upon termination or other expiration of this Agreement, Lessee shall immediately surrender the Leased Premises to City in substantially the same condition in which the Leased Premises were delivered to Lessee, ordinary wear and tear excepted, and any damage or destruction that (i) is not caused by Lessee and (ii) that Lessee is not required to insure under Section 5.5 below, excepted. Lessee may remove all of its property and equipment (including aircraft) upon expiration or earlier termination of this Agreement, or at any other time, and City waives any and all liens that City may now or hereafter be entitled to with respect to any such property and equipment. City agrees, within ten (10) days after request by Lessee, to execute and deliver any reasonable agreement required by any lender to Lessee to confirm such waiver, the lender's right of access to the Leased Premises and other related agreements.

1.13 Fuel Storage Facility. Lessee shall not be permitted to store any aviation or motor fuel on the leased premises (except in aircraft). Lessee shall acquire its aviation fuel from City (City to supply same at market rates) or may self-fuel from approved aircraft re-fuelers stored off of the Airport and brought to the Leased Premises to re-fuel aircraft and removed from the Airport after re-fueling is completed. Such re-fuelers may not be staged on the Leased Premises.

ARTICLE II  
LEASE TERM AND RESTRICTIONS ON USE

2.1 Term. The term of this Agreement shall commence on September 1, 2012 (the "Commencement Date") and, unless terminated earlier pursuant to Paragraph 2.3 or Articles IX, X or XI, shall extend through December 31, 2016 ("Initial Term"). Provided Lessee is not in Default (as defined below) under any of the terms, conditions and covenants of this Agreement, Lessee shall have the right to extend the term of this Agreement for one additional term of five (5) years upon the same terms and conditions except the annual rental shall be increased by ten percent (10%). Lessee shall exercise its right to renew by giving the City written notice at least 90 days prior to the expiration of the Initial Term.

2.2 Holding Over. Should Lessee hold over on any part of the Leased Premises with respect to which this Agreement has terminated, such holding over shall be deemed merely a month-to-month tenancy, on such reasonable terms and conditions as shall be communicated to Lessee by City.

2.3 Right of City to Terminate by Cancellation. If, at any time during the original or any renewal term hereof, City requires the use of the Leased Premises for airfield related purposes, including, but not limited to, expansion of runways and taxiways and compliance with any safety, clearance, or setback requirements that may be promulgated by FAA or any successor agency, this Agreement may be terminated by the City advising Lessee as soon as possible when the issue arises and giving Lessee not less than 360 days written notice of cancellation and the purpose therefor.

2.4 Restrictions on Use.

(a) The Leased Premises and the Leasehold Improvements and all other property located thereon shall be used solely and exclusively as a base for Lessee's and its affiliate's corporate aircraft and to house visiting aircraft of business associates of Lessee that have landed at the Airport.

(b) Lessee may fuel only its (and its affiliates') aircraft from any re-fuelers brought onto the Leased Premises by Lessee, and Lessee shall not under any circumstances provide fuel to

aircraft that are not a part of its or its affiliates' corporate fleet and either owned by it or an affiliate, operated by its or its affiliates' employees or contractors in the course and scope of their employment or leased to it or an affiliate on an exclusive basis for use as part of its corporate fleet. Aircraft belonging to or operated by guests or invitees of Lessee shall obtain fuel from the City operating as the fixed base operator ("FBO") on the Airport. The foregoing shall not prohibit the delivery of fuel to Lessee's aircraft on the Leased Premises by the FBO. The FBO shall charge market rates for fuel.

(c) Lessee may service only aircraft that are part of its or its affiliates' corporate fleet and either owned by it or an affiliate, operated by its or its affiliates' employees or contractors in the course and scope of their employment or leased to it or an affiliate on an exclusive basis for use as part of its or its affiliates' corporate fleet. Aircraft belonging to or operated by guests or invitees of Lessee shall obtain any service and maintenance from the FBO. The FBO shall charge market rates for service.

(d) The scope of Lessee's aircraft maintenance and repair activities conducted in the hangar portion of the Leased Premises shall be limited to light maintenance and "preventive maintenance" as that term is defined by FAA regulation unless the City Fire Marshall shall approve more extensive maintenance and repair operations in the hangar.

(e) The failure of Lessee to occupy and use the Leased Premises over a continuous period in excess of sixty (60) days without paying rent due under this Agreement for reasons that are not otherwise excused under this Agreement shall be deemed an abandonment of the Leased Premises by Lessee allowing City to terminate this Agreement by giving notice of default under Section 9.1 hereof.

2.5 Garbage and Refuse Storage and Removal. Lessee shall be responsible for garbage and refuse storage and removal in compliance with all reasonable Airport and other reasonable applicable rules and regulations regarding the disposal of trash and garbage.

2.6 Noise, Odor, Vibrations and Annoyances. Lessee shall conduct its operations in an orderly and proper manner so as not to commit any nuisance (in excess of nuisances typically created by airport hangar tenants) or waste at the Leased Premises or unreasonably annoy, disturb or be offensive to others at the Airport, and shall take all commercially reasonable

measures to eliminate any unusual, nauseous or objectionable smoke, gases, vapors, odors, or any vibrations not normally present at an airport and tending to damage any Leasehold Improvements or interfere with activities at the Airport, and to maintain a sound level in its operations that is in compliance with any applicable governmental rules and regulations.

2.7 Prohibited Acts. Lessee shall not:

- (a) Conduct its operations in a manner that deprives the public of its rightful, equal and uniform use of Airport property (other than the Leased Premises).
- (b) Conduct its operations so as to unreasonably interfere with reasonable use by others of common facilities.
- (c) Conduct its operations in such a way as to unreasonably hinder police, firefighting or other emergency personnel in the discharge of their duties or as to constitute a hazardous condition that would materially increase the risks normally attendant upon the operations contemplated under this Agreement.

2.8 Environmental Representation and Covenants.

(a) Except as is necessary for the normal and ordinary use of the Leased Premises, including without limitation as set forth in Section 2.4 above and for the other purposes allowed herein, Lessee shall not cause, permit or authorize any Hazardous Materials (as defined below) to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined or used upon, about or beneath the Leased Premises or any portion thereof by Lessee, its agents, employees, contractors, invitees or permitted subtenants or assigns, except in strict compliance with the Environmental Laws, as defined below. For purposes of this Agreement and this paragraph, the term "Hazardous Materials" shall mean and include, without limitation, all types of regulated chemical substances, petroleum products, flammable explosives, radioactive, materials, urea formaldehyde, PCB's, asbestos or material containing asbestos, and any other illegal, regulated, hazardous, toxic, dangerous or otherwise harmful waste, substance or material. For purposes of this Agreement and this paragraph, the term "Environmental Laws" shall mean and include, without limitation, any and all Federal, state, county, city or other law, statute, ordinance, treaty, code, rule, regulation, order or decree as may now or at any other time be or have been in effect, regulating, establishing liens for the

cleanup of, imposing liability or standards of conduct concerning, or in any manner relating to any Hazardous Materials. For purposes of this Agreement and this paragraph, the term "Release" shall mean and include, without limitation, any and all discharging, spilling, leaking, dumping, emitting, emptying, seeping, injecting, escaping, leaching, disposing and the like.

(b) Lessee shall not cause, permit or authorize the existence or the commission by Lessee, its agents, employees, contractors or invitees, of a violation of any Environmental Laws upon, about or beneath the Leased Premises or any portion thereof.

(c) Lessee shall not create, permit or authorize with respect to the Leased Premises, or permit any of its agents, employees, contractors, or invitees to create, any lien, security interest or other charge or encumbrance of any kind arising out of any Environmental Laws, including, without limitation, any lien imposed pursuant to §107(f) of the Superfund Amendments and Reauthorization Act of 1996 (42 U.S.C. §9607(1)) or any similar statute or regulation. Should any such lien, security interest or other charge or encumbrance be filed against the Leased Premises, Lessee shall cause said lien, security interest or other charge or encumbrance to be removed from the Leased Premises or shall provide a bond satisfactory to City for the payment or satisfaction thereof. Said actions shall be taken by Lessee as soon as practicable; provided that said actions shall be taken in no event later than thirty (30) days from the filing, posting or notice of such lien, security interest or other charge or encumbrance.

(d) Lessee covenants and agrees, at its sole cost and expense, to defend, indemnify and hold harmless City from and against any and all damages (including without limitation all foreseeable and unforeseeable consequential damages), losses, liabilities, obligations, penalties, costs (including without limitation, the cost of any required or necessary inspection, audit, cleanup or detoxification and the preparation of any closure or other required plans, consent orders, license applications, or the like), personal injury or death, damage to property, claims, litigation costs, disbursements or expenses including, without limitation, attorneys and experts reasonable fees and disbursements which may at any time be imposed upon, incurred by or asserted or awarded against City, and arising from or out of the use, generation, storage, disposal of or the release of any Hazardous Materials by Lessee, its employees, agents, tenants, customers and contractors upon, about, beneath or affecting all or any portion of the Leased Premises, Airport or any surrounding areas, where such surrounding areas have been contaminated as a

result of the use or Release of Hazardous Material by Lessee, its employees, agents, tenants, customers or contractors.

(e) City warrants and represents to Lessee that as of the date Lessee occupies the Leased Premises, the Leased Premises are free of Hazardous Materials that violate applicable Environmental Laws or present a risk or danger to Lessee or its employees or operations, and that the Leased Premises comply with all applicable Environmental Laws. Under no circumstances shall Lessee be liable in connection with any violation of Environmental Laws, or any use, generation, storage, disposal of or the release of any Hazardous Materials (i) by City, its employees, agents or contractors, or (ii) arising prior to the date Lessee occupies the Leased Premises. City expressly agrees that it shall be responsible for any and all fuel spills or other Releases of Hazardous Materials on the Leased Premises resulting from or in connection with fueling or servicing of aircraft at the Leased Premises by City, and that Lessee shall have no obligation whatsoever in connection with any such spills or Releases. Lessee expressly agrees that it shall be responsible for any and all fuel spills or other Releases of Hazardous Materials on the Leased Premises resulting from or in connection with any self-fueling conducted by Lessee at the Leased Premises or elsewhere at the Airport.

(f) Lessee shall, upon demand of City, and at its sole cost and expense, promptly take all action to remediate the Leased Premises which are required by any Federal, state or local governmental agency or political subdivision or which are reasonably necessary to remove any Hazardous Materials from the Leased Premises and restore the Leased Premises to compliance with the Environmental Laws, which remediation is necessitated from the presence upon, about or beneath the Leased Premises of any Hazardous Material because of, or violation of any Environmental Laws by, Lessee, its agents, employees, contractors, invitees or subtenants or assigns. City shall, upon demand of Lessee, and at its sole cost and expense, promptly take all action to remediate the Leased Premises which are required by any Federal, state or local governmental agency or political subdivision or which are reasonably necessary to remove any Hazardous Materials from the Leased Premises and restore the Leased Premises to compliance with the Environmental Laws, which remediation is necessitated from the presence upon, about or beneath the Leased Premises of any Hazardous Material because of, or violation of any Environmental Laws by, City, its agents, employees, contractors, invitees, current or prior tenants or assigns.

(g) Should Lessee cause any intentional or unintentional Release of Hazardous Materials upon, about or beneath the Leased Premises, or within waters of the state or the United States, or on other properties, in violation of applicable Environmental Laws, it shall promptly notify all federal, state and local regulatory agencies of the release if and to the extent required by law and shall notify City of the release, in writing, within seven (7) days of determining that a Release has occurred. Lessee shall further notify City within seven (7) days after the receipt by Lessee of notice of any demand or claim or the commencement of any action, suit or proceeding in respect of any of the matters referenced in this paragraph. It is expressly understood and agreed that failure by City to object to any actions taken by Lessee hereunder shall not be construed to be an approval by City of Lessee's actions, nor shall it be construed as a waiver by City of any right related thereto.

(h) City shall, at all times upon not less than 3 days prior written notice, be free to inspect the Leased Premises and may independently establish to its reasonable satisfaction the existence or non-existence of any fact or facts, the existence or non-existence of which is relevant to any claim or defense of any matter related herein, and Lessee shall allow City or its agents access to the Leased Premises as is reasonably necessary to establish such facts.

(i) Should Lessee fail to perform or observe any of its obligations or covenants contained in this paragraph, and not cure such failure within the time period allowed after notice as provided in Article IX below, then City shall have the right, but not the duty, without limitation upon any of the other rights of City pursuant to this Agreement, to enter the Leased Premises itself or through its agents, consultants or contractors and perform the same. Lessee agrees to indemnify City for the reasonable costs thereof and liabilities arising therefrom as set forth in subsection (d) above. The provisions of this section 2.8 shall survive the termination of this Agreement.

2.9 Additional Compliance Requirements. It is intended that the standards, obligations and duties imposed by this Article II shall be maintained and complied with by Lessee in addition to its compliance with all applicable governmental laws, ordinances and regulations with respect to Lessee's operations at the Leased Premises, and in the event that any of said laws, ordinances and regulations shall be more stringent than the standards, duties and obligations imposed on Lessee hereunder, then Lessee shall comply with such laws, ordinances

and regulations in its operations under this Agreement. Noncompliance with any governmental law, ordinance or regulation, the validity of which shall be contested in good faith and with reasonable promptness, shall not be interpreted as a violation of this covenant until such contest shall have been abandoned or the time for objection or appeal has expired.

### ARTICLE III RENTS, FEES AND CHARGES

3.1 Annual Rent. Lessee shall pay an annual rental of SEVENTY TWO THOUSAND DOLLARS (\$72,000.00) for its use and occupancy of the Leased Premises in twelve (12) equal monthly installments of SIX THOUSAND DOLLARS \$6,000.00), in advance and without demand, with any applicable proration.

3.2 Fuel Flowage Fees. In addition to the Annual Rent, Lessee shall also pay to City each month a fuel flowage fee for each gallon of fuel dispensed by Lessee into any aircraft at or from the Leased Premises during the previous month. The fuel flowage fee per gallon shall be the amount then in effect pursuant to the then-enacted provisions of the Code of City and shall be due and payable 15<sup>th</sup> day following of the close of the previous month. The present fuel flowage fee is \$.065 per gallon, being the same fee currently being charged to other lessees at the Airport; provided, however, should the fuel flowage fee at the Airport be changed by City, Lessee shall be give thirty day advance written notice of the effective date of the new fuel flowage fee. The fuel flowage fee shall not apply to fuel purchased by Lessee from City, and the fuel flowage fee chargeable to Lessee shall never exceed the lowest rate charged by City to any other tenant.

3.3 Delinquent Rent. Without waiving any other right of action available to the City, in the event that Lessee is delinquent for a period of ten (10) days or more after written notice to Lessee in paying the City any rental payable pursuant to this Agreement, Lessee shall pay the City interest thereon at the rate of 10 % per year from the date such amount was due and payable until paid.

3.4 Fees and Taxes. The Lessee agrees to pay, when due, all fees, taxes and assessments charged, assessed or levied by any governmental authority on Lessee's property and

operations at the Leased Premises. No such payment shall be considered a payment of rent, fees or use charges entitling the Lessee to a credit under any other provision of this Lessee. The failure to pay any tax, license, fee, or assessment, the validity of which shall be contested in good faith and with reasonable promptness, shall not be interpreted as a violation of this covenant until such contest shall have been resolved in the taxing authority's favor or abandoned or the time for objection or appeal has expired. City shall be responsible for any taxes on the Leased Premises itself.

#### ARTICLE IV MAINTENANCE, ALTERATIONS, REPAIRS AND UPKEEP

##### 4.1 Maintenance of the Leased Premises.

(a) City shall be obligated, without cost to the Lessee, to perform structural maintenance, repairs and replacements of the Leased Premises as necessary to keep the same in good condition. Structural maintenance, repairs and replacements includes the walls, roof, foundation, flooring, doors and paved areas. City shall also be responsible for any needed repair and replacement of building systems (HVAC, electric, plumbing, etc.), provided that Lessee shall be responsible for day to day maintenance of such building systems, with the exception of underground pipes and lines, which shall be City's responsibility.

(b) Lessee shall be responsible for paying for utilities used by Lessee during the term of this Agreement as provided above, Lessee's refuse collection, storm water fees applicable to the Leased Premises only, relamping, janitorial services and all other items of ordinary maintenance and repair of the interior of the building at the Leased Premises at Lessee's expense, and Lessee shall maintain the interior of the Leased Premises in good condition, ordinary wear and tear excluded. Lessee shall also maintain its property at the Leased Premises.

(c) The City or its authorized agents may at any time, upon not less than one (1) day prior written notice (or immediately in the event of emergency), enter upon the Leased Premises to determine if maintenance reasonably satisfactory to the City is being accomplished. If City reasonably determines maintenance for which Lessee is responsible to be unsatisfactory, it will give Lessee written notice of same specifying the areas or items of sub-standard maintenance and requesting Lessee to provide the necessary maintenance or repair. Should Lessee fail to initiate

such needed repairs or maintenance within thirty (30) days of such notice, City shall be permitted to enter the Leased Premises, with not less than 1 day prior written notice (or immediately in the event of emergency), and to conduct such maintenance for which Lessee is responsible hereunder, and the reasonable cost thereof shall be chargeable to Lessee as additional rental hereunder.

4.2 Alterations to Leased Premises. Before making any structural modification to the Leased Premises, Lessee shall first obtain the written Consent of the City, such consent to be not unreasonably withheld or delayed. Lessee shall notify City if it intends to make any nonstructural modifications to the Leased Premises. All alterations to the Leased Premises made by the Lessee shall be made at the Lessee's expense, and shall be made in a workmanlike manner without damage to the Leased Premises, except such that is repaired or corrected by the Lessee. The City shall have the right to review and approve in writing the plans and specifications for any structural alterations and to impose reasonable requirements for insurance.

#### ARTICLE V INDEMNIFICATION AND INSURANCE

5.1 City Held Harmless. Subject to Section 5.8 below, and except to the extent caused by the indemnitee's negligence or intentional misconduct, Lessee shall indemnify and hold the City, its elected officials, officers, agents and employees free from any and all claims, debts, demands, liabilities or causes of action of every kind or character, whether in law or in equity, by reason of any death or injury to any person or persons or damage or destruction of property or loss of use thereof, whether it be the person or property of Lessee, its invitees, guests, agents or employees, or the person or property of City, its officials, officers, employees or agents, or the person and property of any third persons, arising from any negligence or intentional misconduct of Lessee in or upon the Leased Premises or any part thereof; and Lessee shall indemnify and save harmless the City, its elected officials, officers, agents and employees against and from any and all such claims, demands, debts, liabilities and causes of action (including reasonable attorneys' fees and costs).

5.2 Lessee Held Harmless. To the extent permitted by law, subject to Section 5.8 below, and except to the extent caused by Lessee's negligence or intentional misconduct, City shall indemnify and hold the Lessee, its affiliates, officers, agents and employees free from any and all claims, debts, demands, liabilities or causes of action of every kind or character, whether in law or in equity, by reason of any death or injury to any person or persons or damage or destruction of property or loss of use thereof, whether it be the person or property of Lessee, its invitees, guests, agents or employees, or the person or property of Lessee, its affiliates, officers, employees or agents, or the person and property of any third persons, arising from any negligence or intentional misconduct of City in or upon the Airport or Leased Premises or any part thereof; and, to the extent permitted by law, City shall indemnify and save harmless Lessee, its affiliates, officers, agents and employees against and from any and all such claims, demands, debts, liabilities and causes of action (including reasonable attorneys' fees and costs).

5.3 Liability Insurance. Lessee shall maintain in force during the term of this Agreement the following insurance coverages:

- \$10,000,000 bodily injury/property damage per occurrence;
- \$10,000,000 personal injury/advertising injury per occurrence;
- \$1,000,000 fire damage legal liability
- \$10,000,000 General Aggregate
- \$10,000,000 Products/Completed Operations Aggregate
- \$2,000,000 auto liability
- \$10,000,000 aircraft liability.

The City shall be named as an additional insured under such policy or policies except under the auto liability policy.

5.4 Worker's Compensation and Employer's Liability Insurance. Lessee shall maintain workers compensation and employer's liability insurance as required by the laws of the State of North Carolina.

5.5 Fire and Extended Coverage. Lessee, at its own cost and expense, shall insure for fire and extended coverage risks the Leased Premises and all Leasehold Improvements on the

Leased Premises. Such insurance shall be in an amount equal to the full insurable value of such improvements. Lessor has informed Lessee that the insurable value of the Leased Premises is \$1,000,000. All fire insurance policies shall contain loss payable endorsements in favor of the parties as their respective interests may appear hereunder. Lessee agrees that any payments received from such insuring companies by reason of loss under such policy or policies shall be applied toward repair and reconstruction of the Leasehold Improvements or paid to the City in accordance with Article VI hereof.

5.6 Certificates Evidencing Coverage: Insurer Acceptable to City. A certificate evidencing all insurance coverage required of Lessee under this Article V shall be filed with the City within thirty (30) days after the date of this Lease. Lessee agrees to endeavor to give City 30 days prior notice if any such insurance coverage will be canceled or materially reduced below the limits required above. Within thirty (30) days after the expiration of any such policy, a certificate showing that such insurance coverage has been renewed shall be filed with the City. If such insurance coverage is cancelled or reduced below the limits required above, the Lessee shall within fifteen (15) days after receipt of written notice from the City of such cancellation or reduction in coverage, file with the City a certificate showing the required insurance has been reinstated or provided through another insurance company or companies. The company or companies furnishing insurance pursuant to this Article shall be qualified to issue insurance effective in the State of North Carolina.

5.7 Blanket Policies, Self-Insurance. Any insurance required to be maintained by Lessee may be provided under blanket insurance policies relating to the Leased Premises and other properties or by self-insurance so long as such blanket policies or self-insurance conform to the requirements of this Agreement.

5.8 Waiver of Subrogation. Notwithstanding anything to the contrary herein, City and Lessee mutually agree that with respect to any loss which is covered by property insurance then being carried by them respectively, or required to be carried hereunder, the party carrying or required to carry such insurance and suffering any such loss hereby releases the other of and

from any and all claims with respect to such loss, and City's and Lessee's insurance companies shall have no right of subrogation against the other or any party hereto on account thereof.

