

A G E N D A

HICKORY CITY COUNCIL

January 2, 2024



6:00 p.m.



AGENDA
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. For more information about the City of Hickory go to: www.hickorync.gov.

Hickory City Council
76 North Center Street

January 2, 2023
6:00 p.m.

- I. Call to Order
- II. Invocation by Major David Repass, Co-Officer in Charge The Salvation Army of Greater Hickory and the High Country
- III. Pledge of Allegiance
- IV. Special Presentations
- V. Persons Requesting to Be Heard
- VI. Approval of Minutes
 - A. Regular Meeting of December 19, 2023. **(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. Budget Revision Number 11. **(First Reading Vote: Unanimous)**
 - B. Rezoning Petition 23-07 for Property Owned by Michael and Kem Pollard Located at 2239 Robinson Road and Three Additional Parcels. **(First Reading Vote: Unanimous)**
- VIII. Consent Agenda: All items below will be enacted by vote of City Council. 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. Approval to Implement a Speed Limit Reduction to 25mph along 9th Avenue NE between 16th Street NE and 20th Street NE. **(Exhibit VIII.A.)**

Staff request Council's approval to implement a speed limit reduction to 25mph along 9th Avenue NE between 16th Street NE and 20th Street NE. City Council implemented a Neighborhood Traffic Calming Program that enables citizens to request measures to improve traffic safety in the area where they own property. Citizens are required to submit an application to request measures and provide a reason for the request. Then, the City performs analysis to determine what, if any, measures are warranted. Citizens requesting traffic calming measures are required to complete and submit a petition with 75% of properties in favor of implementation for the request to move forward. Traffic Division staff received the completed petition from property owners along 9th Avenue NE with regards to the Neighborhood Traffic Calming Program and have found the property owners to be in compliance with the guidelines. The petition qualifies for a speed limit reduction to 25mph. Nineteen properties were included in the petition and fourteen properties signed in favor of implementation. This represents at least 75% approval, which meets the requirement. The

necessary sign modifications along the roadway can be performed as a normal part of the Traffic Division's signs/markings shop operations. Staff recommends Council's approval to implement a speed limit reduction to 25mph along 9th Avenue NE between 16th Street NE and 20th Street NE.

- B. Approval to Implement a Speed Limit Reduction to 25mph along 7th Avenue NW between 4th Street Drive NW and 6th Street NW. **(Exhibit VIII.B.)**

Staff request Council's approval to implement a speed limit reduction to 25mph along 7th Avenue NW between 4th Street Drive NW and 6th Street NW. City Council implemented a Neighborhood Traffic Calming Program that enables citizens to request measures to improve traffic safety in the area where they own property. Citizens are required to submit an application to request measures and provide a reason for the request. Then, the City performs analysis to determine what, if any, measures are warranted. Citizens requesting traffic calming measures are required to complete and submit a petition with 75% of properties in favor of implementation for the request to move forward. Traffic Division staff received the completed petition from property owners along 9th Avenue NE with regards to the Neighborhood Traffic Calming Program and have found the property owners to be in compliance with the guidelines. The petition qualifies for a speed limit reduction to 25mph. Eight properties were included in the petition and seven properties signed in favor of implementation. This represents at least 75% approval, which meets the requirement. The necessary sign modifications along the roadway can be performed as a normal part of the Traffic Division's signs/markings shop operations. Staff recommends Council's approval to implement a speed limit reduction to 25mph along 9th Avenue NE between 16th Street NE and 20th Street NE.

- C. Approval to Close Both Locations of Hickory Public Library from 9:00 a.m. to 5:00 p.m. on Friday, May 3, 2024 for Staff Training. **(Exhibit VIII.C.)**

Staff requests Council's approval to close both locations of Hickory Public Library from 9:00 a.m. to 5:00 p.m. on Friday, May 3, 2024 for staff training. Public library staff regularly interact with the public, and to provide the best possible customer service, it is necessary to periodically provide training opportunities in which all staff participate at the same time. This year staff will receive training that will focus on community resources; preparing for summer library programs; and customer service. Customer service training specific to each library department will be included. All library staff, both full-time and part-time, interact on a daily basis with the public and, therefore, need periodic opportunities to participate in staff development training to re-energize, acquire new skills, and improve their ability to work together as a team. To allow all coworkers to participate, it is necessary to schedule the training during a workday. Staff determined that Friday, May 3rd is a date that would create as little disruption as possible in service to the public. Staff recommends the Patrick Beaver Memorial Library and the Ridgeview Branch Library be closed on Friday, May 3, 2024 to allow time for all library employees to participate in staff training.