ARTICLE VI  
DAMAGE OR DESTRUCTION TO LEASED PREMISES

6.1 In the event of damage or casualty to any part of the Leased Premises including the Leasehold Improvements, City shall repair such damage or replace damaged property to the extent the insurance proceeds are sufficient to pay for such repair and replacement. During the time from such damage until the completion of the repairs, Lessee shall be entitled to an equitable abatement of the rental payable hereunder in proportion to the extent Lessee is deprived of the beneficial use of the Leased Premises by such damage. Notwithstanding the foregoing, should City, in its reasonable discretion, determine that the Leasehold Improvements have been damaged so extensively that they cannot be repaired (and would have to be completely replaced), City may terminate this Agreement by notice to Lessee.

ARTICLE VII  
EQUAL EMPLOYMENT OPPORTUNITY, NON-DISCRIMINATION  
PUBLIC USE AND FEDERAL GRANTS

7.1 Equal Employment Opportunity. Lessee assures that it is the policy of Company to provide equal employment opportunity without regard to race, color, religion, gender (including pregnancy), national origin, age, handicap, disability, veteran status or other legally protected status. Lessee's Equal Employment Opportunity Policy is available for review by City upon request.

7.2 Certification of Non-Discrimination. By the execution of this Agreement, the Lessee certifies as follows:

“We, the lessee of property covered by this lease, will not discriminate in any way in connection with this contract in the employment of persons, or refuse to continue the employment of any person, on account of the race, creed, color or national origin of such persons.”

7.3 Federal Grants and Public Use. The parties acknowledge that the Airport will be operated as a public airport, subject to the provisions of the Federal Aviation Act of the Airport, so that nothing contained in this Agreement shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958. The City reserves the right to further develop or improve, as it sees fit, the Airport, its landing area and taxiways, and to construct other airports, regardless of the desires or views of Lessee and without interference or hindrance there from. This Agreement shall be subordinate to the provisions of any existing or future agreement between the City and the United States of America, including instrumentalities thereof, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds in developing the Airport.

7.4 Non-Discrimination. Lessee for itself, its successors and assigns, as part of the consideration hereof, does hereby covenant and agree that to the extent within its power:

(a) No person shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of the Airport's facilities because of his or her race, color, sex or national origin.

(b) In the construction of any improvements on, over or under the Airport and the furnishing of services thereat, no person shall be excluded from participation in, or denied the benefits of such construction or service, or otherwise be subjected to discrimination, because of his or her race, color, sex or national origin.

(c) Lessee shall use the premises in compliance with all of the requirements set forth in this Lease. If City is required to impose additional requirements on Lessee to maintain compliance with regulations under 49 CFR Part 21, as said regulations now or hereafter provide, it shall notify Lessee of such requirements, and Lessee shall either comply or may terminate this Lease by notice to City.

(d) If City is required to impose additional requirements on Lessee to maintain compliance with regulations under Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Offices of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be

amended, it shall notify Lessee of such requirements, and Lessee shall either comply or may terminate this Lease by notice to City.

(e) In the event of breach of any of the above nondiscrimination covenants, the City shall have the right to terminate this Agreement and to re-enter and repossess the Leased Premises and hold the same as if said Agreement had never been made or issued. This provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21 have been followed and completed including exercise or expiration of appeal rights.

7.5 Modifications to Comply with Federal Laws, Regulations or Agreements. Should the United States or any instrumentality thereof having authority to do so require that any provision of this Agreement that is in violation of any federal law or regulation or any provision of an existing grant agreement between the City and the United States or any instrumentality thereof be changed or deleted or should any such change or deletion be required in order for the Airport either to continue as a part of the National Airport System Plan or to retain its eligibility to participate in ADAP and similar successor federal programs or to avoid forfeiture of previous financial assistance, the City may give the Lessee notice that it elects that any such change or deletion be made. Lessee shall then elect either to consent to any such change or deletion or to terminate this Agreement. Such election shall be made in writing and delivered to the City within 120 days of the date the City gave notice to the Lessee of its election that any such change or deletion be made.

7.6 Compliance with Americans with Disabilities Act of 1990. Lessee shall fully comply with all applicable provisions of the Americans With Disabilities Act of 1990, P.L. 101-336, 104 Stat. 327 (ADA) with respect to any modifications of the Leased Premises made by Lessee. City warrants and represents that the Leased Premises currently complies with the ADA.

7.7 Recapture by United States Government. It is understood and agreed between the parties hereto that this Agreement shall be terminated if the United States of America, in exercising its right to recapture under the terms of the instrument conveying the premises to the City, requires such termination, and further that this Agreement shall be subject and subordinate

to the provisions of any existing or future agreement between the City and the United States relative to the operation or maintenance of the Airport, the execution of which has been or may be required by the provisions of the Federal Airport Act of 1946, as amended, or any future act affecting the operation or maintenance of the Airport.

7.8 Non-Discrimination Provision for All City Contracts. The City is committed to promoting equal opportunities for all and to eliminating prohibited discrimination in all forms. For purposes of this Section, prohibited discrimination means discrimination in the solicitation, selection, and / or treatment of any subcontractor, vendor, supplier or commercial customer on the basis of race, ethnicity, gender, age, religion, national origin, disability or other unlawful form of discrimination. Without limiting the foregoing, prohibited discrimination also includes retaliating against any person, business or other entity for reporting any incident of prohibited discrimination. It is understood and agreed that not only is prohibited discrimination improper for legal and moral reasons, prohibited discrimination is also an anti-competitive practice that tends to increase the cost of goods and services to the City and others. As a condition of entering into this Agreement, the Lessee represents, warrants and agrees that it does not and will not engage in or condone prohibited discrimination. Without limiting any rights the City may have at law or under any other provision of this Agreement, it is understood and agreed that a violation of this provision constitutes grounds for the City to terminate this Agreement.

#### ARTICLE VIII ASSIGNMENT AND SUBLETTING

8.1 Lessee shall neither assign nor transfer this Agreement or any right or leasehold interest granted to it by this Agreement without the consent of the City, such consent not to be unreasonably withheld. Provided, however, Lessee may assign and transfer this Agreement in its entirety without such consent to any affiliate, or to any successor-in-interest of Lessee with or into which Lessee may merge or consolidate or which may succeed to the assets of Lessee or a major portion thereof. No such assignment or sublease shall serve to release the Lessee from any of its obligations, duties or responsibilities under this Agreement unless the City agrees thereto in writing. Any such sublease shall be in writing and promptly upon the execution thereof, Lessee shall furnish a copy to the City.

ARTICLE IX  
EVENTS OF DEFAULT-TERMINATION BY CITY

9.1. Default by Lessee. The occurrence of one or more of the following events (“Event of Default” or “Default”) shall constitute a default by Lessee hereunder:

(a) If Lessee shall file a voluntary petition in bankruptcy or if the proceedings in bankruptcy shall be instituted against it; or if a court shall take jurisdiction of Lessee and its assets pursuant to proceedings brought under the provisions of any federal reorganization act; or if a receiver for Lessee’s assets is appointed by a court of competent jurisdiction; or if Lessee shall be divested of its rights, powers, and privileges under this Lease Agreement by other operation of bankruptcy or similar creditor’s rights laws; and the foregoing proceedings are not dismissed within 90 days after the filing of same;

(b) If Lessee shall fail to make payments at the times or in the amounts as required of it under this Lease Agreement within 30 days after receipt of written notice from City stating the nature of the failure and City’s intent to terminate if the failure is not timely cured (provided, however, City shall not be required to give such notice more than three (3) times in any twelve (12) month period, such that upon Lessee’s fourth failure in any twelve (12) month period to make a payment at the time and in the amount required hereunder, Lessee shall be in Default without requirement of notice); or

(c) If Lessee shall fail to perform, keep and observe any other of the covenants and conditions contained in this Lease Agreement to be performed, kept and observed by it and Lessee has failed to cure the same within 60 days (or such longer period as is necessary under the circumstances) after receipt of written notice from City stating the nature of the breach and City’s intent to terminate if the breach is not timely cured.

9.2 City’s Default. A Default by City shall be deemed to have occurred in the event City fails to perform or observe any of City’s obligations or covenants under this Lease Agreement or City breaches any of City’s covenants, representations, or warranties under this Lease, where any of the same shall continue for a period of sixty (60) days after receipt of written notice from Lessee; provided, however, that if the nature of such failure or breach is such

that the same cannot reasonably be cured within such sixty (60) day period, then the City shall have such additional time as is reasonably necessary to cure such failure or breach.

ARTICLE X  
TERMINATION BY  
CANCELLATION AND DEFAULT BY LESSEE

10.1 Termination by Lessee. Upon the happening of any Event of Default as defined in Article IX above and the failure of the Lessee to cure such default in the time period set forth in said Article IX, the City shall have the right to terminate the term of this Agreement by written notice from the City to the Lessee, which termination shall be effective as of the date of said written notice. Upon any termination of the term hereof, whether by lapse of time or otherwise, Lessee shall promptly surrender possession and vacate the Leased Premises and deliver possession thereof to the City, and Lessee hereby grants to the City full and free license to enter into and upon the Leased premises in such event and with or without process to expel or remove Lessee and any others who may be occupying the Leased Premises and to remove therefrom any and all property, using for such purpose such force as may be necessary without being guilty or liable for trespass, eviction, or forcible entry of detainer and without relinquishing the City's right to rent or any other right given to the City hereunder or by operation by law. Except as otherwise expressly provided in this Agreement, Lessee hereby expressly waives the right to receive service of demand for the payment of rent or for possession of the Leased Premises or to re-enter the Leased Premises.

10.2 Waiver. The City's performance of all or any part of this Agreement for or during any period or periods after a default of any of the terms, covenants or conditions hereof to be performed, kept or observed by the Lessee, or the occurrence of such other event as may excuse performance by City, shall not be deemed a waiver of any right on the part of City (i) to cancel this Agreement for failure by the City so to perform, keep or observe any of the terms, covenants or conditions hereof to be performed, kept and observed, or by reason of such occurrence, or (ii) to enforce any other right that the City may have by reason of such failure or occurrence. No waiver by the City of any of the terms, covenants or conditions hereof after a default or

occurrence by Lessee hereunder, shall be construed to be or act as a waiver by City of any subsequent default or occurrence by Lessee.

ARTICLE XI  
TERMINATION BY  
CANCELLATION AND DEFAULT BY CITY

11.1 Right of Lessee to Terminate by Cancellation. Lessee may terminate this agreement and cancel all of its obligations hereunder at any time that Lessee is not in Default in the payment of any rentals, fees or charges to the City hereunder by giving written notice to be served as hereinafter provided upon or after the happening of any one of the following events:

(a) The inability of the Lessee to use the Leased Premises for a period in excess of sixty (60) days, because of the issuance of any order, rule or regulation by the United States or an instrumentality thereof preventing the Lessee from operating at the Leased Premises for cause or causes not constituting a default under this Agreement;

(b) The default by the City in the performance of any covenant or agreement herein required to be performed by the City and the failure of the City to remedy such default for a period of sixty (60) days after receipt from the Lessee of written notice to remedy the same, unless such default cannot be cured within such sixty (60) day period and the City has in good faith commenced and is prosecuting the cure thereof, in which case the City shall have a reasonable extension of such period in order to cure such default; provided, however, that no notice of cancellation, as above provided, shall be of any force or effect if the City shall have remedied the default prior to receipt of the Lessee's notice of cancellation;

(c) The assumption by the United States or an instrumentality thereof of the operation, control or use of the Airport or any substantial part thereof in such a manner as to substantially restrict the Lessee for a period of at least ninety (90) days from operating its business at the Airport; or

(d) The issuance by any court of competent jurisdiction of an injunction restraining the use of the Airport or the Leased Premises if said injunction shall remain in force for more than ninety (90) days and is not caused in whole or in part by the acts or failures to act of Lessee.

11.2 Waiver. The Lessee's performance of all or any part of this Agreement for or during any period or periods after a default of any of the terms, covenants or conditions hereof to be performed, kept or observed by the City, or the occurrence of such other event as may excuse Lessee's performance hereunder shall not be deemed a waiver of any right on the part of Lessee (i) to cancel this Agreement for failure by the City so to perform, keep or observe any of the terms, covenants or conditions hereof to be performed, kept and observed, or by reason of such default or occurrence, or (ii) to enforce any other right that the Lessee may have by reason of any such default or occurrence. No waiver by the Lessee of any of the terms, covenants or conditions hereof after such default or occurrence by City shall be construed to be or act as a waiver by Lessee of any subsequent default or occurrence by City.

## ARTICLE XII GENERAL PROVISIONS

12.1 Restrictions and Regulations. The activities conducted by Lessee pursuant to this Agreement shall be subject to:

- (a) Any and all reasonable applicable rules, regulations, orders and restrictions which are now in force or which may be adopted hereafter by City with respect to the operation of the Airport, including restrictions on arrivals and departures, provided that such rules, regulations, orders and restrictions must not conflict with this Agreement or materially interfere with Lessee's use of the Leased Premises or Airport;
- (b) Any and all reasonable orders, directions or conditions issued, given or imposed by, the City with respect to the use of the roadways, driveways, curbs, sidewalks, parking areas or public areas on the Airport, provided that such orders, directions and conditions must not conflict with this Agreement or materially interfere with Lessee's use of the Leased Premises or Airport; and
- (c) Any and all applicable laws, ordinances, rules, statutes, regulations or orders, including, but not limited to, environmental statutes, regulations or orders of any governmental authority, federal, state or municipal, lawfully exercising authority over the Airport or Lessee's operations, including restrictions on airline schedules of arrivals and departures.

City agrees that City shall use best efforts to avoid interference with Lessee's use and enjoyment of the Leased Premises and Airport in accordance with the terms of this Agreement.

12.2 Waiver of Claims. Lessee hereby waives any claim against the City and its elected officials, officers, agents or employees for loss of anticipated profits caused by any suit or proceeding attacking the validity of this Agreement or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement null, void or voidable or delaying the same or any part hereof. City hereby waives any claim against Lessee and its affiliates, officers, agents or employees for consequential damages.

12.3 Waivers. Every provision herein imposing an obligation upon City or Lessee is a material inducement and consideration for the execution of this Agreement. No waiver by City or Lessee of any of the terms, covenants or conditions of this Agreement, or noncompliance therewith, shall be deemed or taken as a waiver at any time thereafter of the same or any other term, covenant or condition herein contained, nor of the strict and prompt performance thereof. No delay, failure or omission of the City to re-enter the Leased Premises or to exercise any right, power, privilege or option arising from any default, or subsequent acceptance of fees then or thereafter accrued shall impair any such right, power, privilege or option or be construed to be a waiver of any such default or acquiescence therein. No notice by City shall be required to restore or revive time as being of the essence hereof after waiver by City of default in one or more instances.

12.4 Situs and Service of Process. City and Lessee agrees all actions or proceedings arising directly or indirectly from this Agreement shall be litigated only in courts having situs within Burke or Caldwell County, State of North Carolina, and City and Lessee hereby consent to the jurisdiction of any local, state or federal court located within the State of North Carolina.

12.5 Agreement Binding Upon Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

12.6 Time of Essence. Time is expressly agreed to be of the essence of this Agreement.

12.7 Applicable Law. This Agreement and every question arising hereunder shall be construed or determined according to the laws of the State of North Carolina.

12.8 Quiet Enjoyment. The City agrees that Lessee, upon payment of all fees, charges and other payments required under the terms of this Agreement and observing and keeping the conditions and covenants of this Agreement on its part to be observed and kept, shall lawfully acquire and hold, use and enjoy the Leased Premises during the term of this Agreement.

12.9 Lessee's Dealings with City. Whenever in this Agreement, the Lessee is required or permitted to obtain the approval of, consult with, give notice to, or otherwise deal with the City, the Lessee shall deal with the City's authorized representative; and unless or until the City shall give Lessee written notice to the contrary, the City's authorized representative shall be the Airport Manager.

12.10 Notices, Consents and Approval.

(a) All notices, consents and approvals required or authorized by this Agreement to be given by or on behalf of either party to the other shall be in writing and signed by a duly designated representative of the party by or on whose behalf they are given, and shall be deemed given three (3) days after the time a registered or certified letter properly addressed, postage prepaid, is deposited in any United States post office.

(b) Notice to the City shall be addressed to it and delivered to the office of the Airport Director, Hickory Regional Airport, 3101 9<sup>th</sup> Avenue Drive, NW, Hickory, North Carolina 28638, either by registered or certified mail, postage prepaid, or at such other office as it may hereafter designate by notice to the Lessee in writing.

(c) Notice to the Lessee shall be addressed to the attention of Chief Pilot, CommScope, Inc. of North Carolina, 1100 CommScope Place, S.E., Hickory, NC 28602, with a required copy to CommScope, Inc. of North Carolina, 1100 CommScope Place, S.E., Hickory, NC 28602, Attention: General Counsel, either by registered or certified

mail, postage prepaid, or at such other office in the continental United States as it may hereafter designate by notice to the City in writing.

12.11 Drug-Free Workplace. Lessee will endeavor to enforce Lessee's normal policies intended to provide a Drug-Free Workplace.

12.12 Tenant. The parties hereto agree that the Lessee is a tenant of the City and is not subject to direction or control of the City, except as specified in this Agreement, and except by general rules and regulations adopted for the control and regulation of the Airport and its facilities in accordance with this Agreement.

12.13 Interpretation. The language of this Agreement shall be construed according to its fair meaning, and not strictly for or against either City or Lessee. The section headings appearing herein are for the convenience of the parties and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of provisions of this Agreement. If any provision of this Agreement is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Agreement and all such other provisions shall remain in full force and effect; and it is the intention of the parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

12.14 Memorandum of Lease in Lieu of Recording. The parties agree that should either desire that adequate legal notice of this Agreement be given on the public records of Catawba and Burke Counties, North Carolina, the other will agree to the execution of a memorandum of this Agreement containing a sufficient description of the parties, the Leased Premises and term of this Agreement to comply with the minimum requirements for the giving of such notice.

12.15 Warranty of Title. The City represents and warrants that it has good and merchantable fee simple title to the Leased Premises and has full right to lease the Leased Premises to Lessee.

12.16 Force Majeure. It is expressly understood and agreed that if the curing of any default (other than failure to pay rent, taxes, utilities, insurance premiums or other sums of money) or the performance of any other covenant, agreement, obligation or undertaking herein contained (other than payment of rent, taxes, insurance premiums or other sums of money) is delayed by reason of war, riots or civil commotion, acts of God, governmental restrictions, regulations, or interferences, fire or other casualty, strikes, shortages of labor or material, or any circumstances reasonably beyond the control of the party obligated or permitted under the terms hereof to do or perform the same and without such party's fault, regardless of whether any such circumstance is similar to any of those enumerated or not, each such party shall be excused from doing or performing the same during such period of delay.

12.17 Entire Agreement. The provisions of this Agreement contain the entire understanding between the parties hereto and said Agreement may not be changed, altered or modified.

(Signatures appear on following page)

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed, in duplicate, with all the formalities required by law.



Lessee: COMMSCOPE, INC. OF NORTH CAROLINA

By: [Signature]  
Title: Senior VP  
Date: \_\_\_\_\_

Lessor: CITY OF HICKORY

By: [Signature]  
Title: Mayor  
Date: 9-18-2012

ATTEST:

[Signature]  
City Clerk

Exhibits:

A Leased Premises

Approved as to form  
[Signature]  
City of Hickory - Legal Dept.

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

[Signature]  
City of Hickory  
Finance Officer

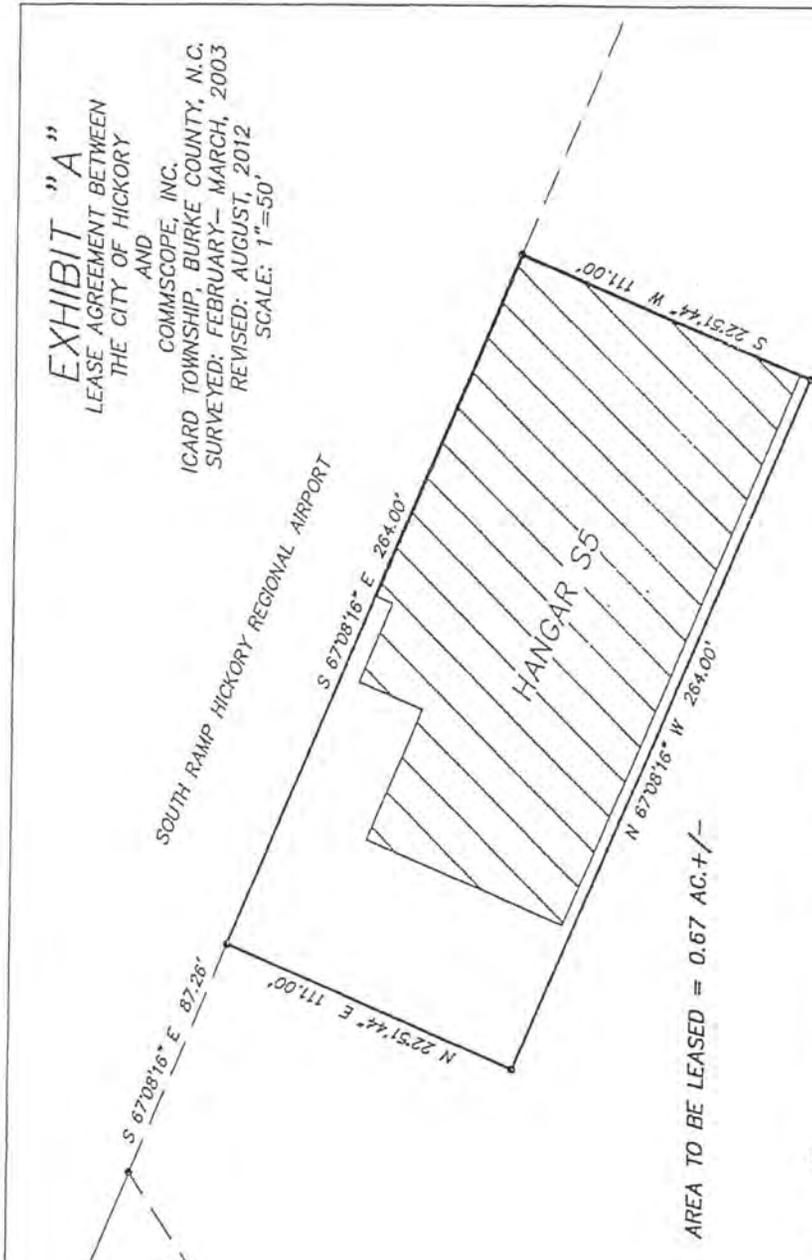
**EXHIBIT "A"**  
LEASE AGREEMENT BETWEEN  
THE CITY OF HICKORY

AND

COMMSCOPE, INC.  
ICARD TOWNSHIP, BURKE COUNTY, N.C.  
SURVEYED: FEBRUARY-MARCH, 2003  
REVISED: AUGUST, 2012  
SCALE: 1"=50'

SOUTH RAMP HICKORY REGIONAL AIRPORT

HANGAR S5



AREA TO BE LEASED = 0.67 AC. +/-

NOTE:  
UNLESS OTHERWISE INDICATED ALL POINTS  
ARE COMPUTED POINTS, NO IRONS SET.

ROP OF CONTROL TRAVERSE = 1:10,000+

GRID NORTH BASED ON NAD 83

5/8" REBAR SET AT NC GRID COORDINATES (NAD 83)  
N 732,047.55 , E 1,291,087.71 AND BEING A GRID  
BEARING AND DISTANCE OF S 22°02'06" W 1641.39'  
(CF. 0.99885625) FROM NGGS MON. "HICKORY PORT" HAVING  
NAD 83 GRID COORDINATES OF N 733,569.04, E 1,291,703.52.

I, JOHN T. FURMAGE, CERTIFY THAT THIS MAP WAS  
DRAWN UNDER MY SUPERVISION FROM AN ACTUAL  
FIELD SURVEY MADE UNDER MY SUPERVISION.

*John T. Fumage* 8-23-12

JOHN T. FURMAGE L-1525  
SURVEYOR, CITY OF HICKORY  
76 N. CENTER ST.  
HICKORY, NC  
(828)323-7416



NOTE:  
UNLESS ACCOMPANIED BY EMBOSSED SEAL AND ORIGINAL  
SIGNATURE, DRAWING IS PRELIMINARY AND IS NOT  
TO BE USED FOR SALES, CONVEYANCE OR RECORDATION.

I, *Col Overby*, REVIEW OFFICER OF  
BURKE & CATAWBA COUNTY, CERTIFY ON THIS 23<sup>d</sup>  
DAY OF August, 2012, THAT THE MAP TO WHICH  
THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY  
REQUIREMENTS FOR RECORDING.

*Col Overby*  
REVIEW OFFICER

16  
COUNCIL AGENDA MEMOS

Exhibit VIII.Q.

**To:** City Manager's Office  
**From:** Terry Clark, Airport Director  
**Contact Person:** Terry Clark  
**Date:** 10-6-16  
**Re:** Approve Renewal Option of Lease Agreement dated March 5, 1996 with FMD Aviation, LLC; owner Frank Drendle, Chairman of the Board of CommScope for an additional five (5) year period

**REQUEST:**

City Council's approval to renew the Lease Agreement with FMD Aviation, LLC for an additional five (5) years as noted in the original lease dated March 5, 1996. This will be the second five (5) year renewal option period under this lease.

**BACKGROUND:**

FMD Aviation, LLC constructed a hangar located on the south side of the Hickory Regional Airport and entered into a fifteen-year lease agreement with the City of Hickory in March 1996. The lease includes an option to extend for two five-year terms. The lease was extended in March 2011 for five years and FMD desires to utilize their lease option for an additional five (5) years. All original terms and conditions will remain in full force and effect. FMD Aviation, LLC is currently paying \$1,364.31 per month to the City of Hickory as an operations fee for the airport. The Lease Agreement states every twelve month period following the initial twelve month period shall be adjusted by two percent (2%) or CPI, whichever is lower. The 5-year renewal period expires in March 2021.

**ANALYSIS:**

Frank Drendle owns and operates his own aircraft along with CommScope's Flight Department. Renewing the lease option is in direct line with the Airport Task Forces' mission to develop and expand the future of the Hickory Regional Airport. FMD Aviation, LLC continues to increase the number of aircraft and employees at the airport. They are an outstanding company and a great ambassador for the City of Hickory and the Hickory Regional Airport.

**RECOMMENDATION:**

City staff highly recommends approval to renew the lease option with FMD Aviation, LLC for an additional five (5) years.

**Informational**

(Some info items will not have to appear on the Council agenda, but will be communicated to Council in weekly Communication format. These items will still require a Council Agenda Memo)

**Requires Council Approval**

(All new or revisions in Ordinances or Council enacted policies, as well as contracts/agreements over \$100,000 will be placed on Agenda)

**BUDGET ANALYSIS:**

**Budgetary Action**

Is a Budget Amendment required?

Yes

No

Source of City/State/Federal funds?

**Revenues**

State/Federal Funds: (Codes)

- - -  
- - -

City Funds: (Codes)

- - -  
- - -

Other Financial Resources: (Codes)

- - -  
- - -

In-kind Services: (Describe)

**TOTAL**

\$  
\$  
\$  
\$

**Expenditures: (Codes)**

- - -  
- - -  
- - -  
- - -

\$  
\$  
\$  
\$

**TOTAL:**

**Reviewed by:**

Terry Clark  
Initiating Department Head

10-6-16  
Date

Arnetta M. Dula  
Deputy City Attorney, A. Dula

10-14-16  
Date

Ricky Miller  
Asst. City Manager, R. Miller

10-11-16  
Date

A. Surratt  
Asst. City Manager, A. Surratt

10/14/16  
Date

M. Miller  
Finance Officer, M. Miller

10-10-16  
Date

B. Weichel  
Purchasing Manager, B. Weichel

10-10-16  
Date

Recommended for approval and placement on \_\_\_\_\_ Council agenda (as Consent, Public Hearing, Informational, Department Report, etc).

A. Surratt  
Interim City Manager, Andrea Surratt

10/14/16  
Date

APPROVED BY CITY COUNCIL	
APPROVED	
02/20/96	1st RDNG.
03/05/96	2nd RDNG.

Prepared by: M. Victoria Jayne, City Staff Attorney, City of Hickory

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTIES OF CATAWBA AND BURKE

THIS LEASE AGREEMENT made and entered into this 5<sup>th</sup> day of March, 1996, by and between the **CITY OF HICKORY**, a municipal corporation, organized under the laws of the State of North Carolina, hereinafter referred to as "Lessor", and **FMD AVIATION, LLC**, a North Carolina limited liability company, hereinafter referred to as "Lessee".

WITNESSETH:

THAT WHEREAS, the Lessor is the owner of a tract of land located in Catawba and Burke Counties, known as the Hickory Regional Airport, and

WHEREAS, Lessee desires to enter into a lease on a certain portion of the Airport as shown on attached Exhibit A which is incorporated herein by reference and made a part of this Lease;

NOW, THEREFORE, for and in consideration of the premises and covenants contained herein, and in further consideration of the payment of rent hereinafter stipulated and of the terms and conditions herein set forth, the parties hereto agree as follows:

I.  
LEASED PROPERTY, A DESCRIPTION

That property located on the Hickory Regional Airport area property as shown on attached Exhibit A which is incorporated herein by reference and made a part of this Lease.

II.  
USE OF LEASED PROPERTY

A. Use by Lessee. Lessee and its affiliates shall use the leased property on which to construct a corporate hangar with offices, pilots' lounges, restrooms, aprons, ramps, taxiways, and auto parking in accordance with the statement of policy for lease of space for construction of aircraft hangars for the Hickory Regional Airport.

B. Ingress and Egress. Lessee and its affiliates shall have the right of ingress to and egress from the premises over existing or future airport roadways, including the use of common use roadways expressly subject to such rules and regulations as may be established by the Airport Manager as respecting such use and subject to law. Lessee shall have the right of ingress to and

egress from the premises by way of aircraft, taxiway or aircraft access way adequate for Lessee's existing aircraft.

### III. RESTRICTIONS ON USE OF LEASED PREMISES

A. Vending Machines. Machines vending tobacco, candy, confections, beverages, light refreshments or convenience items may be permitted on the premises only under the terms, fees, and conditions of an appropriate written permit issued by the Airport Manager.

B. Rent-a-Car and Food Service. Lessee does not have the right to contract with, solicit for or provide to the public rent-a-car service, food services or any service not directly related to Lessee's use as a corporate hangar facility as determined by Lessor.

C. Premises to be Used for Designated Purposes. The premises shall not be used for any purposes except for the purposes herein designated without the written consent of the Lessor or Lessor's Agent, the Airport Manager.

D. Control of Lighting. Lessee agrees to control all future lighting on the premises so as to prevent illumination from being a hazard to pilots landing on or taking off from or taxiing on the airport. The determination of a hazard shall rest solely upon the judgment of the Airport Manager.

E. No Services or Products for the Public. Lessee does not have the right to sell or provide any type fuel or aviation services to the public including but not limited to aircraft leasing, aircraft maintenance, aircraft flight instruction, engine maintenance, hangar storage or tiedown.

F. Lessee does not have the right to operate, contract for, solicit for or provide to Lessor any public helicopter operations at, to or from leased premises.

G. Lessee may permit The Sabre Society of North Carolina to hangar or tie-down its aircraft on the demised premises without charge.

H. Lessee shall not engage in the business of a fixed base operator and shall not provide any services for corporate or private aircraft or any other aircraft other than as specifically set forth hereinabove unless Lessee qualifies as a fixed base operator pursuant to the regulations adopted by the City of Hickory for such operators. In the event Lessee qualifies and develops as a fixed base operator, the Lessor will cooperate with Lessee to locate a mutually suitable site for a fuel farm for Lessee to operate on the same terms and conditions as other fixed base operators.

IV.  
TERM OF LEASE

(a) Initial Term. The initial term of this Lease shall be for a period of fifteen (15) years, commencing on the 5 day of March, 1996, and expiring on the 4 day of March, 2011.

(b) Option Periods. The initial term of this Lease may be extended at Tenant's discretion for two (2) additional terms of five (5) years each, hereinafter referred to individually as an "Option Period" and collectively as the "Option Periods", for the rental hereinafter provided and upon the same terms and conditions as herein contained provided that (i) written notice of the exercise of each Option Period shall be given by Lessee to Lessor at least ninety (90) days before the expiration of the initial term of this Lease or the first Option Period, as applicable, and (ii) all obligations and conditions to be performed by Lessee at the expiration of the initial term of this Lease or the first Option Period, as applicable.

V.  
LEASE PAYMENT

A. Operations Fee. Lessee agrees to pay Lessor a monthly fee of One Thousand Dollars (\$1,000), said fee to begin on April 1, 1996. Said fee is accrued on a monthly basis and shall be paid on the first day of each month in advance during the full term of this Lease. *operations fee not rent*

B. Escalation. At the beginning of each annual period following the execution of the Lease, the basic fee shall be subject to increase but not to decrease as follows:

At the end of the first twelve month period, and every twelve month period thereafter, the monthly fee, which was payable for the immediately preceding year, shall be adjusted by two percent (2%) or a consumer price index published for the month of December of the year immediately preceding, whichever is lower. The monthly fee so adjusted shall become the adjusted monthly fee. Consumer Price Index shall be the Consumer Price Index for Urban Wage Earners and Clerical Worker issued by the U.S. Bureau of Labor Statistics. If the Consumer Price Index published by the U.S. Bureau of Labor Statistics, then the Consumer Price Index published by the U.S. Department of Commerce shall be used with proper adjustment, and if the U.S. Department of Commerce Index is discontinued, then Lessor and Lessee shall in good faith agree on a suitable substitute. In no event shall the Lessor receive an amount less than the initial monthly fee.

C. Default by Lessee. An event of default shall occur under this Lease if Lessee

- (a) fails to pay any installment of rent promptly on or before the same shall become due and payable hereunder and fails to cure such default for a period of fifteen (15) days after written notice thereof by Lessor;
- (b) makes an assignment for the benefit of creditors, becomes insolvent or is adjudicated as bankrupt, files or has filed against it in any court a petition in bankruptcy or avails itself of any other debt relief proceeding;
- (c) subjects any of its assets or property to levy attachment or any other legal process which is not satisfied or dissolved within ninety (90) days from the date of said process;
- (d) vacates or abandons the demised premises;
- (e) causes the demised premises to be encumbered in any manner and such encumbrance is not released within ninety (90) days thereafter, provided, however, this provision shall not be deemed to prohibit Lessee from encumbering its interest in this Lease;
- (f) fails to keep and perform promptly any other affirmative covenant of this Lease strictly in accordance with the terms of this Lease and fails to cure such default for a period of fifteen (15) days after written notice thereof by Lessor, then in any such event of default and as often as any such event of default shall occur, Lessor may, at its option,
  - (1) declare the lease term ended and enter into said demised premises or any part thereof, either with or without process of law and expel Lessee or any person occupying the same from the demised premises, using such force as may be necessary and to repossess and enjoy the demised premises as in Lessor's former estate, or
  - (2) relet the demised premises, applying said rent from the new tenant on this Lease and Lessee shall be responsible for no more than the balance that may be due should a balance exist; Lessee shall pay Lessor's reasonable attorney's fees in connection with any default by Lessee under this Lease, notwithstanding the recital of any specific remedies herein, Lessor shall have all rights without limitation to which Lessor is entitled in law or in equity.

VI.  
SCHEDULE OF IMPROVEMENTS BY LESSEE

A. Minimum Improvements. Lessee shall construct a corporate type aircraft hangar of not less than 17,550 square feet on the premises within \_\_\_\_ months from the date of commencement. The hangar shall meet the standards as set forth in the Statement of Policy for Lease of Space for Construction of Aircraft Hangars for the Hickory Regional Airport. Said plans for the construction of the hangar shall be submitted to the Airport Manager for approval prior to beginning construction. Said approval not to be unreasonably withheld by the Lessor.

Lessee shall have the right to construct an access road necessary to reach the corporate hangar.

Lessee shall have the right to provide a paved aircraft apron with connection to the nearest taxi access way and an automobile parking area suitable to the needs of the Lessee, as shown on the site plan submitted to the Lessor for approval.

B. Plans and Specifications. No improvements including landscaping shall be erected or placed on the premises and no alterations shall be made in the improvements and facilities constructed without prior written approval by Lessor which shall not be unreasonably withheld.

C. The parties agree that the Lessee may finance the construction of improvements described above with proceeds of a loan from a lender and Lessor agrees to allow Lessee to mortgage its leasehold interest for the purpose of obtaining such a loan. In the event the Lender shall proceed to the position of the Lessee hereunder, the Lender shall have the right to exercise all of the rights given hereunder to the Lessee without further consent.

VII.  
CONSTRUCTION

A. Schedule.

1. Lessee agrees that at least thirty (30) days prior to beginning of construction, it will submit a notice of construction of alteration to the Federal Aviation Administration with a copy to the Airport Manager as required by Paragraph 77.13(5)(1) of Part 77, Federal Aviation Regulation.

2. Within the time schedule set forth in Section 6A, Lessee agrees to construct or cause to be constructed and completed upon the premises in accordance with the terms of this Lease and all applicable laws, ordinances, regulations, and matters of record the improvements and facilities set forth in Section 6A hereof. The date for completion may, however, be extended for the period of any unavoidable delay if Lessee makes a claim for such a claim in writing to the Lessor within ten (10) days after the commencement of the cause for such delay. For the purpose of this Lease, the term "unavoidable delay" shall mean delays suffered by the Lessee or Lessee's contractors

which necessarily and materially interferes with the progress and extends the time required for the completion of such work and which is caused by but not limited to such events as acts of God or the elements, strikes, lockouts, fire or other causes beyond the control of Lessee or Lessee's contractors.

B. Building Code. Any building constructed on the premises shall be constructed in conformance with the North Carolina State Building Code and the NFPA 409 standard on aircraft hangars, including all amendments and appendixes thereto and all applicable codes and regulations of the City of Hickory.

C. Default by Failure to Construct. Any breach by Lessee of any of the terms and provisions of Sections 5, 6, and 7 of this Lease shall be deemed to be an event of default by Lessee hereunder.

## VIII. COMPLIANCE WITH LAWS AND REGULATIONS

A. Non-Discrimination. Lessee agrees that in its operation and use of the Hickory Regional Airport, it will not on the grounds of race, color or national origin discriminate or permit discrimination against any person or group of persons in any manner prohibited by Part 21 of the Department of Transportation Regulations.

B. Airport Rules and Regulations. Lessee agrees to abide by all rules and regulations concerning operational safety, parking of aircraft and other vehicles, fire prevention, and all other pertinent provisions as promulgated by the Airport Manager and the Code of the City of Hickory.

C. FAA Rules and Regulations. Lessee shall at all times conduct its business in a lawful manner and at all times conform to the rules and regulations of the FAA insofar as applicable to Lessee's possession and business.

D. Disturbance on Premises. Lessee shall not commit or suffer to be committed in or upon the premises any other act or thing which may unreasonably disturb the quiet enjoyment of any other tenant of the airport.

E. Fuel Purchase. Lessee agrees that if planes are fueled at Hickory Regional Airport, fuel will be purchased from FBO located at Hickory Regional Airport.

## IX. UTILITIES

Payment For. It is understood and agreed that the fee as noted does not include payment for utilities. Lessee shall throughout the term of this Lease pay all utility bills, including but not limited to installation of meters, water, electricity, sewer, telephone, utility connections, etc.

X.  
LESSEE TO HOLD HARMLESS

Lessee shall be responsible at the time of the signing of the Lease for all injury or damage of any kind resulting from the work or the occupancy of the premises by Lessee to persons or property. The Lessee shall exonerate, indemnify, and save harmless the Lessor from and against all claims or actions and all expenses incidental to the defense of any such claim, litigation and action based upon or arising out of damage or injury to persons or property, including employees and property of the Lessor caused by or sustained in connection with the performance of this Lease by Lessee or by conditions created thereby or arising out of or in any way connected with work performed under this Lease by Lessee and shall assume and pay for without cost to the Lessor the defense of any and all claims, litigation, and action suffered through any act or omission of the Lessee or any subcontractor or anyone directly or indirectly employed by or under the supervision of any of them or in any way arising out of the use and occupancy of the premises. The Lessee expressly agrees to defend against any claims brought or actions filed against the Lessor where such claim or action involves in whole or in part the subject of the indemnity contained herein, whether such claims or actions are rightfully or wrongfully filed.

XI.  
LIABILITY

A. General Indemnification. Lessee shall indemnify, defend, and hold harmless on demand the City, its elected or appointed officials, agents, boards, commissions, employees, and representatives for, from, and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges, and expenses, including reasonable attorney's fees, of any character or any nature arising out of or in connection with any act or omission of Lessee or its affiliates, agents, employees, invitees, contractors, visitors, licensees or any other person in any way arising out of or resulting from any activity of Lessee or its affiliates at or on the demised premises for the airport. Lessee's obligations under this article shall survive any expiration or earlier termination of this agreement.

B. Environmental Indemnification. Lessee shall indemnify, defend, and hold harmless on demand, the City, its elected or appointed officials, agents, boards, commissions, employees, and representatives for, from, and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges, and expenses, including reasonable attorney's fees, of any character or any nature arising out of or in connection with any act or omission of Lessee or its affiliates, agents, employees, invitees, contractors, visitors, licensees or any other person involving any spill, release, discharge or disposal of hazardous material, including without limitation, all costs and expenses relating to the cleanup of hazardous material as a result of activities on or contamination of the demised premises or the airport during the term of this agreement or any other period of time during which Lessee has or has had possession or control of the demised premises. Lessee's obligations under this article shall survive any expiration or earlier termination of this agreement.

## XII. LIENS

Lessee shall keep the premises and all improvements thereon free from any and all liens arising out of any work performed, materials furnished or obligation incurred by Lessee, Lessee's employees, agents or contractors.

## XIII. BANKRUPTCY

In the event that bankruptcy or state insolvency or receivership proceedings shall be filed and sustained against Lessee, its heirs, executors, administrators, successors or assigns, it shall give the right to Lessor at its option to immediately declare this contract null and void and resume possession of the premises.

## XIV. PUBLIC LIABILITY INSURANCE

Policy. Lessee shall maintain in force during the terms of this Lease comprehensive, general public liability and property damage insurance at a minimum of One Million Dollars (\$1,000,000) per occurrence for both property damage and personal injuries and a total policy aggregate of Three Million Dollars (\$3,000,000) for injury to property or person. In addition, Lessee shall provide Lessor with a certificate of insurance naming Lessor as additional insured at the time of the execution of the Lease.

## XV. DAMAGE, DESTRUCTION OR CONDEMNATION OF LEASED PREMISES

It is hereby agreed that in the event of fire or other casualty during the initial term of the Lease and any Option Period, Lessee shall have the right, subject to the prior written approval of the Lender so long as the Lender has an interest in the Demised Premises, to use the proceeds of any such insurance to repair or reconstruct the damaged or destroyed building or buildings to the extent necessary to restore such building or buildings to at least as good as their condition prior to such casualty, and the balance of such insurance proceeds not necessary for such repair or reconstruction of such building or buildings shall be paid to Lessee, in which event the casualty insurance proceeds shall be divided between Lessor and Lessee in proportions prorated on a monthly basis over a twenty-five (25) year period of time with Landlord to receive the portion allocated to completed months and Lessee to receive the portion allocated to uncompleted months. In the event of damage or destruction of any building or buildings on the Demised Premises and Lessee shall elect to repair or reconstruct said building or buildings, rental shall abate during the period the Demised Premises are unusable.

If any substantial part of the Demised Premises is taken under the power of eminent domain (including any conveyance made in lieu thereof), and such taking shall make the Lessee's use of the Demised Premises commercially impracticable, then either Lessee or Lessor shall have the right to terminate this Lease by giving the other written notice of such termination within thirty (30) days after such taking; and if neither party elects to so terminate this Lease, Lessee, at its option but subject to the prior approval of Lender, may apply the proceeds of condemnation to repair and restore the Demised Premises to tenantable condition, in which case the rental to be paid by Tenant hereunder shall be proportionately and equitably abated. Any proceeds for any such appropriation shall be payable first to Lender, as its interest may appear, and then to Lessor and Lessee, in the same manner as casualty insurance proceeds are to be prorated. Subject to the above, Lessor shall receive as much of any compensation award necessary to compensate it for the value of the land taken under the power of eminent domain.