- D. Call for a Public Hearing to Consider Closing a portion of 1st Avenue SE, a portion of 8th Street Court SE, a portion of 2nd Avenue Drive SE, and an unnamed alley located off of 2nd Avenue Drive SE, as Petitioned by Jojida, LLC and Linda H. Huffman. **(Authorize Public Hearing for February 6, 2024, at 6:00 p.m. in Council Chambers of the Julian G. Whitener Municipal Building).** **(Exhibit VIII.D.)**

- E. Approval of a Resolution and Retainer Agreement with Cranfill Sumner, LLP, Smouse & Mason, LLC, and Napoli Shkolnik, PLLC as Special Counsel. **(Exhibit VIII.E.)**

Staff requests Council's approval of the Resolution and retainer agreement between the City of Hickory and Cranfill Sumner, LLP, Smouse & Mason, LLC, and Napoli Shkolnik, PLLC for Special Counsel for per- and polyfluoroalkyl and related substances (PFAS/PFOA), etc., and associated Resolution. The City of Hickory has no findings of PFAS/PFOA contaminants. However, due to pending lawsuits, the City has engaged with Cranfill Sumner, LLP, Smouse & Mason, LLC, and Napoli Shkolnik, PLLC (Special

Counsel) who will provide legal representation in identifying and pursuing the City of Hickory's potential claims for injuries and/or property damages arising out of the contamination of water supplies, wastewater treatment facilities, solid waste facilities, fire training facilities, and/or airports by emerging hazardous contaminants including, but not limited to, per- and polyfluoroalkyl and related substances (PFAS/PFOA), 1,4 Dioxane, and micro-plastics, including representation in connection any claim made in the Aqueous Film-Forming Foams (AFFF) Products Liability Litigation MDL No. 2873 pending in the United States District Court, District of South Carolina. The Retainer Agreement is a contingent fee contract. Fees are only owed if there is a recovery from the lawsuit. Special Counsel will be entitled to a contingency fee of 33% (thirty-three percent) of the claim recovery should there be a claim recovery. Staff recommends City Council's approval of the Resolution and retainer agreement between the City of Hickory and Cranfill Sumner, LLP, Smouse & Mason, LLC, and Napoli Shkolnik, PLLC as Special Counsel for PFAS/PFOA.

- F. Approval of a Resolution for Construction Management at Risk Construction Delivery Method for the City Park Project. **(Exhibit VIII.F.)**

Staff requests Council's approval of the Resolution for Construction Management at Risk Construction Delivery Method for the City Park Project. The City of Hickory is engaged in a City Park Project that will be situated on approximately 12 acres adjacent to Lake Hickory in the current Rotary Geitner Park owned by the City. The City Park Project will consist of the construction of a family shelter with restrooms, site improvements, including vehicular access, and a parking lot, pedestrian access to the lake, shoreline restoration, the addition of a fishing pier, boat slips and a kayak/canoe launch, along with other recreational amenities in the park. Staff reviewed the advantages and disadvantages of using the Construction Management at Risk method for the Project in lieu of the delivery methods identified in G.S. 143-128(a1)(1) through G.S. 143-128(a1)(3) and recommends using the Construction Management at Risk Construction Delivery Method for the City Park Project. Construction Management at Risk provides an opportunity for the contractor's involvement during the design process to provide the architect with feedback on constructability and other design issues, using prequalified subcontractors, and transparency of the overall bidding and construction process, including costs incurred by the Construction Manager. Staff recommends City Council's approval of the Resolution for Construction Management at Risk Delivery Method for the City Park Project.

- G. Approval to Amend the Annual Contract for Auditing Services with Martin Starnes & Associates for Fiscal Year Ending June 30, 2023. **(Exhibit VIII.G.)**

Staff requests approval to amend the annual contract for auditing services with Martin Starnes & Associates for fiscal year ending June 30, 2023. The City of Hickory has utilized the services of Martin Starnes & Associates for the past twelve years with excellent results. Since fiscal year 2012, Martin Starnes & Associates has also been contracted to produce the City's Annual Comprehensive Financial Report. The annual audit is due to the North Carolina Local Government Commission (LGC) as of October 31st of each year. An extension may be granted by the LGC but requires an amended auditing contract with approval from City Council and the Chair of the Audit Committee. An extension of the City's auditing contract is necessary for this fiscal year due to the new GASB 96 standard causing delays in both City and auditor schedules. The City contracted with DebtBook to assist with the standard but still incurred many new processes to properly document the standard into the City's financial statements. In addition, Finance Department staff continued to participate in training sessions to implement new Tyler Technologies financial software while still preparing for the annual audit resulting in delays with finalizing audit work. Staff recommends approval to amend the annual auditing contract with Martin Starnes & Associates for fiscal year ending June 30, 2023.