XVI.  
TITLE

All trade fixtures and equipment of the Lessee shall remain and continue to be the sole and absolute property of the Lessee and may be replaced at Lessee's expense during the term of this Lease and may be removed at Lessee's expense at the expiration or termination of this Lease provided, however, that such removal shall not impair the structural integrity of any building constructed on the demised premises and all damage caused by such removal shall be repaired at Lessee's expense in a workmanlike manner consistent with all applicable laws. From and after completion of construction, the building and improvements constructed by the Lessee on the demised premises other than trade fixtures and equipment as described above shall be vested in the Lessor upon completion of construction.

XVII.  
LESSEE'S ENCUMBRANCES

Obligations. Lessee shall not encumber Lessee's interest in the premises or in any improvements Lessee places thereon by mortgage, deed of trust or other instrument without the prior written consent of Lessor.

XVIII.  
TERMINATION BY LESSEE

The Lessee may cancel this Lease at any time if the airport ceases to be used for airport purposes.

XIX.  
HAZARD INSURANCE

Lessee shall maintain and keep in force hazard insurance on the demised premises and all the improvements thereon. Said insurance shall include protection against all the hazards covered by the Broad Form Fire and Extended Coverage Form of Insurance Policy in effect in North Carolina and shall be in an amount equal to at least 90% of the full replacement value of all permanent improvements on the demised premises or the amount of the outstanding balance of the loan from lender to the Lessee, whichever is greater, with a loss payable clause payable to (1) Lessor, (2) Lender as its interests may appear, and (3) Lessee. Prior to the commencement of the term of this Lease and upon the request of Lessor or Lender from time to time during the term of this Lease and any option period, Lessee shall furnish Lessor and Lender with certificates of insurance evidencing the insurance coverage required herein.

XX.  
REDELIVERY OF PREMISES

Lessee shall upon termination of this Lease, in any manner quit and deliver up the premises to Lessor peaceably, quietly, and in as good order and condition as the same now are or may be hereafter improved by Lessee or Lessor, loss from hazards, acts of God, and reasonable use and wear thereof excepted.

XXI.  
QUIET ENJOYMENT

Lessee upon payment of the fees and all other payments and charges to be paid by Lessee under the terms of this Lease and upon observing and keeping the agreements and each of the covenants of this Lease on the part of the Lessee to be observed and kept, shall lawfully and quietly hold, occupy, and enjoy the premises during the term of this Lease.

XXII.  
SALE, ASSIGNMENT, TRANSFER, AND SUBLETTING

Lessee shall not hereof sell, assign, sublet or transfer this Lease without the prior written consent of the Lessor. Lessee may assign, pledge, hypothecate or grant a security interest in its interest in the demised premises and in the Lease in order to obtain financing for the construction of the improvements on the demised premises without the prior written consent of the Lessor.

XXIII.  
INTEREST

Any sums due to be paid by the Lessee to or for the benefit of the Lessor which are not paid when due shall bear interest from the due date of payment at the rate eight percent (8%) per annum.

XXIV.  
LEASE IN NORTH CAROLINA

This Lease has been made in and shall be construed in accordance with the substantive laws of the State of North Carolina.

XXV.  
HEADINGS

The headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provisions of this Lease.

XXVI.  
NOTICES

All notices to be given hereunder shall be in writing and shall be deemed given when deposited in the United States Mail, postage prepaid, certified and addressed as follows or to such other address as from time to time as may be designated by either party by written notice to the other party.

LESSOR: City of Hickory  
Hickory Regional Airport  
Attn: Airport Manager  
P.O. Box 398  
Hickory, NC 28603

LESSEE: FMD Aviation, LLC  
Attn: Frank Drendel  
P.O. Box 339  
Hickory, NC 28603

XXVII.  
SUCCESSORS AND ASSIGNS

Subject to the terms and conditions of this Lease, the provisions of this Lease shall bind and inure to the benefit of the successors and assigns of the parties hereto.

XXVIII.  
LATE PAYMENT CHARGE

Lessee agrees to pay a penalty charge to Lessor in an amount equal to five percent (5%) of each monthly payment not received by Lessor within ten (10) days of date by which payment is due.

XXIX.  
AMENDMENT OF LEASE

All duties, obligations, and liabilities of Lessor and Lessee can be amended only in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this 5<sup>th</sup> day of March, 1996.

LESSOR:

CITY OF HICKORY

By: William R. McDonald, III  
William R. McDonald, III, Mayor

ATTEST:

B. Gary McGee

B. Gary McGee, City Manager

SEAL

LESSEE:

FMD AVIATION, LLC

By: Frank Drendel  
Frank Drendel

STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA

I, Theelda B. Rhoney a Notary Public of said county and state, certify that B. Gary McGee personally came before me this day and acknowledged that he is City Manager of the City of Hickory, a North Carolina municipal corporation, and that by authority duly given and as the act of the City Council of the City of Hickory, the foregoing instrument was signed in its name and by its Mayor, sealed with its corporate seal and attested by him as its City Manager.

Witness my hand and seal this 5<sup>th</sup> day of March, 1996.

Theelda B. Rhoney  
Notary Public

(SEAL)

My Commission expires: 10/11/96

STATE OF NORTH CAROLINA  
COUNTY OF CATAWBA

I, Angela Hollar, a Notary Public of said county and state, do hereby certify that Frank Drendel, on behalf of FMD Aviation, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 27<sup>th</sup> day of February, 1996.

Angela Hollar  
Notary Public

(SEAL)

My Commission expires: 12-21-97

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

\_\_\_\_\_  
Finance Director, City of Hickory

Date: \_\_\_\_\_

APPROVED AS TO FORM: M. Victoria Jayne 2-29-96  
M. Victoria Jayne, City Staff Attorney Date

## EXHIBIT "A"

Lying and being in the City of Hickory, Hickory Township, Catawba County, North Carolina and more particularly described as follows:

BEGINNING at a point in the western line of the Kathleen M. Hollar property said BEGINNING point being located North  $04^{\circ}19'00''$  East 500.38 feet from a  $1\frac{1}{4}$ " iron pipe in the Northern margin of the right-of-way for 2nd Avenue, NW; and running thence with the Kathleen M. Hollar line North  $04^{\circ}19'00''$  East 21.81 feet to a point; a new corner; thence a new line North  $67^{\circ}13'32''$  West 432.24 feet to a point, a new corner; thence a new line South  $22^{\circ}46'26''$  West 130.00 feet to a point in the Northern edge of the abandoned Runway 29; a new corner; thence with the edge of abandoned Runway 29 a new line South  $67^{\circ}10'56''$  East 439.15 feet to a point, a new corner; thence a new line North  $22^{\circ}46'21''$  East 109.65 feet to the Beginning, and containing 1.31 acres, more or less, computed by the coordinate method by Miller Surveying, Inc., as known on a drawing bearing File No. 1295760 and Drawing No. H-3B-2379 dated February 19, 1996.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HICKORY, NORTH CAROLINA DESIGNATING THE CITY MANAGER AND CHIEF FINANCIAL OFFICER AS AUTHORIZED OFFICERS TO DECLARE THE INTENTION OF THE CITY OF HICKORY, NORTH CAROLINA TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH TAX-EXEMPT OBLIGATIONS.

*WHEREAS*, the City of Hickory, North Carolina ("*City*") from time to time finances capital projects with tax-exempt obligations;

*WHEREAS*, the City sometimes must expend its own available funds for capital projects in advance of completing a tax-exempt financing;

*WHEREAS*, under certain provisions of the Internal Revenue Code, in order for the City to reimburse itself for expenditures incurred before a tax-exempt financing is completed, the City must declare its intent to reimburse itself within 60 days from the date of such capital expenditure;

*WHEREAS*, the declaration of the intent to reimburse itself does not obligate the City to complete the tax-exempt financing but allows the City to reimburse itself from an expected tax-exempt financing;

*WHEREAS*, for administrative convenience, the City Council of the City wants to designate the City Manager and the Chief Financial Officer of the City as authorized officers to declare the intention of the City to reimburse itself for capital expenditures incurred in connection with a tax-exempt financing;

*NOW, THEREFORE, BE IT RESOLVED* by the City Council of the City of Hickory, North Carolina as follows:

Section 1. *Designation to Make Declarations of Intent.* The City Manager and the Chief Financial Officer of the City, individually or collectively, are hereby authorized and designated by the City Council to make, by appropriate action as an authorized representative of the City acting on behalf of City, declarations of official intent within the meaning of Section 1.150-2 of the Treasury Regulations promulgated under Section 103 of the Internal Revenue Code of 1986, as amended, evidencing the City's intent to reimburse itself for expenditures incurred and paid by the City in connection with projects from the proceeds of tax-exempt obligations.

Section 2. *Effective Date.* This Resolution shall become effective immediately upon the date of its adoption.

Read, approved and adopted this \_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Approved as to form:

\_\_\_\_\_  
City Attorney

5  
**COUNCIL AGENDA MEMOS**

**To: City Manager's Office**  
**From: Kevin B. Greer, PE, Assistant Public Services Director - Public Utilities**  
**Contact Person: Kevin B. Greer, PE**  
**Date: October 6, 2016**  
**Re: Random Woods Sewer Project**  
**(NC-IFS: E-SRG-T-08-0140).**

**REQUEST**

Staff requests Council acceptance of bid with the responsible low bidder Buckeye Bridge, LLC for the construction of the Random Woods Sewer Project in the amount of \$948,873.00.

**BACKGROUND**

The Public Utilities Department and Catawba County Environmental Health identified Random Woods Subdivision as one of three areas of concern in 1998 as a part of the future service areas for the City of Hickory Sanitary Sewer System. Staff originally applied for State Revolving Grant funds for completion of this project April 1, 1999. Staff was contacted in 2008 about the status of these projects and then asked to resubmit an updated Preliminary Engineers Report in 2009. NCDENR Division of Water Quality and NC Construction Grants and Loans issued final approval of the Preliminary Engineers Report on May 10, 2010. The project consists of three identified concentrations of residential housing that have historical problematic septic systems within the existing City of Hickory ETJ and accessible to existing City of Hickory sanitary sewer lines. Random Woods Subdivision consists of 72 residential lots with homes principally built in the 1960's and 1970's. The project was approved for a grant to fund construction of necessary sanitary sewer infrastructure to provide public sewer to the homes in this subdivision.

**ANALYSIS**

The Random Woods Sewer Project includes construction of approximately 6,800 linear feet of 8-inch PVC or Ductile Iron sanitary sewer lines. Random Woods Subdivision is adjacent to the City of Hickory ETJ and the City of Hickory does have existing sanitary sewer lines available for connection by the proposed subdivision sanitary sewer lines. Construction of the proposed systems in accordance with City of Hickory Specifications will result in negligible increase in maintenance costs for the overall System and will provide for further protection of water quality in the area by potentially eliminating failing on-site septic systems.

North Carolina Department of Environmental Quality- State Revolving Fund awarded the City of Hickory a Grant to fund construction of this project with 2 other projects previously. City Council approved the Resolution accepting the application for Grant funds in July 2010

McGill Associates was responsible for design and bidding of the project. Construction Bids were received from two (2) perspective bidder as follows:

- |                               |              |
|-------------------------------|--------------|
| 1. Hickory Sand Company, Inc. | \$987,825.00 |
| 2. Buckeye Bridge, LLC.       | \$948,873.00 |

This project was distributed to eight (8) perspective bidders with two (2) bidders replying on September 8, 2016 and subsequently at the re-advertised bid on September 20, 2016. Due to receiving only two bids on September 8, 2016, the project was re-advertised for two weeks and opened on September 20, 2016. McGill Associates has evaluated the bid packages and found Buckeye Bridge, LLC to be the lowest responsible bidder and has recommended acceptance and award of the project to Buckeye Bridge, LLC.

Public Utilities request the project be established with \$948,873.00 contract and \$47,444.00 Contingency for a total of \$996,317.00.

**RECOMMENDATION**

Staff recommends Council acceptance of bid with the responsible low bidder Buckeye Bridge, LLC for the construction of the Random Woods Sewer Project in the amount of \$948,873.00.

**BUDGET ANALYSIS:**

**Budgetary Action**

Is a Budget Amendment required?

Yes

No

**LIST THE EXPENDITURE CODE:**

**065-8030-587.58-02 (Project#802501)**

**Reviewed by:**

Chuck Hansen  
Initiating Department Head

10/04/2016  
Date

Antonia Dula  
Deputy City Attorney, A. Dula

10-14-16  
Date

Rodney Miller  
Asst. City Manager Rodney Miller

10-7-16  
Date

A. Surratt  
Asst. City Manager, A. Surratt

10/14/16  
Date

Melissa Miller  
Finance Officer, Melissa Miller

10-7-16  
Date

Bo Weichel  
Purchasing Manager, Bo Weichel

10-10-16  
Date

\_\_\_\_\_  
Date

Recommended for approval and placement on \_\_\_\_\_ Council agenda (as Consent, Public Hearing, Informational, Department Report, etc).

A. Surratt  
Interim City Manager, A. Surratt

10/14/16  
Date

**CERTIFIED BID TABULATION  
RANDOM WOODS SEWER PROJECT, CITY OF HICKORY, NORTH CAROLINA**

No	Description	Qty	Unit	BUCKEYE BRIDGE		HICKORY SAND	
				Price	Extension	Price	Extension
1	Mobilization (3% max.)	1	LS	\$28,435.00	\$28,435.00	\$27,500.00	\$27,500.00
2	8-inch SDR 35 Sewer 0-6'	1220	LF	\$65.90	\$80,398.00	\$95.00	\$115,900.00
	8-inch SDR 35 Sewer 6.1-8'	1500	LF	\$67.30	\$100,950.00	\$96.00	\$144,000.00
	8-inch SDR 35 Sewer 8.1-10'	1360	LF	\$72.40	\$98,464.00	\$97.00	\$131,920.00
	8-inch SDR 35 Sewer 10.1-12'	280	LF	\$76.80	\$21,504.00	\$99.00	\$27,720.00
	8-inch SDR 35 Sewer 12.1-14'	80	LF	\$85.50	\$6,840.00	\$105.00	\$8,400.00
3	8-inch DI CL150 Sewer 0-6'	880	LF	\$76.90	\$67,672.00	\$103.00	\$90,640.00
	8-inch DI CL150 Sewer 6.1-8'	680	LF	\$78.30	\$53,244.00	\$105.00	\$71,400.00
	8-inch DI CL150 Sewer 8.1-10'	380	LF	\$79.80	\$30,324.00	\$107.00	\$40,660.00
	8-inch DI CL150 Sewer 10.1-12'	120	LF	\$87.80	\$10,536.00	\$112.00	\$13,440.00
	8-inch DI CL150 Sewer 12.1-14'	80	LF	\$96.40	\$7,712.00	\$116.00	\$9,280.00
	8-inch DI CL150 Sewer 14.1-16'	80	LF	\$109.50	\$8,760.00	\$120.00	\$9,600.00
	8-inch DI CL150 Sewer 16.1-18'	80	LF	\$131.20	\$10,496.00	\$128.00	\$10,240.00
4	4 Ft. Diameter Manholes 0-6'	8	EA	\$1,854.00	\$14,832.00	\$1,675.00	\$13,400.00
	4 Ft. Diameter Manholes 6.1-8'	12	EA	\$2,023.00	\$24,276.00	\$1,950.00	\$23,400.00
	4 Ft. Diameter Manholes 8.1-10'	10	EA	\$2,303.00	\$23,030.00	\$2,400.00	\$24,000.00
	4 Ft. Diameter Manholes 10.1-12'	4	EA	\$2,539.00	\$10,156.00	\$2,850.00	\$11,400.00
	4 Ft. Diameter Manholes 12.1-14'	0	EA	\$3,500.00	\$0.00	\$3,300.00	\$0.00
5	5 Ft. Diameter Manholes for Outside Drop 16.1-18'	1	EA	\$4,513.00	\$4,513.00	\$6,950.00	\$6,950.00
6	Manhole Outside Drop Assembly	1	EA	\$2,773.00	\$2,773.00	\$2,100.00	\$2,100.00
7	Same Side Sewer Service Connection	35	EA	\$806.00	\$28,210.00	\$1,250.00	\$43,750.00
8	Opposite Side Sewer Service Connection-Bored	23	EA	\$1,081.00	\$24,863.00	\$1,700.00	\$39,100.00
9	4-inch PVC Sewer Service Pipe	1250	LF	\$18.00	\$22,500.00	\$2.00	\$2,500.00
10	Stabilization Stone in Trench 6-inch Depth	1150	LF	\$0.10	\$115.00	\$6.50	\$7,475.00
11	Stream Crossing	6	EA	\$4,828.00	\$28,968.00	\$2,500.00	\$15,000.00
12	Rock Excavation with Select Backfill	2275	CY	\$60.00	\$136,500.00	\$0.00	\$0.00
13	Silt Fence	2900	LF	\$2.90	\$8,410.00	\$4.00	\$11,600.00
14	Straw Roll Wattle	40	EA	\$63.50	\$2,540.00	\$35.00	\$1,400.00
15	Construction Entrance	4	EA	\$974.00	\$3,896.00	\$400.00	\$1,600.00
16	Asphalt Pavement Repair	180	LF	\$137.30	\$24,714.00	\$150.00	\$27,000.00
17	Asphalt Driveway Repair	30	LF	\$36.80	\$1,104.00	\$75.00	\$2,250.00
18	Concrete Driveway Repair	375	LF	\$75.30	\$28,237.50	\$5.00	\$1,875.00
19	Gravel Driveway Repair	40	LF	\$9.10	\$364.00	\$20.00	\$800.00
20	Rip-Rap on Creek Banks Class B Stone	150	TN	\$48.30	\$7,245.00	\$55.00	\$8,250.00
21	Pipe Outlet Protection	5	EA	\$78.00	\$390.00	\$250.00	\$1,250.00
22	Pipe Inlet Protection	8	EA	\$78.00	\$624.00	\$150.00	\$1,200.00
23	Seeding	7.5	AC	\$2,237.00	\$16,777.50	\$2,000.00	\$15,000.00
24	Ditch Liner/ Matting	5,550	LF	\$1.00	\$5,550.00	\$1.50	\$8,325.00
25	8-inch Sewer Connection to Existing Manhole	1	EA	\$2,950.00	\$2,950.00	\$17,500.00	\$17,500.00
				<b>TOTALS:</b>	<b>\$948,873.00</b>		<b>\$987,825.00</b>

This is to certify that the bids tabulated herein were accompanied by a 5% bid bond or certified check and publicly opened and read aloud at 2:00 pm local time on the 20th day of September, 2016, in the Hickory Public Works Building, 1441 9th Avenue, NE, Hickory, North Carolina 28601.

R. J. MOZELEY, PE

\*Mathematical error not effecting the outcome of the bid.



1240 19th Street Lane, NW, Hickory, North Carolina 28601

Firm License No. C-0459



**BID-Addendum 5 Revision**

TO (Owner): City of Hickory  
 Attn: Kevin Greer, PE  
 1441 9<sup>th</sup> Avenue NE  
 Hickory, NC 28601

PROJECT: IFB # 17-007 - Random Woods Sewer Project

FROM: Buckeye Budge LLC  
PO Box 1367  
Canton NC 28716  
 (Bidder)

The undersigned, as bidder, hereby declares that the only person, or persons interested in this bid as principal(s) is, or are, named herein, and that no other person has any interest in the bid or in the contract to be entered into; that this bid is made without connection with any person, company or parties making a bid; and that it is in all respects fair and in good faith without collusion or fraud.

The bidder further declares that he has examined the site of the work and informed himself fully in regard to all conditions pertaining to the place where the work is to be done; that he has examined the contract documents relative thereto; and that he has satisfied himself as to the work to be performed.

The bidder further agrees to furnish all materials, labor, equipment and supplies necessary to complete construction of the project in accordance with the contract documents within the time set forth therein; and to the complete satisfaction of the Owner and Engineer, at the prices stated below.

The bidder hereby agrees to commence work under this contract within 15 days of receipt of the Notice to Proceed and to fully complete the project within 180 consecutive calendar days after the date of the Notice to Proceed.

ADDENDA: Bidder acknowledges receipt of the following Addenda:

Addendum No.:	<u>1</u>	Date:	<u>8-23-16</u>
Addendum No.:	<u>2</u>	Date:	<u>8-26-16</u>
Addendum No.:	<u>3</u>	Date:	<u>9-6-16</u>
Addendum No.:	<u>4</u>	Date:	<u>9-9-16</u>
Addendum No.:	<u>5</u>	Date:	<u>9-16-16</u>

The bidder understands that the Owner reserves the right to reject any or all bids and waive any informalities in the bidding. The Owner reserves the right to award the contract, which in its judgment is in the best interest of the Owner.

The bidder agrees that this Bid shall be good and may not be withdrawn for a period of 90 calendar days after the scheduled closed time for receiving bids.

The Owner reserves the right to reject any and all bids.

The Owner reserves the right to add to or deduct from the quantity of work quoted below by as much as 100% of each individual bid item quantity included in the Bid Schedule. In the event the Owner chooses to issue a Change Order for additions to or deletions from the work listed below such Change Orders shall be prepared based on the following Unit Prices. Unit Prices shall be for materials in place, complete per specifications.

**Bid Schedule  
City of Hickory – Random Woods Sewer Project**

No.	Description	Quantity	Units	Unit Price	Total Price
1	Mobilization (3% Max)	1	LS	28,435.00	28,435.00
2	8-inch SDR 35 Sewer 0-6'	1220	LF	65.90	80,398.00
	8-inch SDR 35 Sewer 6.1-8'	1500	LF	67.30	100,950.00
	8-inch SDR 35 Sewer 8.1-10'	1360	LF	72.40	98,464.00
	8-inch SDR 35 Sewer 10.1-12'	280	LF	76.80	21,504.00
	8-inch SDR 35 Sewer 12.1-14'	80	LF	85.50	6,840.00
3	8-inch DI CL150 Sewer 0-6'	880	LF	76.90	67,672.00
	8-inch DI CL150 Sewer 6.1-8'	680	LF	78.30	53,244.00
	8-inch DI CL150 Sewer 8.1-10'	380	LF	79.80	30,324.00
	8-inch DI CL150 Sewer 10.1-12'	120	LF	87.80	10,524.00
	8-inch DI CL150 Sewer 12.1-14'	80	LF	96.40	7,712.00
	8-inch DI CL150 Sewer 14.1-16'	80	LF	109.50	8,760.00
	8-inch DI CL150 Sewer 16.1-18'	80	LF	131.20	10,496.00
4	4 Ft. Diameter Manholes 0-6'	8	EA	1,854.00	14,832.00
	4 Ft. Diameter Manholes 6.1-8'	12	EA	2,023.00	24,276.00
	4 Ft. Diameter Manholes 8.1-10'	10	EA	2,303.00	23,030.00
	4 Ft. Diameter Manholes 10.1-12'	4	EA	2,539.00	10,156.00
	4 Ft. Diameter Manholes 12.1-14'	0	EA	3,500.00	0.00
5	5 Ft. Diameter Manholes for Outside Drop 16.1-18'	1	EA	4,513.00	4,513.00
6	Manhole Outside Drop Assembly	1	EA	2,773.00	2,773.00
7	Same Side Sewer Service Connection	35	EA	806.00	28,210.00
8	Opposite Side Sewer Service Connection-Bored	23	EA	1,081.00	24,863.00
9	4-inch PVC Sewer Service Pipe	1250	LF	18.00	22,500.00
10	Stabilization Stone in Trench 6-inch Depth	1150	LF	0.10	115.00
11	Stream Crossing	6	EA	4,828.00	28,968.00

12	Rock Excavation with Select Backfill	2275	CY	60.00	136,500.00
13	Silt Fence	2900	LF	2.90	8,410.00
14	Straw Roll Wattle	40	EA	63.50	2,540.00
15	Construction Entrance	4	EA	974.00	3,896.00
16	Asphalt Pavement Repair	180	LF	137.30	24,714.00
17	Asphalt Driveway Repair	30	LF	36.80	1,104.00
18	Concrete Driveway Repair	375	LF	75.30	28,237.50
19	Gravel Driveway Repair	40	LF	9.10	364.00
20	Rip-Rap on Creek Banks Class B Stone	150	TN	48.30	7,245.00
21	Pipe Outlet Protection	5	EA	78.00	390.00
22	Pipe Inlet Protection	8	EA	78.00	624.00
23	Seeding	7.5	AC	2,237.00	16,777.50
24	Ditch Liner/ Matting	5550	LF	1.00	5,550.00
25	8-inch Sewer Connection to Existing Manhole	1	EA	2,950.00	2,950.00
				Total:	948,861.00
Words:	<i>nine hundred forty-eight thousand eight hundred sixty-one and <sup>10</sup>/<sub>100</sub></i>				

Upon Notice of Award from the Owner, the Bidder will execute the Contract and within ten (10) days deliver it to the Owner, along with other documents as required by the Contract Documents.

A certified check or bank draft, payable to the order of the City of Hickory negotiable U.S. Government Bonds (at par value) or a satisfactory Bid Bond executed by the Bidder as an acceptable surety in an amount equal to five percent (5%) of the total bid shall be submitted with each bid.

Accompanying this proposal is bid security in the amount of \$ 47,443.05

said security is in the form of \$ 52 Bid Bond \$ \_\_\_\_\_ certified check, which shall become the property of the Owner, if in case this proposal shall be accepted by the Owner, the undersigned shall fail to execute a Contract with and give the required bonds and insurance to the Owner within fifteen days after the date of said mailing, telegraphing, or delivery of said written notice of acceptance.

Dated: Sept 20, 2014

Legal name of person, partnership, or corporation

Buckeye Bridge LLC  
Contractor

(Corporate Seal)

By: [Signature]

Christopher K. Britton  
Title: Manager - Member

Address: PO Box 1367  
Canton, NC 28716

Witness  
Attest:  
Cheryl Miller

Phone: 828-648-4511

Fax: 828-665-9374

NC General Contractors License No: 72900

Be sure to provide bid security, acknowledge all addenda, if any, and provide all signatures and data required above.

BID BOND

Know all men by these presents, that we, the undersigned, Buckeye Bridge, LLC  
654 Buckeye Cove Road, Canton, NC, 28716 as Principal, and  
Travelers Casualty and Surety Company of America as Surety, are hereby  
held and firmly bound unto the City of Hickory, North Carolina, Owner, in the penal sum of  
Five Percent of Amount Bid (5%)

for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves,  
successors, and assigns. Signed, this 20<sup>th</sup> day of September, 2016.

The Condition of the above obligation is such that whereas the Principal has submitted to the City of  
Hickory, North Carolina a certain BID, attached hereto and hereby made a part hereof to enter into a  
contract in writing, for the

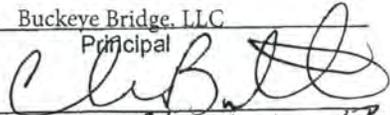
CITY OF HICKORY - RANDOM WOODS SEWER PROJECT

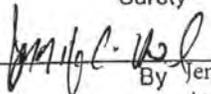
Now, Therefore,

- (a) If said BID shall be rejected, or
- (b) If said BID shall be accepted and the Principal shall execute and deliver a contract in the  
Form of Contract attachment hereto (properly completed in accordance with said BID) and  
shall furnish a BOND for faithful performance of said contract, and for the payment of all  
persons performing labor furnishing materials in connection therewith, and shall in all other  
respects perform the agreement created by the acceptance of said BID, then this obligation  
shall be void, otherwise the same shall remain in force and effect; it being expressly  
understood and agreed that the liability of the Surety for any and all claims hereunder shall,  
in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its  
BOND shall be in no way impaired or affected by any extension of the time within which the Owner may  
accept such BID; and said Surety does hereby waive notice of any such extension.

In Witness Whereof, the Principal and the Surety have hereunto set their hands and seals, and such of  
them as are corporations have caused their corporate seals to be hereto affixed and these presents to be  
signed by their proper officers, the day and year first set forth above.

Buckeye Bridge, LLC  
Principal  
  
By Christopher K. Britton

Travelers Casualty and Surety Company of America  
Surety  
  
By Jennifer C. Hoehn,  
Attorney in Fact

IMPORTANT - Surety companies executing Bonds must appear on the Treasury Department's most  
current list (Circular 570 as amended) and be authorized to transact business in the State where the  
project is located.



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 230741

Certificate No. 006748137

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

William J. Quinn, John D. Leak III, Jennifer C. Hoehn, John F. Thomas, Wendy M. Lands, and John Dufresne

of the City of Charlotte, State of North Carolina, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 26th day of April, 2016.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: [Signature]
Robert L. Raney, Senior Vice President

On this the 26th day of April, 2016, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal. My Commission expires the 30th day of June, 2016.



[Signature]
Marie C. Tetreault, Notary Public

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 20<sup>th</sup> day of September, 20 16

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

*Kevin E. Hughes*  
Kevin E. Hughes, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at [www.travelersbond.com](http://www.travelersbond.com). Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

**BID-Addendum 5 Revision**

TO (Owner): City of Hickory  
 Attn: Kevin Greer, PE  
 1441 9<sup>th</sup> Avenue NE  
 Hickory, NC 28601

PROJECT: IFB # 17-007 - Random Woods Sewer Project

FROM: HICKORY SAND COMPANY, INC.  
1490 SOUTH CENTER STREET  
HICKORY, N.C. 28602  
 (Bidder)

The undersigned, as bidder, hereby declares that the only person, or persons interested in this bid as principal(s) is, or are, named herein, and that no other person has any interest in the bid or in the contract to be entered into; that this bid is made without connection with any person, company or parties making a bid; and that it is in all respects fair and in good faith without collusion or fraud.

The bidder further declares that he has examined the site of the work and informed himself fully in regard to all conditions pertaining to the place where the work is to be done; that he has examined the contract documents relative thereto; and that he has satisfied himself as to the work to be performed.

The bidder further agrees to furnish all materials, labor, equipment and supplies necessary to complete construction of the project in accordance with the contract documents within the time set forth therein; and to the complete satisfaction of the Owner and Engineer, at the prices stated below.

The bidder hereby agrees to commence work under this contract within 15 days of receipt of the Notice to Proceed and to fully complete the project within 180 consecutive calendar days after the date of the Notice to Proceed.

ADDENDA: Bidder acknowledges receipt of the following Addenda:

Addendum No.: # 1 Date: AUGUST 23, 2016

Addendum No.: # 2 Date: AUGUST 24, 2016

Addendum No.: # 3 Date: SEPTEMBER 6, 2016

Addendum No.: # 4 Date: SEPTEMBER 9, 2016

Addendum No.: # 5 Date: SEPTEMBER 16, 2016

The bidder understands that the Owner reserves the right to reject any or all bids and waive any informalities in the bidding. The Owner reserves the right to award the contract, which in its judgment is in the best interest of the Owner.

The bidder agrees that this Bid shall be good and may not be withdrawn for a period of 90 calendar days after the scheduled closed time for receiving bids.

The Owner reserves the right to reject any and all bids.

**The Owner reserves the right to add to or deduct from the quantity of work quoted below by as much as 100% of each individual bid item quantity included in the Bid Schedule.** In the event the Owner chooses to issue a Change Order for additions to or deletions from the work listed below such Change Orders shall be prepared based on the following Unit Prices. Unit Prices shall be for materials in place, complete per specifications.

**Bid Schedule  
City of Hickory – Random Woods Sewer Project**

No.	Description	Quantity	Units	Unit Price	Total Price
1	Mobilization (3% Max)	1	LS	27,500. <sup>00</sup>	27,500. <sup>00</sup>
2	8-inch SDR 35 Sewer 0-6'	1220	LF	95. <sup>00</sup>	115,900. <sup>00</sup>
	8-inch SDR 35 Sewer 6.1-8'	1500	LF	96. <sup>00</sup>	144,000. <sup>00</sup>
	8-inch SDR 35 Sewer 8.1-10'	1360	LF	97. <sup>00</sup>	131,920. <sup>00</sup>
	8-inch SDR 35 Sewer 10.1-12'	280	LF	99. <sup>00</sup>	27,720. <sup>00</sup>
	8-inch SDR 35 Sewer 12.1-14'	80	LF	105. <sup>00</sup>	8,400. <sup>00</sup>
3	8-inch DI CL150 Sewer 0-6'	880	LF	103. <sup>00</sup>	90,640. <sup>00</sup>
	8-inch DI CL150 Sewer 6.1-8'	680	LF	105. <sup>00</sup>	71,400. <sup>00</sup>
	8-inch DI CL150 Sewer 8.1-10'	380	LF	107. <sup>00</sup>	40,660. <sup>00</sup>
	8-inch DI CL150 Sewer 10.1-12'	120	LF	112. <sup>00</sup>	13,440. <sup>00</sup>
	8-inch DI CL150 Sewer 12.1-14'	80	LF	116. <sup>00</sup>	9,280. <sup>00</sup>
	8-inch DI CL150 Sewer 14.1-16'	80	LF	120. <sup>00</sup>	9,600. <sup>00</sup>
	8-inch DI CL150 Sewer 16.1-18'	80	LF	128. <sup>00</sup>	10,240. <sup>00</sup>
4	4 Ft. Diameter Manholes 0-6'	8	EA	1,675. <sup>00</sup>	13,400. <sup>00</sup>
	4 Ft. Diameter Manholes 6.1-8'	12	EA	1,950. <sup>00</sup>	23,400. <sup>00</sup>
	4 Ft. Diameter Manholes 8.1-10'	10	EA	2,400. <sup>00</sup>	24,000. <sup>00</sup>
	4 Ft. Diameter Manholes 10.1-12'	4	EA	2,850. <sup>00</sup>	11,400. <sup>00</sup>
	4 Ft. Diameter Manholes 12.1-14'	0	EA	3,300. <sup>00</sup>	<del>0</del>
5	5 Ft. Diameter Manholes for Outside Drop 16.1-18'	1	EA	6,950. <sup>00</sup>	6,950. <sup>00</sup>
6	Manhole Outside Drop Assembly	1	EA	2,100. <sup>00</sup>	2,100. <sup>00</sup>
7	Same Side Sewer Service Connection	35	EA	1,250. <sup>00</sup>	43,750. <sup>00</sup>
8	Opposite Side Sewer Service Connection-Bored	23	EA	1,700. <sup>00</sup>	39,100. <sup>00</sup>
9	4-inch PVC Sewer Service Pipe	1250	LF	2. <sup>00</sup>	2,500. <sup>00</sup>
10	Stabilization Stone in Trench 6-inch Depth	1150	LF	6.50	7,475. <sup>00</sup>
11	Stream Crossing	6	EA	2,500. <sup>00</sup>	15,000. <sup>00</sup>

12	Rock Excavation with Select Backfill	2275	CY	0	0
13	Silt Fence	2900	LF	4. <sup>00</sup>	11,600. <sup>00</sup>
14	Straw Roll Wattle	40	EA	35. <sup>00</sup>	1,400. <sup>00</sup>
15	Construction Entrance	4	EA	400. <sup>00</sup>	1,600. <sup>00</sup>
16	Asphalt Pavement Repair	180	LF	150. <sup>00</sup>	27,000. <sup>00</sup>
17	Asphalt Driveway Repair	30	LF	75. <sup>00</sup>	2,250. <sup>00</sup>
18	Concrete Driveway Repair	375	LF	5. <sup>00</sup>	1,875. <sup>00</sup>
19	Gravel Driveway Repair	40	LF	20. <sup>00</sup>	800. <sup>00</sup>
20	Rip-Rap on Creek Banks Class B Stone	150	TN	55. <sup>00</sup>	8,250. <sup>00</sup>
21	Pipe Outlet Protection	5	EA	250. <sup>00</sup>	1,250. <sup>00</sup>
22	Pipe Inlet Protection	8	EA	150. <sup>00</sup>	1,200. <sup>00</sup>
23	Seeding	7.5	AC	2,000. <sup>00</sup>	15,000. <sup>00</sup>
24	Ditch Liner/ Matting	5550	LF	1.50	8,325. <sup>00</sup>
25	8-inch Sewer Connection to Existing Manhole	1	EA	17,500. <sup>00</sup>	17,500. <sup>00</sup>
				Total :	987,825. <sup>00</sup>
Words:	NINE HUNDRED EIGHTY SEVEN THOUSAND EIGHT HUNDRED TWENTY FIVE DOLLARS				

Upon Notice of Award from the Owner, the Bidder will execute the Contract and within ten (10) days deliver it to the Owner, along with other documents as required by the Contract Documents.

A certified check or bank draft, payable to the order of the City of Hickory negotiable U.S. Government Bonds (at par value) or a satisfactory Bid Bond executed by the Bidder as an acceptable surety in an amount equal to five percent (5%) of the total bid shall be submitted with each bid.

Accompanying this proposal is bid security in the amount of \$ 5%

said security is in the form of \$ 5% Bid Bond, \$ \_\_\_\_\_ certified check, which shall become the property of the Owner, if in case this proposal shall be accepted by the Owner, the undersigned shall fail to execute a Contract with and give the required bonds and insurance to the Owner within fifteen days after the date of said mailing, telegraphing, or delivery of said written notice of acceptance.

Dated: SEPTEMBER 20, 2016

Legal name of person, partnership, or corporation

HICKORY SAND COMPANY, INC.  
Contractor

(Corporate Seal)

By: [Signature]

Title: VICE PRESIDENT

Address: 1490 SOUTH CENTER STREET  
HICKORY, N.C. 28602

Attest: [Signature]

Phone: 828.328.1846

Fax: 828.328.1329

NC General Contractors License No: NC 2648

Be sure to provide bid security, acknowledge all addenda, if any, and provide all signatures and data required above.

**Bid Bond**

KNOW ALL MEN BY THESE PRESENTS, that we Hickory Sand Company, Inc. ....  
 Post Office Box 2007 Hickory, NC 28603, ..... as Principal,  
 and Western Surety Company ..... a corporation  
 organized under the laws of the State of ..... SD .....  
 as Surety, who is duly licensed to act as Surety in North Carolina, are held and firmly bound unto City of Hickory .....  
 ..... as Obligee,  
 in the penal sum of Five Percent of Amount Bid ..... (5% ..... ) ..... DOLLARS,  
 lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our heirs,  
 executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

SIGNED, sealed and dated ..... September 8, 2016 .....

WHEREAS, the said Principal is herewith submitting proposal for  
  
Random Woods Sewer Project

and the principal desires to file this Bid Bond in lieu of making the cash deposit as required by G.S. 143-129.

NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION is such, that if the principal shall be awarded the contract for which the bid is submitted and shall execute the contract and give bond for the faithful performance thereof within ten days after the award of same to the principal, then this obligation shall be null and void; but if the principal fails to so execute such contract and give performance bond as required by G.S. 143-129, the Surety shall, upon demand, forthwith pay to the Obligee the amount set forth in the first paragraph hereof.



Hickory Sand Company, Inc. .... (Seal)  
 By: *[Signature]* ..... (Seal)  
 Western Surety Company .....  
 By: *[Signature]* ..... (Seal)  
 Ronda W. Bush Attorney-in-fact

# Western Surety Company

## POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**Ronda W. Bush , Individually**

of Charlotte, NC its true and lawful Attorney-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

**- In Unlimited Amounts -**

Surety Bond No: Bid Bond  
Principal: Hickory Sand Company, Inc.  
Obligee: City of Hickory

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 1st day of December, 2015.



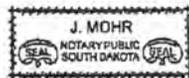
WESTERN SURETY COMPANY

Paul T. Bruflat, Vice President

State of South Dakota }  
County of Minnehaha } ss

On this 1st day of December, 2015, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires  
June 23, 2021



J. Mohr, Notary Public

### CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 8th day of September, 2016.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

**Authorizing By-Law**

**ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY**

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

**BUDGET REVISION # 9**

**BE IT ORDAINED** by the Governing Board of the City of Hickory that, pursuant to N.C. General Statutes 159.15 and 159.13.2, the following revision be made to the annual budget ordinance for the fiscal year ending June 30, 2017 and for the duration of the Project Ordinances noted herein.

**SECTION 1.** To amend the General Fund within the FY 2016-17 Budget Ordinance, the expenditures are to be changed as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Public Safety	3,379	
Other Financing Uses	278,261	
Culture and Recreation	4,600	
<b>TOTAL</b>	286,240	-

To provide funding for the above, the General Fund revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	187,300	
Restricted Intergovernmental Revenue	94,340	
Miscellaneous Revenues	4,600	
<b>TOTAL</b>	286,240	-

**SECTION 2.** To amend the Water and Sewer Fund within the FY 2016-17 Budget Ordinance, the expenditures shall be changed as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Environmental Protection	4,663	
<b>TOTAL</b>	4,663	-

To provide funding for the above, the Water and Sewer revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Miscellaneous Revenues	4,663	
<b>TOTAL</b>	4,663	-

**SECTION 3.** To amend the Falling Creek Bridge Capital Project Ordinance, the expenditures shall be established as follows for the duration of the life of the project:

FUNCTIONAL AREA	INCREASE	DECREASE
General Capital Projects	168,921	
<b>TOTAL</b>	168,921	-

To provide funding for the above Capital Project, the revenues will be budgeted as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	168,921	
<b>TOTAL</b>	168,921	-

**SECTION 4.** To amend the Business Park 1764 Capital Project Ordinance, the expenditures shall be established as follows for the duration of the life of the project:

FUNCTIONAL AREA	INCREASE	DECREASE
General Capital Projects	15,000	
<b>TOTAL</b>	15,000	-

To provide funding for the above Capital Project, the revenues will be budgeted as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	15,000	
<b>TOTAL</b>	15,000	-

**SECTION 5.** To adopt Grant Project Ordinance #545005,"Downtown Lighting Grant", the expenditures shall be established as follows for the duration of the life of the project:

FUNCTIONAL AREA	INCREASE	DECREASE
General Capital Projects	94,340	
<b>TOTAL</b>	94,340	-

To provide funding for the above Grant Project, the revenues will be budgeted as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	94,340	
<b>TOTAL</b>	94,340	-

**SECTION 6.** Copies of the budget revision shall be furnished to the Clerk of the Governing Board, and to the City Manager (Budget Officer) and the Finance Officer for their direction.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

**CITY OF HICKORY  
GRANT PROJECT ORDINANCE  
NC DEPARTMENT OF COMMERCE: DOWNTOWN LIGHTING**

**BE IT ORDAINED** by the Governing Board of the City of Hickory that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted for the duration of the project.

**SECTION 1.** The project authorization is the NC Department of Commerce, Downtown Lighting Grant.

**SECTION 2.** The officers of this unit are hereby directed to proceed with the grant project within the terms of the budget contained herein.

**SECTION 3.** The following revenues are anticipated to be available to complete the project:

<b>Other Financing Sources:</b>	
Transfer from General Fund	<u>\$ 94,340</u>
<b>Total</b>	<b>\$ 94,340</b>

**SECTION 4.** The following amounts are appropriated for the project:

<b>General Capital Projects:</b>	
Downtown Lighting Grant / Construction	<u>\$ 94,340</u>
<b>Total</b>	<b>\$ 94,340</b>

**SECTION 5.** The Finance Officer is hereby directed to maintain within the Grant Project Fund sufficient specific detailed accounting records to provide the accounting required by any financing agreement associated with this project and/or State and Federal regulations.

**SECTION 6.** The Finance Officer is hereby directed to report quarterly on the financial status of each project element and on the total revenues received or claimed.

**SECTION 7.** The City Manager (Budget Officer) is directed to include a detailed analysis of past and future costs and revenues on this grant project in every budget submission made to this board.

**SECTION 8.** Copies of this grant project ordinance shall be furnished to the Clerk of the Governing Board, the City Manager (Budget Officer) and the Finance Officer for direction in carrying out this project.

Adopted this the \_\_\_\_ day \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

17

**COUNCIL AGENDA MEMOS**

**To: City Manager's Office**  
**From: Chuck Hansen, Public Services Director**  
**Contact Person: Yaidee Fox, Governmental Affairs Manager (323-7412)**  
**Date: 10/13/2016**  
**Re: Request Council Approval to Apply & Accept Grant from NC General Assembly**

**REQUEST**

Staff requests permission from City Council to approve the application for the North Carolina General Assembly authorizing grant-in-aid allocation of \$250,000 during the 2016 – 2017 state fiscal year to the City of Hickory ("Town of Hickory). The grant is to mitigate structural damage to Highway 70.