- H. Budget Revision Number 12. **(Exhibit VIII.H.)**

1. To appropriate \$12,960 in donations received for the police department towards equipment costs.

2. *To transfer \$117,473 from General Fund contingency to cover additional modules purchased for the Tyler Munis Technologies Project.*

IX. Items Removed from Consent Agenda

X. Informational Item

XI. New Business:

A. Public Hearings

B. Departmental Reports

1. Appointments to Boards and Commissions

COMMUNITY APPEARANCE COMMISSION

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

At-Large (Outside City but within HRP) (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

Other Minority (Council Appoints) VACANT

HICKORY REGIONAL PLANNING COMMISSION

(Term Expiring 6-30; 3-Year Terms With Unlimited Appointments) (Appointed by City Council)

Burke County Representative (Mayor Appoints with Recommendation from Burke County) VACANT

HISTORIC PRESERVATION COMMISSION

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

Historic Properties Owner (Council Appoints) VACANT

Building Trades Profession (Council Appoints) VACANT

LIBRARY ADVISORY BOARD

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

Ward 3 (Seaver Appoints) VACANT

RECYCLING ADVISORY BOARD

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

Ward 6 (Patton Appoints) 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. 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**

A Regular Meeting of the City Council of the City of Hickory was held in the Council Chamber of the Municipal Building on Tuesday, December 19, 2023 at 6:00 p.m., with the following members present:

Tony Wood	Hank Guess	Anthony Freeman
Charlotte C. Williams	Aldermen	David P. Zagaroli
Danny Seaver		Jill Patton

A quorum was present.

Also, present were City Manager Warren Wood, Assistant City Manager Rick Beasley, Assistant City Manager Yaidee Fox, Deputy City Attorney Arnita Dula, City Attorney Timothy Swanson, Deputy City Clerk Crystal B. Mundy, and City Clerk Debbie D. Miller

- I. Mayor Guess called the meeting to order. All Council members were present.
- II. Invocation by Reverend Amy Spivey, Senior Pastor St. Luke's United Methodist Church
- III. Pledge of Allegiance
- IV. Special Presentations
 - A. Recognition of Hickory High School Football Team's 3A State Championship and Recognition of Hickory High School Football Day

Mayor Guess commented if anyone in this room had not heard, they have the State Champions in the room. He thought they could recognize all of them. They all were wearing the correct colors this evening, some of their coaches and staff, and he was sure there were other people present from the families and, just members of the public. He wanted to take this time, at the beginning of their meeting, to formally recognize this group of outstanding students, coaches, staff, and parents. Parents were certainly included in that because without the parents, none of this would happen, obviously. They wanted to formally congratulate and recognize this team. But before they did that, they had a short video that he thought set the stage pretty well for why they were here tonight. They would play the video and then have some formal presentations after that. The video was played.

Mayor Guess commented several of the players had told him that one of the coach's sayings had been all year long "see it through". Coach, he thought they saw it through. It looked good. He asked the coaches and the players to the podium. Mayor Guess knew that they went to Chapel Hill, that was a heck of a game coach. The one before that week though was probably about as intense as it could be. He wanted to take this opportunity to formally present this proclamation to this team. He thought there were some that could not be present this evening, but this was for the entire team, the coaches, the staff, everybody that had a part in this State Championship. He read and presented the proclamation. City Manager Warren Wood presented them with a sign honoring their championship. Photos were taken. Mayor Guess could not tell them how proud they were of this team. He knew that everyone here and others that could not be here had put a huge effort into this and it certainly had not gone unnoticed. There would be a public celebration Friday night on the square. Everybody was invited to be there that could be there for that and they would see a lot more people than what was present in Council Chambers. He commented on behalf of the Council, and the entire community, how proud they were of each and every one of them for the accomplishments that they had made, not only on the field, but off the field as well. He asked that they remember all that they had been taught and that they carry that with them throughout the rest of their adult life. He thanked them and congratulated them. City of Hickory hats were distributed to the coaches and team.

Councilmembers congratulated the coaches and the players.

- V. Persons Requesting to Be Heard
- VI. Approval of Minutes
 - A. Regular Meeting of December 5, 2023.

Alderman Seaver moved, seconded by Alderwoman Patton that the Minutes of December 5, 2023 be approved. 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.

Alderwoman Patton moved, seconded by Alderwoman Williams that the following be reaffirmed and ratified on second reading. The motion carried unanimously.