**BACKGROUND**

The City of Hickory is collaborating with North Carolina Department of Transportation (NCDOT) to repair/replace a failed 96-inch storm drainage pipe that is causing stormwater to backup and flood US 70 in Hickory. Due to the most recent, of several failures, this drainage system is no longer flowing any water down stream and causing flooding on US 70 and surrounding businesses. The NCDOT and the City are currently paying for emergency pumping to keep water flowing. The private property owner, where the system has failed, made non-engineered attempts in the past to repair the storm drainage pipe. The private property owner's unsuccessful attempts failed. No water is flowing, which is causing major problems in the drainage basin. It is forcing the City and the NCDOT to take action to remedy the problem for the safety of the general public and businesses in the area. The action being taken is for the City to take the property where the failure exist and NCDOT to design and construct the repair of the storm drainage pipe with both the City and NCDOT paying for the repair. During the 2016-2017 state fiscal year, the North Carolina General Assembly appropriated \$250,000 in grant-in-kind funds to mitigate structural damage to Highway 70.

**ANALYSIS**

The cost of the repair of the failed 96-inch storm drainage pipe is estimated at \$3.2 million. NCDOT has agreed to pay \$1 million as well as handle design and construction oversight towards the repair while the City of Hickory has agreed to pay \$1.2 million. The North Carolina General Assembly has appropriated \$250,000 in grant-in-kind funds to the City of Hickory ("Town of Hickory") to mitigate the structural damage to Highway 70 caused by the failed 96-inch storm drainage pipe. The City of Hickory and NCDOT have entered into a contract for the repairs with construction scheduled to begin before the end of the 2016 year. Staff has prepared the paperwork for submission to receive the \$250,000 from the state grant.

**RECOMMENDATION**

Staff requests and recommends approval for the submission of the North Carolina General Assembly's authorized grant-in-aid allocation of \$250,000 and to accept the funds allocated to the City of Hickory ("Town of Hickory) to mitigate structural damage to Highway 70.

**BUDGET ANALYSIS:**

**Budgetary Action**

Is a Budget Amendment required?

Yes

No

**LIST THE EXPENDITURE CODE:**

**Reviewed by:**

Initiating Department Head \_\_\_\_\_

Date \_\_\_\_\_

Rodney Miller  
Asst. City Manager Rodney Miller

10-13-16  
Date

Amanda Dula  
Deputy City Attorney, A. Dula

Date \_\_\_\_\_

A. Surratt  
Asst. City Manager, A. Surratt

10/14/16  
Date

Amanda Stanley  
deputy Finance Officer, Melissa Miller

10-13-16  
Date

Bo Weichel  
Purchasing Manager, Bo Weichel

10-13-16  
Date

\_\_\_\_\_  
Date

Recommended for approval and placement on \_\_\_\_\_ Council agenda (as Consent, Public Hearing, Informational, Department Report, etc).

A. Surratt  
Interim City Manager, A. Surratt

10/14/16  
Date



**STATE OF NORTH CAROLINA  
OFFICE OF STATE BUDGET AND MANAGEMENT**

PAT MCCRORY  
GOVERNOR

ANDREW T. HEATH  
STATE BUDGET DIRECTOR

September 20, 2016

Mr. Chuck Hansen  
Town of Hickory  
P.O. Box 398  
Hickory, NC 28603

Re: Contract Agreement for Grant Number 2017.40.0  
Project: Mitigate Structural Damage to Highway 70

Dear Mr. Hansen,

The North Carolina General Assembly has authorized the Town of Hickory to receive a grant-in-aid allocation of \$250,000 during the 2016-2017 state fiscal year. Enclosed for your review and signature are two complete sets of contract documents required to finalize the grant award. Below is a description of the documents enclosed along with an explanation of the signatures required for each document.

<b>Document:</b>	<b>Document Description:</b>	<b>Signed by:</b>
Grant Contract	Outlines the terms of the grant agreement between the Office of State Budget and Management and the recipient.	Highest Elected Official – Unit of Local Government
Attachment A	General Terms and Conditions.	N/A
Attachment B	Notice of Certain Reporting and Audit Requirements.	N/A
Attachment C	Scope of Work and Annual Budget.	Chief Fiscal Officer, County Manager or City Manager
Attachment D	Iran Divestment Act Certification.	Highest Elected Official – Unit of Local Government
Request for Payment	Request for Payment of Appropriations from North Carolina General Fund.	Authorized Official

Please sign two originals of these documents and return both to:

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Fred E. Duyck, Chief Financial Officer Office of State Budget and Management 20320 Mail Service Center Raleigh, NC 27699-0320	Fred E. Duyck, Chief Financial Officer Office of State Budget and Management 116 W. Jones Street, Suite 5200 Raleigh, NC 27603

Once we have received all the required documents, we will execute the contract and return a copy to you for your records. If we can be of assistance, please do not hesitate to call Fred Duyck at (919) 807-4764.

Sincerely,

Andrew T. Heath  
State Budget Director

Enclosures

## Office of State Budget and Management

### Contract # 2017.40.0

This Contract is hereby entered into by and between the Office of State Budget and Management (the "Agency") and the Town of Hickory (the "Recipient") (referred to collectively as the "Parties"). The Recipient's federal tax identification number is 566001244.

#### 1. Contract Documents:

This Contract consists of the following documents:

- (1) This Contract
- (2) The General Terms and Conditions (Attachment A)
- (3) Notice of Certain Reporting Requirements (Attachment B)
- (4) Scope of Work and Annual Budget (Attachment C)
- (5) Iran Divestment Act Certification (Exhibit D)

These documents constitute the entire agreement between the Parties and supersede all oral and written statements, negotiations or agreements made, communicated, negotiated or entered into prior to or contemporaneously with the full execution of this Contract.

#### 2. Precedence Among Contract Documents:

In the event of a conflict between or among the terms of the Contract Documents, the terms in the Contract Document with the highest relative precedence shall prevail. The order of precedence shall be the order of documents as listed in Paragraph 1, above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence. If there are multiple Contract Amendments, the most recent amendment shall have the highest precedence and the oldest amendment shall have the lowest precedence.

#### 3. Effective Period:

This Contract shall be effective on July 1, 2016 and shall terminate on June 30, 2017.

#### 4. Recipient's Duties:

The Recipient shall provide the services as described in Attachment C.

#### 5. Agency's Duties:

The Agency shall pay the Recipient in the manner and in the amounts specified in the Contract Documents. The total amount paid by the Agency to the Recipient under this Contract shall not exceed \$250,000 as identified on Page J 56 of the Joint Conference Committee Report on the Base, Capital and Expansion Budgets, House Bill 1030 (Session Law 2016-94) as follows:

Provides a grant-in-aid to the Town of Hickory to mitigate structural damage to Highway 70. The revised net appropriation for this project is \$250,000.

There are no matching requirements from the Recipient. Contributions from the Recipient shall be sourced from non-federal funds. The total contract amount is \$250,000.

#### 6. Conflict of Interest Policy:

The Recipient shall file with the Agency a copy of its policy and any ordinance or resolution it has adopted addressing conflicts of interest that may arise involving the members of the Recipient's governing body and/or any of its employees or officers involved in the grant or the project. Such policy, ordinance or resolution shall address situations in which any of these individuals may directly or indirectly benefit, other than through receipt of their normal compensation in their capacities as the Recipient's employees, officers or members of its governing body, from the Recipient's disbursing of State funds, and shall include actions to be taken by the Recipient or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. Additionally, the Recipient certifies that, as of the date it executes this Contract, no such individuals have such a conflict of interest or will directly or indirectly benefit, except in the capacities

described above, from the grant or project. Throughout the duration of this Contract, the Recipient has the duty to promptly inform the Agency of any such conflict of interest or direct or indirect benefit of which it becomes aware. The policy shall be filed before Agency may disburse the grant funds.

**7. Reporting Requirements:**

The Agency has determined that this Contract is subject to the reporting requirements described in the attached Notice of Certain Reporting Requirements (Attachment B), which is part of this Contract. The Recipient shall comply with all of the reporting requirements and provisions described in Attachment B hereto. All reporting requirements shall be filed with the Agency using the prescribed forms Agency provides to Recipient.

**8. Payment Provisions:**

Upon execution of this contract, the Recipient may request and, upon approval by the Agency, receive a single payment for amounts up to one hundred thousand dollars (\$100,000). For grants-in-aid of more than one hundred thousand dollars (\$100,000) payment will be paid in quarterly installments, unless Recipient can demonstrate an immediate need for an amount greater than what would otherwise be paid quarterly.

**9. Contract Administrators:**

All notices permitted or required to be given by one Party to the other and all questions about the contract from one Party to the other shall be addressed and delivered to the other Party's Contract Administrator. The name, post office address, street address, telephone number, fax number, and email address of the Parties' respective initial Contract Administrators are set out below. Either Party may change the name, post office address, street address, telephone number, fax number, or email address of its Contract Administrator by giving timely written notice to the other Party.

For the Agency	
IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Fred E. Duyck, Chief Financial Officer Office of State Budget and Management 20320 Mail Service Center Raleigh, NC 27699-0320  Telephone: (919) 807-4764 Fax: (919) 733-0640 Email: fred.duyck@osbm.nc.gov	Fred E. Duyck, Chief Financial Officer Office of State Budget and Management 116 W. Jones Street, Suite 5200 Raleigh, NC 27603  Telephone: (919) 807-4764 Fax: (919) 733-0640 Email: fred.duyck@osbm.nc.gov

For the Recipient	
IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Chuck Hansen Town of Hickory P.O. Box 398 Hickory, NC 28603  Telephone: (828) 323-7401 Email: chansen@hickorync.gov	Chuck Hansen Town of Hickory 76 North Center Street Hickory, NC 28601  Telephone: (828) 323-7401 Email: chansen@hickorync.gov

**10. Disbursements:**

In addition to the other requirements set forth above and in the attached documents concerning the disbursement of grant funds by the Recipient (including any sub-recipient(s) and sub-sub-recipient(s)), as well as all requirements imposed on grant fund expenditures by applicable law, rules and regulations, the Recipient acknowledges and agrees, as an express condition of this Contract, to make disbursements of all grant funds in accordance with the following requirements. The Recipient shall:

- a. Implement adequate internal controls over all disbursements;

- b. Pre-audit all vouchers presented to it for payment to determine:
  - The validity and accuracy of the requested payment;
  - The payment due date;
  - The adequacy of all documentation allegedly supporting the requested payment; and
  - The legality of all disbursements and requested disbursements;
- c. Assure adequate control of signature stamps and plates;
- d. Assure adequate control of all negotiable instruments; and
- e. Implement adequate procedures to insure that its account balance is solvent and shall reconcile its account monthly.

#### **11. Outsourcing:**

The Recipient certifies that it has identified to the Agency all jobs related to this Contract that have been outsourced to other countries, if any. The Recipient further acknowledges that it may not outsource to any other country any jobs related to this Contract during the term of this Contract without obtaining the prior written approval of the Agency.

#### **12. Procurement, Suspension and Debarment:**

The Recipient acknowledges and agrees that, in its conduct under this Contract and in connection with any and all expenditures of grant funds made by it, the Recipient, its officers, agents and employees shall be and are subject to the provisions of the North Carolina General Statutes and the North Carolina Administrative Code relating to and governing procurement, public contracts, suspension and debarment. The Recipient further acknowledges and agrees that, in the event that it grants any of the grant funds awarded hereunder to one or more sub-recipients or sub-sub-recipients, the Recipient shall, by contract, ensure that the provisions of the North Carolina General Statutes and the North Carolina Administrative Code relating to and governing procurement, public contracts, suspension and debarment are made applicable to and binding upon any and all of the Recipient's sub-recipients, sub-sub-recipients, etc.

#### **13. Cost Principles:**

The Recipient acknowledges and agrees that, in its conduct under this Contract and in connection with any and all expenditures of grant funds made by it, it shall comply with the cost principles enunciated in the Code of Federal Regulations, 2 CFR, Part 200. The Recipient further acknowledges and agrees that, in the event that it grants any of the grant funds awarded hereunder to one or more sub-recipients or sub-sub-recipients, the Recipient shall, by contract, ensure that said cost principles are made applicable to and binding upon any and all such sub-recipients, sub-sub-recipients, etc. in their handling, use and expenditure of the funds awarded to the Recipient hereunder.

#### **14. Final Reports and Certifications:**

The Recipient shall file all reports and certifications, as described and required by Attachment B to this Contract, concerning its receipt, handling and expenditure of all grant funds awarded hereunder, including any interest earned by the Recipient from such funds, with the Agency.

#### **15. Monitoring and Auditing:**

The Recipient acknowledges and agrees that, from and after the date of execution of this Contract and for five (5) years following its termination, the books, records, documents and facilities of the Recipient are subject to being audited, inspected and monitored at any time by the Agency upon its request (whether in writing or otherwise). The Recipient and its officers, agents and employees shall make the Recipient's books, records, documents and offices/facilities available to the Agency and its personnel for inspection, audit and monitoring upon the Agency's request, shall answer any questions posed to them by the Agency and shall provide the Agency, upon its request, with any documents, records or information sought by the Agency in its efforts to monitor and audit the Recipient's activities regarding the funds awarded under this Contract. The Recipient further agrees to keep and maintain all of its books, records and documents relating in any way to the grant funds awarded hereunder for the time period specified in Attachment A hereto.

The Recipient acknowledges and agrees that, with regard to the grant funds, it will be subject to the audit and reporting requirements prescribed by N.C.G.S §159-34, Local Government Finance Act - Annual Independent Audit; rules and regulations. Such audit and reporting requirements may vary depending upon the amount and source of grant funding received by the Recipient and are subject to change from time to time.

**16. Grant Agreement with Sub-Recipient(s):**

In the event that the Recipient grants to a sub-recipient, a sub-sub-recipient, etc. any of the grant funds awarded to the Recipient hereunder, the Recipient must retain a signed copy of the contract or letter pursuant to which the grant funds awarded to the Recipient hereunder are granted to a sub-recipient, a sub-sub-recipient, etc.

**17. Repayment of Grant Funds to Agency:**

In the event that the Recipient, either directly or indirectly (e.g., through a sub-recipient or sub-sub-recipient) commits any breach of this Contract which the Recipient fails to fully cure within thirty (30) days of its receipt of written notice from the Agency of said breach, the Agency may make demand in writing of the Recipient that it repay the Agency so much of the grant funds awarded under this Contract, up to and including 100% of the amount of the award made under this Contract. In such an event, the Recipient shall repay said amount to the Agency within thirty (30) days of its receipt of said demand for repayment, as well as any interest earned by the Recipient on said amount.

In addition, in the event that this Contract should be terminated by the parties or otherwise comes to an end prior to the time when the Recipient, its sub-recipient(s), any sub-sub-recipient(s), etc. have expended all of the funds awarded under this Contract, the Recipient shall, within thirty (30) days of said termination or contract end, return to the Agency all such unexpended funds as well as any interest earned by the Recipient on such funds. Furthermore, the Recipient shall, by contract, ensure that, in the event that its sub-recipient(s) enter into any sub-sub-recipient agreements involving any of the funds awarded hereunder, all such sub-recipient, sub-sub-recipient, etc. are required to repay to their recipient(s) all such unexpended funds, as well as any interest earned by the sub-recipient or sub-sub-recipient on such funds, so that the Recipient can return those unexpended funds and interest to the Agency within thirty (30) days of the termination or other end of this Contract. In any event, the Recipient shall be and remain liable to the Agency for the repayment to the Agency of all grant funds that are unexpended (either by the Recipient or any sub-recipient, sub-sub-recipient, etc.) at the time of the termination or other end of this Contract, as well as the repayment of any interest earned by the Recipient, sub-recipient or sub-sub-recipient on such funds at that time.

**18. Termination:**

Subject to the provisions of paragraph 17 of this Contract, this Contract may be terminated in accordance with the provisions set forth in Attachment A hereto; however, the reporting, monitoring and audit requirements and provisions of this Contract shall survive any such termination.

**19. Authorized Signature Warranty:**

The undersigned represent and warrant that they are authorized to bind their principals to the terms of this agreement.

**In Witness Whereof**, the Recipient and the Agency have executed this Contract in duplicate originals, with one original being retained by each party.

**Town of Hickory**

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name Title

**ATTEST**

\_\_\_\_\_  
Notary Public Date Notarized

\_\_\_\_\_  
Printed Name Title

[OFFICIAL SEAL]

Approved as to form

Amata M. Dea  
City of Hickory – Legal Dept.

**Office of State Budget and Management**

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name Title

## Attachment A

### General Terms and Conditions

#### Definitions

Unless indicated otherwise from the context, the following terms shall have the following meanings in this Contract.

- (1) "Audit" means an examination of records or financial accounts to verify their accuracy.
- (2) "Compliance Supplement" refers to the North Carolina State Compliance Supplement, maintained by the State and Local Government Finance Division of the North Carolina Department of State Treasurer that has been developed in cooperation with agencies to assist the local auditor in identifying program compliance requirements and audit procedures for testing those requirements.
- (3) "Contract" means a legal instrument that is used to document a relationship between the agency, and a recipient or between a recipient and subrecipient.
- (4) "Contractor" means an entity subject to the contractor requirements, as well as any entity that would be subject to the contractor requirements but for a specific statute or rule exempting that entity from the contractor requirements.
- (5) "Contractor requirements" means Article 3, 3C, 3D, 3E, 3G, or 8 of Chapter 143 of the General Statutes and related rules.
- (6) "Fiscal Year" means the annual operating year of the non-State entity.
- (7) "Financial Statement" means a report providing financial data relative to a given part of an organization's operations or status.
- (8) "Single Audit" means an audit that includes an examination of an organization's financial statements, internal controls, and compliance with the requirements of Federal or State awards.
- (9) "State Funds" means any funds appropriated by the North Carolina General Assembly or collected by the State of North Carolina. State funds include federal financial assistance received by the State and transferred or disbursed to non-State entities. Both Federal and State funds maintain their identity as they are disbursed as financial assistance to other organizations.

#### Relationships of the Parties

**Independent Contractor:** The Recipient is and shall be deemed to be an independent contractor in the performance of this Contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Recipient represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of,

or have any individual contractual relationship with, the Agency.

**Subcontracting and Subgranting:** Any subcontracts or subgrants entered into by the Recipient with grant funds shall be subject to all conditions of this Contract. Payment of all subcontractors and subrecipients shall be the sole responsibility of the Recipient, and the Agency shall not be obligated to pay for any work performed by any subcontractor or subrecipient. The Recipient shall be responsible for the performance of all subcontractors and subrecipients and shall not be relieved of any of the duties and responsibilities of this Contract as a result of entering into subcontracts or subgrants. Additionally, if said Recipient subgrants any grant funds pursuant to this Contract, the Recipient shall submit a copy of its policies and/or procedures for monitoring subrecipients to the Agency.

**Subrecipients:** The Recipient has the responsibility to ensure that all subrecipients, if any, provide all information necessary to permit the Recipient to comply with the standards set forth in this Contract.

**Assignment:** No assignment of the Recipient's obligations or the Recipient's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the State may:

- (a) Forward the Recipient's payment check(s) directly to any person or entity designated by the Recipient, or
- (b) Include any person or entity designated by Recipient as a joint payee on the Recipient's payment check(s).

In no event shall such approval and action obligate the State to anyone other than the Recipient and the Recipient shall remain responsible for fulfillment of all contract obligations.

**Beneficiaries:** Except as herein specifically provided otherwise, this Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this Contract, and all rights of action relating to such enforcement, shall be strictly reserved to the Agency and the named Recipient. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Agency and Recipient that any such person or entity, other than the Agency or the Recipient, receiving services or benefits under this Contract shall be deemed an incidental beneficiary only.

## Indemnity and Insurance

**Indemnification:** The Recipient agrees to indemnify and hold harmless the Agency, the State of North Carolina, and any of their officers, agents and employees, from any claims of third parties arising out of any act or omission of the Recipient in connection with the performance of this Contract.

**Insurance:** During the term of the contract, the Recipient at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the Recipient shall provide and maintain the following coverage and limits:

- (a) **Worker's Compensation** - The Recipient shall provide and maintain Worker's Compensation Insurance as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Recipient's employees who are engaged in any work under the contract. If any work is sublet, the Recipient shall require the subrecipient to provide the same coverage for any of his employees engaged in any work under the contract.
- (b) **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)
- (c) **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles used in performance of the contract. The minimum combined single limit shall be \$500,000.00 bodily injury and property damage; \$500,000.00 uninsured/under insured motorist; and \$25,000.00 medical payment.

Providing and maintaining adequate insurance coverage is a material obligation of the Recipient and is of the essence of this Contract. The Recipient may meet its requirements of maintaining specified coverage and limits by demonstrating to the Agency that there is in force insurance with equivalent coverage and limits that will offer at least the same protection to the Agency. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Recipient shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Contract. The limits of coverage under each insurance policy maintained by the Recipient shall not be interpreted as limiting the Recipient's liability and obligations under the contract.

## Default and Termination

**Termination by Mutual Consent:** The Parties may terminate this Contract by mutual consent with 60 days' notice to the other party, or as otherwise provided by law.

**Termination for Cause:** If, through any cause, the Recipient shall fail to fulfill its obligations under this Contract in a timely and proper manner, the Agency shall have the right to terminate this Contract by giving written notice to the Recipient and specifying the effective date thereof. In that event, all finished or unfinished deliverable items prepared by the Recipient under this Contract shall, at the option of the Agency, become its property and the Recipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made. Notwithstanding the foregoing provision, the Recipient shall not be relieved of liability to the Agency for damages sustained by the Agency by virtue of the Recipient's breach of this agreement, and the Agency may withhold any payment due the Recipient for the purpose of setoff until such time as the exact amount of damages due the Agency from such breach can be determined. The filing of a petition for bankruptcy by the Recipient shall be an act of default under this Contract.

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

**Availability of Funds:** The parties to this Contract agree and understand that the payment of the sums specified in this Contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Agency.

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

**Survival of Promises:** All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable federal or State statutes of limitation.

## Intellectual Property Rights

**Copyrights and Ownership of Deliverables:** All deliverable items produced pursuant to this Contract are the exclusive property of the Agency. The Recipient shall not assert a claim of copyright or other property interest in such deliverables.

**Federal Intellectual Property Bankruptcy Protection Act:** The Parties agree that the Agency shall be entitled to all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365 (n) and any amendments thereto.

## Compliance with Applicable Laws

**Compliance with Laws:** The Recipient shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

**Equal Employment Opportunity:** The Recipient shall comply with all federal and State laws relating to equal employment opportunity.

## Confidentiality

**Confidentiality:** Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Recipient under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the Agency. The Recipient acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information it will safeguard and not further disclose the information except as otherwise provided in this Contract.

## Oversight

**Access to Persons and Records:** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with N.C.G.S. 147-64.7. Additionally, as the State funding authority, the Agency shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions.

**Record Retention:** Records shall not be destroyed, purged or disposed of without the express written consent of the Agency. State basic records retention policy requires all grant records to be retained for a minimum of five years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to federal policy and regulations, record retention may be longer than five years since records must be retained for a period

of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has been started before expiration of the five-year retention period described above, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five-year period described above, whichever is later.

## Miscellaneous

**Choice of Law:** The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, are governed by the laws of North Carolina. The Recipient, by signing this Contract, agrees and submits, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this Contract and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

**Amendment:** This Contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Agency and the Recipient.

**Severability:** In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Contract shall remain in full force and effect.

**Headings:** The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

**Time of the Essence:** Time is of the essence in the performance of this Contract.

**Care of Property:** The Recipient agrees that it shall be responsible for the proper custody and care of any property furnished to it for use in connection with the performance of this Contract and will reimburse the Agency for loss of, or damage to, such property. At the termination of this Contract, the Recipient shall contact the Agency for instructions as to the disposition of such property and shall comply with these instructions.

**Travel Expenses:** Reimbursement to the Recipient for travel mileage, meals, lodging and other travel expenses incurred in the performance of this Contract shall be reasonable and supported by documentation. State rates should be used as guidelines. International travel shall not be reimbursed under this Contract.

**Advertising:** The Recipient shall not use the award of this Contract as a part of any news release or commercial advertising.

## Attachment B

### Notice of Certain Reporting Requirements

Recipient shall comply with all the rules and reporting requirements established by statute or administrative rules.

For convenience, the requirements of N.C.G.S. 143C-6-22 are presented below.

Also below are the thresholds related to reporting requirements required of recipients per the Contract.

#### § 143C-6-22. Use of State funds by non-State entities.

- (a) Disbursement and Use of State Funds. – Every non-State entity that receives, uses, or expends any State funds shall use or expend the funds only for the purposes for which they were appropriated by the General Assembly. State funds include federal funds that flow through the State Treasury.
- (b) Compliance by Non-State Entities. – If the Director of the Budget finds that a non-State entity has spent or encumbered State funds for an unauthorized purpose, or fails to submit or falsifies the information required by G.S. 143C-6-23 or any other provision of law, the Director shall take appropriate administrative action to ensure that no further irregularities or violations of law occur and shall report to the Attorney General any facts that pertain to an apparent violation of a criminal law or an apparent instance of malfeasance, misfeasance, or nonfeasance in connection with the use of State funds. Appropriate administrative action may include suspending or withholding the disbursement of State funds and recovering State funds previously disbursed.
- (c) Civil Actions. – Civil actions to recover State funds or to obtain other mandatory orders in the name of the State on relation of the Attorney General, or in the name of the Office of State Budget and Management, shall be filed in the General Court of Justice in Wake County. (2006-203, s. 3.)

#### Reporting Thresholds:

There are two reporting thresholds established for recipients and subrecipients receiving State funds.

The reporting thresholds are:

- (1) Less than \$25,000 – A recipient that receives, holds, uses, or expends State funds from the funding agency in an amount less than twenty-five thousand dollars (\$25,000) within its fiscal year must comply with the reporting requirements established by the Contract including:
  - (A) An accounting of all State funds received, held, used, or expended.

All reporting requirements shall be filed with the funding agency within three months after the end of the recipient's fiscal year in which the State funds were received.

- (2) Equal to or greater than \$25,000 – A recipient that receives, holds, uses, or expends State funds from the funding agency in an amount of at least twenty-five thousand (\$25,000) within its fiscal year must comply with the reporting requirements established by the Contract including:
  - (A) An accounting of all State funds received, held, used, or expended; and
  - (B) A description of activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.

All reporting requirements shall be filed with the funding agency within three months after the end of the recipient's fiscal year in which the State funds were received.

#### Other Provisions:

1. All recipients and subrecipients shall use the prescribed forms of the awarding agency and of the Office of the State Auditor in making reports to the awarding agency and the Office of the State Auditor.

## Attachment C Scope of Work and Annual Budget

Before it will be possible to finalize this award and make any disbursement, you are required to provide to the Agency a description for how the organization will spend the amount of funding allocated for the specific purpose as stated in the grant contract. This will include a scope of work, information related to any potential subgrants and an annual budget for the grant funds. Please attach additional sheets as necessary.

1. Organization:	
Organization Name:	City of Hickory
Tax Identification #:	566001244
Organization Fiscal Year End: (mmddyyyy)	06302017

2. Scope of Work:
<p>Recipient shall detail below how the organization will spend the amount of funding allocated for the specific purpose as stated in the grant contract. The description should include services to be provided, objectives to be achieved, and expected results. The description should also include anticipated timing of those services, objectives and expected results.</p>
<p>The scope of this project is to partner with North Carolina Department of Transportation (NCDOT) to repair/replace a failed 96 inch storm drainage pipe that is causing stormwater to backup and flood US 70 in Hickory. Due to the most recent, of several failures, this drainage system is no longer flowing any water down stream and causing flooding on US 70 and surrounding businesses. The NCDOT and the City are currently paying for emergency pumping to keep water flowing. The private property owner, where the system has failed, made non-engineered attempts in the past to repair the storm drainage pipe. The private property owner's unsuccessful attempts failed. No water is flowing, which is causing major problems in the drainage basin. It is forcing the City and the NCDOT to take action to remedy the problem for the safety of the general public and businesses in the area. The action being taken is for the City to take the property where the failure exist and NCDOT to design and construct the repair of the storm drainage pipe with both the City and NCDOT paying for the repair.</p>

3. Subgrants:			
a. Does the Recipient anticipate that it will subgrant or pass down any funds to another organization?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
If yes, answer the following:			
b. Name of Subrecipient	c. Program Name	d. Amount to Subrecipient	

Below are general expenditure descriptions that can serve as a **guide** for preparing the organization's annual budget related to the grant award. Please add or delete expenditure captions for clarity if needed. The annual budget must be signed by an authorizing official.

The following annual budget is for the time period beginning 07/01/2016 and ending 06/30/2017

EXPENDITURE DESCRIPTION	AMOUNT
<b>PERSONAL SERVICES</b>	\$
Salaries & Wages	\$
Fringe Benefits	\$
Other Personal Services	\$
 <b>PURCHASED SERVICES</b>	
Travel	\$

Communications/Data Processing	\$
Postage/Freight/Deliveries	\$
Printing/Advertising	\$
Repairs/Maintenance/Utilities	\$
Contracted Services	\$
Other Services	\$
<b>SUPPLIES &amp; MATERIALS</b>	
General Administrative Supplies	\$
Other Administrative Expenses	\$
<b>FIXED CHARGES &amp; EXPENSES</b>	
Rent/Leases	\$
Insurance/Bonding	\$
Other Fixed Charges/Expenses	\$
<b>CAPITAL OUTLAY</b>	
Office Equipment	\$
Office Furniture	\$
Building/Other Structures/Improvements	\$
Land	\$
Motor Vehicles	\$
Other Capital Outlay	\$
<b>GRANTS</b>	
Grants to Other Entities (Sub-Awards)	\$
<b>DEBT SERVICE</b>	
Principal Payments	\$
Interest Payments	\$
<b>OTHER EXPENDITURES</b>	
Construction Expenditures	\$ 250,000.00
<b>TOTAL BUDGETED EXPENDITURES</b>	<b>\$ 250,000.00</b>

With regard to the information contained herein, I certify that the annual budget has been approved by the Recipient's Chief Fiscal Officer, County Manager or City Manager.

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name Title

## Attachment D Iran Divestment Act Certification

Pursuant to G.S. 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The Iran Divestment Act of 2015, G.S. 147-86.55 *et seq.*\* requires that each vendor, prior to contracting with the State certify, and the undersigned on behalf of the Vendor does hereby certify, to the following:

1. that the vendor is not identified on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran;
2. that the vendor shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List; and
3. that the undersigned is authorized by the Vendor to make this Certification.

Name of Vendor: City of Hickory

Address of Vendor: PO Box 398  
Hickory, NC 28603

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name Title

The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address:  
<https://www.nctreasurer.com/inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx>  
and will be updated every 180 days. For questions about the Department of State Treasurer's Iran Divestment Policy, please contact Meryl Murtagh at [Meryl.Murtagh@nctreasurer.com](mailto:Meryl.Murtagh@nctreasurer.com) or (919) 814-3852.

\* Note: Enacted by Session Law 2015-118 as G.S. 143C-55 *et seq.*, but has been renumbered for codification at the direction of the Revisor of Statutes.

## Office of State Budget and Management

### Contract # 2017.40.0

This Contract is hereby entered into by and between the Office of State Budget and Management (the "Agency") and the Town of Hickory (the "Recipient") (referred to collectively as the "Parties"). The Recipient's federal tax identification number is 566001244.

#### 1. Contract Documents:

This Contract consists of the following documents:

- (1) This Contract
- (2) The General Terms and Conditions (Attachment A)
- (3) Notice of Certain Reporting Requirements (Attachment B)
- (4) Scope of Work and Annual Budget (Attachment C)
- (5) Iran Divestment Act Certification (Exhibit D)

These documents constitute the entire agreement between the Parties and supersede all oral and written statements, negotiations or agreements made, communicated, negotiated or entered into prior to or contemporaneously with the full execution of this Contract.

#### 2. Precedence Among Contract Documents:

In the event of a conflict between or among the terms of the Contract Documents, the terms in the Contract Document with the highest relative precedence shall prevail. The order of precedence shall be the order of documents as listed in Paragraph 1, above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence. If there are multiple Contract Amendments, the most recent amendment shall have the highest precedence and the oldest amendment shall have the lowest precedence.

#### 3. Effective Period:

This Contract shall be effective on July 1, 2016 and shall terminate on June 30, 2017.

#### 4. Recipient's Duties:

The Recipient shall provide the services as described in Attachment C.

#### 5. Agency's Duties:

The Agency shall pay the Recipient in the manner and in the amounts specified in the Contract Documents. The total amount paid by the Agency to the Recipient under this Contract shall not exceed \$250,000 as identified on Page J 56 of the Joint Conference Committee Report on the Base, Capital and Expansion Budgets, House Bill 1030 (Session Law 2016-94) as follows:

Provides a grant-in-aid to the Town of Hickory to mitigate structural damage to Highway 70. The revised net appropriation for this project is \$250,000.

There are no matching requirements from the Recipient. Contributions from the Recipient shall be sourced from non-federal funds. The total contract amount is \$250,000.

#### 6. Conflict of Interest Policy:

The Recipient shall file with the Agency a copy of its policy and any ordinance or resolution it has adopted addressing conflicts of interest that may arise involving the members of the Recipient's governing body and/or any of its employees or officers involved in the grant or the project. Such policy, ordinance or resolution shall address situations in which any of these individuals may directly or indirectly benefit, other than through receipt of their normal compensation in their capacities as the Recipient's employees, officers or members of its governing body, from the Recipient's disbursing of State funds, and shall include actions to be taken by the Recipient or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. Additionally, the Recipient certifies that, as of the date it executes this Contract, no such individuals have such a conflict of interest or will directly or indirectly benefit, except in the capacities

described above, from the grant or project. Throughout the duration of this Contract, the Recipient has the duty to promptly inform the Agency of any such conflict of interest or direct or indirect benefit of which it becomes aware. The policy shall be filed before Agency may disburse the grant funds.

**7. Reporting Requirements:**

The Agency has determined that this Contract is subject to the reporting requirements described in the attached Notice of Certain Reporting Requirements (Attachment B), which is part of this Contract. The Recipient shall comply with all of the reporting requirements and provisions described in Attachment B hereto. All reporting requirements shall be filed with the Agency using the prescribed forms Agency provides to Recipient.

**8. Payment Provisions:**

Upon execution of this contract, the Recipient may request and, upon approval by the Agency, receive a single payment for amounts up to one hundred thousand dollars (\$100,000). For grants-in-aid of more than one hundred thousand dollars (\$100,000) payment will be paid in quarterly installments, unless Recipient can demonstrate an immediate need for an amount greater than what would otherwise be paid quarterly.

**9. Contract Administrators:**

All notices permitted or required to be given by one Party to the other and all questions about the contract from one Party to the other shall be addressed and delivered to the other Party's Contract Administrator. The name, post office address, street address, telephone number, fax number, and email address of the Parties' respective initial Contract Administrators are set out below. Either Party may change the name, post office address, street address, telephone number, fax number, or email address of its Contract Administrator by giving timely written notice to the other Party.

For the Agency	
IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Fred E. Duyck, Chief Financial Officer Office of State Budget and Management 20320 Mail Service Center Raleigh, NC 27699-0320  Telephone: (919) 807-4764 Fax: (919) 733-0640 Email: fred.duyck@osbm.nc.gov	Fred E. Duyck, Chief Financial Officer Office of State Budget and Management 116 W. Jones Street, Suite 5200 Raleigh, NC 27603  Telephone: (919) 807-4764 Fax: (919) 733-0640 Email: fred.duyck@osbm.nc.gov

For the Recipient	
IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Chuck Hansen Town of Hickory P.O. Box 398 Hickory, NC 28603  Telephone: (828) 323-7401 Email: chansen@hickorync.gov	Chuck Hansen Town of Hickory 76 North Center Street Hickory, NC 28601  Telephone: (828) 323-7401 Email: chansen@hickorync.gov

**10. Disbursements:**

In addition to the other requirements set forth above and in the attached documents concerning the disbursement of grant funds by the Recipient (including any sub-recipient(s) and sub-sub-recipient(s)), as well as all requirements imposed on grant fund expenditures by applicable law, rules and regulations, the Recipient acknowledges and agrees, as an express condition of this Contract, to make disbursements of all grant funds in accordance with the following requirements. The Recipient shall:

- a. Implement adequate internal controls over all disbursements;

- b. Pre-audit all vouchers presented to it for payment to determine:
  - The validity and accuracy of the requested payment;
  - The payment due date;
  - The adequacy of all documentation allegedly supporting the requested payment; and
  - The legality of all disbursements and requested disbursements;
- c. Assure adequate control of signature stamps and plates;
- d. Assure adequate control of all negotiable instruments; and
- e. Implement adequate procedures to insure that its account balance is solvent and shall reconcile its account monthly.

#### **11. Outsourcing:**

The Recipient certifies that it has identified to the Agency all jobs related to this Contract that have been outsourced to other countries, if any. The Recipient further acknowledges that it may not outsource to any other country any jobs related to this Contract during the term of this Contract without obtaining the prior written approval of the Agency.

#### **12. Procurement, Suspension and Debarment:**

The Recipient acknowledges and agrees that, in its conduct under this Contract and in connection with any and all expenditures of grant funds made by it, the Recipient, its officers, agents and employees shall be and are subject to the provisions of the North Carolina General Statutes and the North Carolina Administrative Code relating to and governing procurement, public contracts, suspension and debarment. The Recipient further acknowledges and agrees that, in the event that it grants any of the grant funds awarded hereunder to one or more sub-recipients or sub-sub-recipients, the Recipient shall, by contract, ensure that the provisions of the North Carolina General Statutes and the North Carolina Administrative Code relating to and governing procurement, public contracts, suspension and debarment are made applicable to and binding upon any and all of the Recipient's sub-recipients, sub-sub-recipients, etc.

#### **13. Cost Principles:**

The Recipient acknowledges and agrees that, in its conduct under this Contract and in connection with any and all expenditures of grant funds made by it, it shall comply with the cost principles enunciated in the Code of Federal Regulations, 2 CFR, Part 200. The Recipient further acknowledges and agrees that, in the event that it grants any of the grant funds awarded hereunder to one or more sub-recipients or sub-sub-recipients, the Recipient shall, by contract, ensure that said cost principles are made applicable to and binding upon any and all such sub-recipients, sub-sub-recipients, etc. in their handling, use and expenditure of the funds awarded to the Recipient hereunder.

#### **14. Final Reports and Certifications:**

The Recipient shall file all reports and certifications, as described and required by Attachment B to this Contract, concerning its receipt, handling and expenditure of all grant funds awarded hereunder, including any interest earned by the Recipient from such funds, with the Agency.

#### **15. Monitoring and Auditing:**

The Recipient acknowledges and agrees that, from and after the date of execution of this Contract and for five (5) years following its termination, the books, records, documents and facilities of the Recipient are subject to being audited, inspected and monitored at any time by the Agency upon its request (whether in writing or otherwise). The Recipient and its officers, agents and employees shall make the Recipient's books, records, documents and offices/facilities available to the Agency and its personnel for inspection, audit and monitoring upon the Agency's request, shall answer any questions posed to them by the Agency and shall provide the Agency, upon its request, with any documents, records or information sought by the Agency in its efforts to monitor and audit the Recipient's activities regarding the funds awarded under this Contract. The Recipient further agrees to keep and maintain all of its books, records and documents relating in any way to the grant funds awarded hereunder for the time period specified in Attachment A hereto.

The Recipient acknowledges and agrees that, with regard to the grant funds, it will be subject to the audit and reporting requirements prescribed by N.C.G.S §159-34, Local Government Finance Act - Annual Independent Audit; rules and regulations. Such audit and reporting requirements may vary depending upon the amount and source of grant funding received by the Recipient and are subject to change from time to time.

**16. Grant Agreement with Sub-Recipient(s):**

In the event that the Recipient grants to a sub-recipient, a sub-sub-recipient, etc. any of the grant funds awarded to the Recipient hereunder, the Recipient must retain a signed copy of the contract or letter pursuant to which the grant funds awarded to the Recipient hereunder are granted to a sub-recipient, a sub-sub-recipient, etc.

**17. Repayment of Grant Funds to Agency:**

In the event that the Recipient, either directly or indirectly (e.g., through a sub-recipient or sub-sub-recipient) commits any breach of this Contract which the Recipient fails to fully cure within thirty (30) days of its receipt of written notice from the Agency of said breach, the Agency may make demand in writing of the Recipient that it repay the Agency so much of the grant funds awarded under this Contract, up to and including 100% of the amount of the award made under this Contract. In such an event, the Recipient shall repay said amount to the Agency within thirty (30) days of its receipt of said demand for repayment, as well as any interest earned by the Recipient on said amount.

In addition, in the event that this Contract should be terminated by the parties or otherwise comes to an end prior to the time when the Recipient, its sub-recipient(s), any sub-sub-recipient(s), etc. have expended all of the funds awarded under this Contract, the Recipient shall, within thirty (30) days of said termination or contract end, return to the Agency all such unexpended funds as well as any interest earned by the Recipient on such funds. Furthermore, the Recipient shall, by contract, ensure that, in the event that its sub-recipient(s) enter into any sub-sub-recipient agreements involving any of the funds awarded hereunder, all such sub-recipient, sub-sub-recipient, etc. are required to repay to their recipient(s) all such unexpended funds, as well as any interest earned by the sub-recipient or sub-sub-recipient on such funds, so that the Recipient can return those unexpended funds and interest to the Agency within thirty (30) days of the termination or other end of this Contract. In any event, the Recipient shall be and remain liable to the Agency for the repayment to the Agency of all grant funds that are unexpended (either by the Recipient or any sub-recipient, sub-sub-recipient, etc.) at the time of the termination or other end of this Contract, as well as the repayment of any interest earned by the Recipient, sub-recipient or sub-sub-recipient on such funds at that time.

**18. Termination:**

Subject to the provisions of paragraph 17 of this Contract, this Contract may be terminated in accordance with the provisions set forth in Attachment A hereto; however, the reporting, monitoring and audit requirements and provisions of this Contract shall survive any such termination.

**19. Authorized Signature Warranty:**

The undersigned represent and warrant that they are authorized to bind their principals to the terms of this agreement.

**In Witness Whereof**, the Recipient and the Agency have executed this Contract in duplicate originals, with one original being retained by each party.

**Town of Hickory**

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name Title

**ATTEST**

\_\_\_\_\_  
Notary Public Date Notarized

\_\_\_\_\_  
Printed Name Title

[OFFICIAL SEAL]

Approved as to form

Armita M. Dubs  
City of Hickory – Legal Dept.

**Office of State Budget and Management**

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name Title

## Attachment A

### General Terms and Conditions

#### Definitions

Unless indicated otherwise from the context, the following terms shall have the following meanings in this Contract.

- (1) "Audit" means an examination of records or financial accounts to verify their accuracy.
- (2) "Compliance Supplement" refers to the North Carolina State Compliance Supplement, maintained by the State and Local Government Finance Division of the North Carolina Department of State Treasurer that has been developed in cooperation with agencies to assist the local auditor in identifying program compliance requirements and audit procedures for testing those requirements.
- (3) "Contract" means a legal instrument that is used to document a relationship between the agency, and a recipient or between a recipient and subrecipient.
- (4) "Contractor" means an entity subject to the contractor requirements, as well as any entity that would be subject to the contractor requirements but for a specific statute or rule exempting that entity from the contractor requirements.
- (5) "Contractor requirements" means Article 3, 3C, 3D, 3E, 3G, or 8 of Chapter 143 of the General Statutes and related rules.
- (6) "Fiscal Year" means the annual operating year of the non-State entity.
- (7) "Financial Statement" means a report providing financial data relative to a given part of an organization's operations or status.
- (8) "Single Audit" means an audit that includes an examination of an organization's financial statements, internal controls, and compliance with the requirements of Federal or State awards.
- (9) "State Funds" means any funds appropriated by the North Carolina General Assembly or collected by the State of North Carolina. State funds include federal financial assistance received by the State and transferred or disbursed to non-State entities. Both Federal and State funds maintain their identity as they are disbursed as financial assistance to other organizations.

#### Relationships of the Parties

**Independent Contractor:** The Recipient is and shall be deemed to be an independent contractor in the performance of this Contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Recipient represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of,

or have any individual contractual relationship with, the Agency.

**Subcontracting and Subgranting:** Any subcontracts or subgrants entered into by the Recipient with grant funds shall be subject to all conditions of this Contract. Payment of all subcontractors and subrecipients shall be the sole responsibility of the Recipient, and the Agency shall not be obligated to pay for any work performed by any subcontractor or subrecipient. The Recipient shall be responsible for the performance of all subcontractors and subrecipients and shall not be relieved of any of the duties and responsibilities of this Contract as a result of entering into subcontracts or subgrants. Additionally, if said Recipient subgrants any grant funds pursuant to this Contract, the Recipient shall submit a copy of its policies and/or procedures for monitoring subrecipients to the Agency.

**Subrecipients:** The Recipient has the responsibility to ensure that all subrecipients, if any, provide all information necessary to permit the Recipient to comply with the standards set forth in this Contract.

**Assignment:** No assignment of the Recipient's obligations or the Recipient's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the State may:

- (a) Forward the Recipient's payment check(s) directly to any person or entity designated by the Recipient, or
- (b) Include any person or entity designated by Recipient as a joint payee on the Recipient's payment check(s).

In no event shall such approval and action obligate the State to anyone other than the Recipient and the Recipient shall remain responsible for fulfillment of all contract obligations.

**Beneficiaries:** Except as herein specifically provided otherwise, this Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this Contract, and all rights of action relating to such enforcement, shall be strictly reserved to the Agency and the named Recipient. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Agency and Recipient that any such person or entity, other than the Agency or the Recipient, receiving services or benefits under this Contract shall be deemed an incidental beneficiary only.

## Indemnity and Insurance

**Indemnification:** The Recipient agrees to indemnify and hold harmless the Agency, the State of North Carolina, and any of their officers, agents and employees, from any claims of third parties arising out of any act or omission of the Recipient in connection with the performance of this Contract.

**Insurance:** During the term of the contract, the Recipient at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the Recipient shall provide and maintain the following coverage and limits:

- (a) **Worker's Compensation** - The Recipient shall provide and maintain Worker's Compensation Insurance as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Recipient's employees who are engaged in any work under the contract. If any work is sublet, the Recipient shall require the subrecipient to provide the same coverage for any of his employees engaged in any work under the contract.
- (b) **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)
- (c) **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles used in performance of the contract. The minimum combined single limit shall be \$500,000.00 bodily injury and property damage; \$500,000.00 uninsured/under insured motorist; and \$25,000.00 medical payment.

Providing and maintaining adequate insurance coverage is a material obligation of the Recipient and is of the essence of this Contract. The Recipient may meet its requirements of maintaining specified coverage and limits by demonstrating to the Agency that there is in force insurance with equivalent coverage and limits that will offer at least the same protection to the Agency. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Recipient shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Contract. The limits of coverage under each insurance policy maintained by the Recipient shall not be interpreted as limiting the Recipient's liability and obligations under the contract.

## Default and Termination

**Termination by Mutual Consent:** The Parties may terminate this Contract by mutual consent with 60 days' notice to the other party, or as otherwise provided by law.

**Termination for Cause:** If, through any cause, the Recipient shall fail to fulfill its obligations under this Contract in a timely and proper manner, the Agency shall have the right to terminate this Contract by giving written notice to the Recipient and specifying the effective date thereof. In that event, all finished or unfinished deliverable items prepared by the Recipient under this Contract shall, at the option of the Agency, become its property and the Recipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made. Notwithstanding the foregoing provision, the Recipient shall not be relieved of liability to the Agency for damages sustained by the Agency by virtue of the Recipient's breach of this agreement, and the Agency may withhold any payment due the Recipient for the purpose of setoff until such time as the exact amount of damages due the Agency from such breach can be determined. The filing of a petition for bankruptcy by the Recipient shall be an act of default under this Contract.

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

**Availability of Funds:** The parties to this Contract agree and understand that the payment of the sums specified in this Contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Agency.

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

**Survival of Promises:** All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable federal or State statutes of limitation.

## Intellectual Property Rights

**Copyrights and Ownership of Deliverables:** All deliverable items produced pursuant to this Contract are the exclusive property of the Agency. The Recipient shall not assert a claim of copyright or other property interest in such deliverables.

**Federal Intellectual Property Bankruptcy Protection Act:** The Parties agree that the Agency shall be entitled to all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365 (n) and any amendments thereto.

## Compliance with Applicable Laws

**Compliance with Laws:** The Recipient shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

**Equal Employment Opportunity:** The Recipient shall comply with all federal and State laws relating to equal employment opportunity.

## Confidentiality

**Confidentiality:** Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Recipient under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the Agency. The Recipient acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information it will safeguard and not further disclose the information except as otherwise provided in this Contract.

## Oversight

**Access to Persons and Records:** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with N.C.G.S. 147-64.7. Additionally, as the State funding authority, the Agency shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions.

**Record Retention:** Records shall not be destroyed, purged or disposed of without the express written consent of the Agency. State basic records retention policy requires all grant records to be retained for a minimum of five years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to federal policy and regulations, record retention may be longer than five years since records must be retained for a period

of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has been started before expiration of the five-year retention period described above, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five-year period described above, whichever is later.

## Miscellaneous

**Choice of Law:** The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, are governed by the laws of North Carolina. The Recipient, by signing this Contract, agrees and submits, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this Contract and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

**Amendment:** This Contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Agency and the Recipient.

**Severability:** In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Contract shall remain in full force and effect.

**Headings:** The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

**Time of the Essence:** Time is of the essence in the performance of this Contract.

**Care of Property:** The Recipient agrees that it shall be responsible for the proper custody and care of any property furnished to it for use in connection with the performance of this Contract and will reimburse the Agency for loss of, or damage to, such property. At the termination of this Contract, the Recipient shall contact the Agency for instructions as to the disposition of such property and shall comply with these instructions.

**Travel Expenses:** Reimbursement to the Recipient for travel mileage, meals, lodging and other travel expenses incurred in the performance of this Contract shall be reasonable and supported by documentation. State rates should be used as guidelines. International travel shall not be reimbursed under this Contract.

**Advertising:** The Recipient shall not use the award of this Contract as a part of any news release or commercial advertising.

## Attachment B

### Notice of Certain Reporting Requirements

Recipient shall comply with all the rules and reporting requirements established by statute or administrative rules.

For convenience, the requirements of N.C.G.S. 143C-6-22 are presented below.

Also below are the thresholds related to reporting requirements required of recipients per the Contract.

#### § 143C-6-22. Use of State funds by non-State entities.

- (a) Disbursement and Use of State Funds. – Every non-State entity that receives, uses, or expends any State funds shall use or expend the funds only for the purposes for which they were appropriated by the General Assembly. State funds include federal funds that flow through the State Treasury.
- (b) Compliance by Non-State Entities. – If the Director of the Budget finds that a non-State entity has spent or encumbered State funds for an unauthorized purpose, or fails to submit or falsifies the information required by G.S. 143C-6-23 or any other provision of law, the Director shall take appropriate administrative action to ensure that no further irregularities or violations of law occur and shall report to the Attorney General any facts that pertain to an apparent violation of a criminal law or an apparent instance of malfeasance, misfeasance, or nonfeasance in connection with the use of State funds. Appropriate administrative action may include suspending or withholding the disbursement of State funds and recovering State funds previously disbursed.
- (c) Civil Actions. – Civil actions to recover State funds or to obtain other mandatory orders in the name of the State on relation of the Attorney General, or in the name of the Office of State Budget and Management, shall be filed in the General Court of Justice in Wake County. (2006-203, s. 3.)

#### Reporting Thresholds:

There are two reporting thresholds established for recipients and subrecipients receiving State funds.

The reporting thresholds are:

- (1) Less than \$25,000 – A recipient that receives, holds, uses, or expends State funds from the funding agency in an amount less than twenty-five thousand dollars (\$25,000) within its fiscal year must comply with the reporting requirements established by the Contract including:
  - (A) An accounting of all State funds received, held, used, or expended.

All reporting requirements shall be filed with the funding agency within three months after the end of the recipient's fiscal year in which the State funds were received.

- (2) Equal to or greater than \$25,000 – A recipient that receives, holds, uses, or expends State funds from the funding agency in an amount of at least twenty-five thousand (\$25,000) within its fiscal year must comply with the reporting requirements established by the Contract including:
  - (A) An accounting of all State funds received, held, used, or expended; and
  - (B) A description of activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.

All reporting requirements shall be filed with the funding agency within three months after the end of the recipient's fiscal year in which the State funds were received.

#### Other Provisions:

1. All recipients and subrecipients shall use the prescribed forms of the awarding agency and of the Office of the State Auditor in making reports to the awarding agency and the Office of the State Auditor.

## Attachment C Scope of Work and Annual Budget

Before it will be possible to finalize this award and make any disbursement, you are required to provide to the Agency a description for how the organization will spend the amount of funding allocated for the specific purpose as stated in the grant contract. This will include a scope of work, information related to any potential subgrants and an annual budget for the grant funds. Please attach additional sheets as necessary.

1. Organization:	
Organization Name:	City of Hickory
Tax Identification #:	566001244
Organization Fiscal Year End: (mmddyyyy)	06302017

2. Scope of Work:
<p>Recipient shall detail below how the organization will spend the amount of funding allocated for the specific purpose as stated in the grant contract. The description should include services to be provided, objectives to be achieved, and expected results. The description should also include anticipated timing of those services, objectives and expected results.</p> <p>The scope of this project is to partner with North Carolina Department of Transportation (NCDOT) to repair/replace a failed 96 inch storm drainage pipe that is causing stormwater to backup and flood US 70 in Hickory. Due to the most recent, of several failures, this drainage system is no longer flowing any water down stream and causing flooding on US 70 and surrounding businesses. The NCDOT and the City are currently paying for emergency pumping to keep water flowing. The private property owner, where the system has failed, made non-engineered attempts in the past to repair the storm drainage pipe. The private property owner's unsuccessful attempts failed. No water is flowing, which is causing major problems in the drainage basin. It is forcing the City and the NCDOT to take action to remedy the problem for the safety of the general public and businesses in the area. The action being taken is for the City to take the property where the failure exist and NCDOT to design and construct the repair of the storm drainage pipe with both the City and NCDOT paying for the repair.</p>

3. Subgrants:			
a. Does the Recipient anticipate that it will subgrant or pass down any funds to another organization?	Yes	<input checked="" type="radio"/> No	
If yes, answer the following:			
b. Name of Subrecipient	c. Program Name	d. Amount to Subrecipient	

Below are general expenditure descriptions that can serve as a **guide** for preparing the organization's annual budget related to the grant award. Please add or delete expenditure captions for clarity if needed. The annual budget must be signed by an authorizing official.

The following annual budget is for the time period beginning 07/01/2016 and ending 06/30/2017

EXPENDITURE DESCRIPTION	AMOUNT
<b>PERSONAL SERVICES</b>	\$
Salaries & Wages	\$
Fringe Benefits	\$
Other Personal Services	\$
 <b>PURCHASED SERVICES</b>	
Travel	\$

Communications/Data Processing	\$
Postage/Freight/Deliveries	\$
Printing/Advertising	\$
Repairs/Maintenance/Utilities	\$
Contracted Services	\$
Other Services	\$
<b>SUPPLIES &amp; MATERIALS</b>	
General Administrative Supplies	\$
Other Administrative Expenses	\$
<b>FIXED CHARGES &amp; EXPENSES</b>	
Rent/Leases	\$
Insurance/Bonding	\$
Other Fixed Charges/Expenses	\$
<b>CAPITAL OUTLAY</b>	
Office Equipment	\$
Office Furniture	\$
Building/Other Structures/Improvements	\$
Land	\$
Motor Vehicles	\$
Other Capital Outlay	\$
<b>GRANTS</b>	
Grants to Other Entities (Sub-Awards)	\$
<b>DEBT SERVICE</b>	
Principal Payments	\$
Interest Payments	\$
<b>OTHER EXPENDITURES</b>	
Construction Expenditures	\$ 250,000.00
<b>TOTAL BUDGETED EXPENDITURES</b>	<b>\$ 250,000.00</b>

With regard to the information contained herein, I certify that the annual budget has been approved by the Recipient's Chief Fiscal Officer, County Manager or City Manager.

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name Title

## Attachment D Iran Divestment Act Certification

Pursuant to G.S. 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The Iran Divestment Act of 2015, G.S. 147-86.55 *et seq.*\* requires that each vendor, prior to contracting with the State certify, and the undersigned on behalf of the Vendor does hereby certify, to the following:

1. that the vendor is not identified on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran;
2. that the vendor shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List; and
3. that the undersigned is authorized by the Vendor to make this Certification.

Name of Vendor: City of Hickory

Address of Vendor: PO Box 398  
Hickory, NC 28603

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address: <https://www.nctreasurer.com/inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx> and will be updated every 180 days. For questions about the Department of State Treasurer's Iran Divestment Policy, please contact Meryl Murtagh at [Meryl.Murtagh@nctreasurer.com](mailto:Meryl.Murtagh@nctreasurer.com) or (919) 814-3852.

\* Note: Enacted by Session Law 2015-118 as G.S. 143C-55 *et seq.*, but has been renumbered for codification at the direction of the Revisor of Statutes.



# Iran Divestment Act Certification

## Frequently Asked Questions

Purchase & Contract  
DEPARTMENT OF ADMINISTRATION

1.	When should the certification form be signed and where does it fit within the procurement process?	Please add it as an attachment to your solicitation document and have it returned with the Vendor's offer.
2.	Who is authorized to sign the certification form?	Any person in a position to bind the Vendor is authorized to sign the certification (it can be the same person who signs bid or the financial certification). P&C is adding this certification as an attachment to its standard solicitation templates so it will be signed at the time the bid is submitted.
3.	Is the certification form required for both businesses and individuals?	The certification applies to any "natural person, corporation, company, limited liability company business association, partnership, society, trust, any other nongovernmental entity or group," as well as to any governmental entity (other than a MOU between two state agencies).
4.	How will the Iran Divestment Act effect P-Card purchases?	A single transaction greater than \$1,000 requires a signed certification.
5.	Is it necessary to have a signed certification for each purchase even if there is one on file for the Vendor from a previous contract?	Yes. The certification is valid only at the time of the particular purchase for which it is made. Therefore, it applies only to that single purchase.
6.	Is it necessary to have a signed form for every Vendor that's been issued an order greater than \$1,000? If so, can the original signed form be kept on file and reused? Or is it required that the form be signed for each order?	Unfortunately, the legislation requires the certification every "time the bid is submitted or the contract is entered into, renewed, or assigned." Thus, a new certification must be signed for each new contract formation.
7.	What if the combined purchases from a Vendor is more than \$1,000 but no single purchase exceeds \$1,000?	The certification is required on a per transaction basis. For example, if you purchase \$999 worth of goods from Vendor A today and another \$999 worth from Vendor A the following week, then <u>no</u> certification is needed. If you purchase \$1,001 of goods from Vendor A today, and make an order for another \$1,001 worth next week, then <u>two</u> certificates are required.



# Iran Divestment Act Certification

## Frequently Asked Questions

Purchase & Contract  
DEPARTMENT OF ADMINISTRATION

8.	Is it necessary to obtain the signed certification from E-Procurement Vendors?	Yes. The only time a certification is <b>not</b> required before a P.O. is sent is when a purchase is made from a statewide or agency-specific term contract. In the case of a term contract, the certification is made at the time the term contract is entered.
9.	Please explain why E-Procurement is not being used to require Vendors to complete this particular action.	The statute requires the certification to be made at the time of bidding or before the contract is finalized. Nothing in the E-procurement system allows for that timing. In addition, not all Vendors for purchases between \$1,000 and \$10,000 are registered in the E-procurement system.
10.	It is understood that the certification is to go with contracts, amendments, renewals, etc. over \$1,000 - but what about just normal, regular orders?	The certifications requirement is applicable to every order made above \$1,000 regardless of the method used to place the order, unless the order is made pursuant to a pre-existing contract—for example, a Statewide Term Contract.
11.	Does the Act apply to P.O.'s for non-contract items between \$1,000 and \$4,999 where formal solicitation may not occur?	When a Vendor fulfills a P.O. it creates a contract, so the Act applies and a certification is required.
12.	Does the Act apply to <u>term</u> contract purchases above \$1,000?	P&C will obtain the certification at the time a term contract is entered, so P.O.'s sent to order items under that contract will not need an additional certification.
13.	If a Vendor such as Forms and Supply (who is a state contract Vendor) offers a product that an agency is in need of but the product is NOT on the state contract, is it necessary to complete the certification? Many Vendors have state contracts for certain items, but they also sell other items. If an item is not on contract through those Vendors, must they still sign the certification?	If the purchase is not within the scope of a term contract, even if the Vendor has a term contract for other items, a certification must be obtained.



# Iran Divestment Act Certification

## Frequently Asked Questions

Purchase & Contract

DEPARTMENT OF ADMINISTRATION

14.	Consider the following scenario: An agency checks the Final Divestment List and finds that Vendor X is not on the list, and, therefore, issues a contract or P.O. for over \$1,000. However, when the new Divestment List is issued 180 days later, Vendor X appears on the list and is now in the middle of a contract term, performing contract services. Must the contract be terminated?	The scope of the Vendor certification is limited to the date it was executed. If the certification was true at the time it was signed, then a later change does not invalidate the contract (but it would prevent any contract renewal or extension).
15.	Please define the word "contract" as it pertains to this Act. In law courses, contract has a very broad meaning--offer and acceptance equals a contract. Therefore, if we issue a purchase order (offer) and the Vendor accepts it by sending an acknowledgment or supplying the goods or service, we have a contract.	If a P.O. is sent in connection with a prior contract (e.g., a Statewide Term Contract) then a certification was signed at the time that contract was entered, and no additional certification is needed. If however, the P.O. is sent as an offer for the Vendor to accept, then a certification must be signed at the same time. See the answer to question # 17 for a technical definition of "contract."
16.	Please clarify. The terms "contracts and amendments" were used. However, P.O.'s were not mentioned specifically. Is this Act for actual contracts only?	If a P.O. is sent for goods on a statewide contract, then the certification was made at the time that contract was entered and another certificate is not required. If there is no pre-existing contract, however, and the P.O. is sent in order to form a contract when the Vendor ships the goods, then a certification is needed before the P.O. goes out. Shipping goods in response to a P.O. creates an "actual contract."



# Iran Divestment Act Certification

## Frequently Asked Questions

Purchase & Contract  
DEPARTMENT OF ADMINISTRATION

17.	The Iran Divestment Act does not define "contract."	Black's Law Dictionary defines "contract" as "an agreement between two or more parties creating obligations that are recognizable at law." In other words, it is a promise (or, usually, reciprocal promises) structured in such a way as to obligate one party to perform and to give the other party a right to enforce that obligation under law. This "structure" involves three elements: offer (of specific terms and conditions), acceptance (of those terms and conditions) and consideration (something of value flowing between the parties). When the contract is in writing, the offer and acceptance are generally signaled by the signatures of the parties, but in some cases may be established by one party performing its obligation(s).
18.	Does the certification apply to P.O.'s and payments to Vendors on Statewide Term Contracts?	No. See answer to question #12.
19.	Does the certification apply to Personal Service Contracts?	Yes (required to be signed at time of each renewal, amendment or new contract).
20.	Does the certification apply to currently posted solicitations?	Yes (required before agreement can be fully executed).
21.	Does the certification apply to future solicitations?	Yes (required before agreement can be fully executed).
22.	Does the certification apply to eQuote?	Yes.



# Iran Divestment Act Certification

## Frequently Asked Questions

Purchase & Contract  
DEPARTMENT OF ADMINISTRATION

23.	Does the certification apply to conference registration fees and travel expenses (airfare, hotels, meals, etc.)?	Probably not. Registration fees are not covered because there is no document with terms and conditions definite enough to create a contract. Generally, travel is a series of individual transactions (airfare, hotel room, meals, vehicle rental) by each person travelling. If one of those transactions exceeds \$1,000, that transaction may require a certification <b>if</b> paid directly by a state agency. Reimbursement to an employee for travel expenses does not require a certification because it is the employee, not the state, who formed the contract for each of those items. Air travel is a special case because airlines operate in a federally regulated environment that preempts enforcement of state law that “relates to rates, routes or service of any air carrier.” An argument can be made that the Act, by attempting to place additional restrictions on contracts for air travel, is preempted by federal law. P&C is not in a position to offer a legal opinion on this issue, and agencies should make their own decision when directly contracting for air travel costing more than \$1,000.
24.	Once a Vendor completes the certification, how long is it good for? 180 days?	The certification is good for the initial term of that contract, but only for that single contract. As long as the Vendor is not on the list when the certification is made. The next certification will be needed only on renewal.



# Iran Divestment Act Certification

## Frequently Asked Questions

Purchase & Contract  
DEPARTMENT OF ADMINISTRATION

25.	Consider the following scenario: You have many MOU's with colleges for training. So is the certification required for purchases from other state and local government agencies?	An MOU with another state agency or another state entity does not require a certification because all units of state government are considered to be parts of the same entity "The state of North Carolina," and the law does not recognize an agreement with oneself as a contract. The definition of "state agency" under the Act includes political subdivisions of the state. As to other non-state government entities, a certification is required. The Act requires a certification from any "person that attempts to contract with the State or political subdivision of the State," and the definition of "person" includes "any governmental entity or instrumentality of a government."
26.	What about Vendors who are on a state contract such as Grainger (445B)? Must we get the form signed each time an order on 445B is over \$1,000?	Because solicitations for Statewide Term Contracts will require a certification at the time the bid is submitted, individual orders placed under that contract will not need a new certificate.
27.	Is it necessary to attach an <i>unsigned</i> form to the requisition in E-Procurement and add a comment such as "Payment will be withheld until the form is returned signed" (This would mean the unsigned form would be delivered with the actual P.O. to the Vendor).	The statute says, "A State agency shall require a person that attempts to contract with the State or political subdivision of the State, including a contract renewal or assumption, to certify, <b>at the time the bid is submitted or the contract is entered into...</b> " If the certification form is sent with the P.O., it must be signed or returned as a condition of the goods being <u>accepted</u> . P&C recommends stronger language be used, such as:  "Return of an executed copy of the enclosed Certification is a material condition of any contract based on this purchase order. If goods are received without a signed Certification, the goods will be rejected and no payment will be made. Return of rejected goods shall be at Vendor's expense."