 - A. Budget Revision Number 10. (First Reading Vote: Unanimous)
- VIII. Consent Agenda: All items below will be enacted by vote of City Council. 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.

December 19, 2023

Alderwoman Patton moved, seconded by Alderman Freeman approval of the Consent Agenda. The motion carried unanimously.

- A. Approved an Agreement for Professional Services with Gannett Fleming Consulting Engineers for Preliminary Engineering and Design Services related to the Sandy Ridge Road Roundabout in the Amount of \$684,043.28.

Staff requests Council’s approval of an Agreement for Professional Services with Gannett Fleming, Consulting Engineers for preliminary engineering and design services related to the Sandy Ridge Road roundabout – C-5196 in the amount of \$684,043.28. The City applied for and received Congestion Management and Air Quality (CMAQ) funding approval from the Greater Hickory MPO and North Carolina Department of Transportation (NCDOT) for intersection improvements on 16th Street NE (Sandy Ridge Road) at 21st Avenue NE and at 29th Avenue Drive NE. The City requested and received supplemental agreements from the Greater Hickory MPO for additional funding. The City is in position to begin the preliminary engineering and design of the proposed roundabout at the intersection of 21st Avenue NE and Sandy Ridge Road. The two-lane road from 21st Avenue NE toward 29th Avenue Drive NE will remain, but there will be approximately 2,500 feet of roadway construction on Sandy Ridge Road and 750 linear feet of roadway construction on 21st Avenue NE. Improvements to Sandy Ridge Road will include a bike lane and a sidewalk on each side. Staff requests Council’s approval of an Agreement for Professional Services with Gannett Fleming Consulting Engineers for preliminary engineering and design services related to the Sandy Ridge Road roundabout – C-5196 in the amount of \$684,043.28, contingent upon NCDOT concurrence.

- B. Accepted and Entered Into the Minutes Certification of Votes from November 7, 2023, Election from the Catawba County Board of Elections.

Ward 1	Tony Wood	959
	Write-In	30
 Ward 2	 Charlotte Williams	 1,007
	Write-In	29
 Ward 3	 Daria Jackson	 422
	Danny Seaver	679
	Write-In	9
 Ward 4	 Anthony J. Freeman	 981
	Write-In	21

- C. Approved a Cemetery Deed Transfer from Caryl Ann Canella, Trustee of the Joan Theresa Barnhill Revocable Trust dated May 10, 2021, to Caryl Ann Canella, married, located in Oakwood Cemetery Plot M, Lot No. 8, Section 56. (Prepared by Casey W. Pope, Esq., Patrick, Harper & Dixon L.L.P.)

- D. Approved on First Reading Budget Revision Number 11.

ORDINANCE NO. 23-36
BUDGET REVISION NUMBER 11

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, 2024, and for the duration of the Project Ordinance noted herein.

SECTION 1. To amend the General Fund within the FY 2023-24 Budget Ordinance, the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Culture & Recreation	14,670	-
Public Safety	53,582	-
TOTAL	68,252	-

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

FUNCTIONAL AREA	INCREASE	DECREASE
Miscellaneous	59,657	-
Sales and Services	8,595	-
TOTAL	68,252	-

SECTION 2. To amend the Water/Sewer Fund within the FY 2023-24 Budget Ordinance the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Environmental Protection	8,273	-
TOTAL	8,273	-

To provide funding for the above, the Water/Sewer Fund revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Miscellaneous	8,273	-
TOTAL	8,273	-

SECTION 3. To amend the Sandy Ridge Intersection (#546015) Capital Project Ordinance, the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
General Capital Projects	684,044	684,044
TOTAL	684,044	684,044

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 – None

X. Informational Item

XI. New Business

A. Public Hearings

1. Approved the Voluntary Contiguous Annexation of .553 Acres Located at 920 30th Avenue Drive NW, PIN 3704-11-55-0162, Owned by Pride Design Construction, Inc. - Presentation by Planning Manager Cal Overby.

Consideration of the voluntary contiguous annexation of 0.553 acres property located at 920 30th Avenue Drive NW. This property is identified as PIN 3704-11-55-0162. The property is currently vacant and located within the City’s Extra Territorial Jurisdiction (ETJ). The property is zoned R-2, which permits residential development at 4 dwelling units per acre. Given its size, a property division could create two building lots; however, the owner intends to build a single home on the property. The property owner desires to connect the new home to city sewer service, which requires annexation. Surrounding properties are zoned R-2 Residential and occupied by single family homes or are vacant. The current tax value of the property is \$16,100. If annexed, the vacant property would generate \$73 in additional tax revenues. Upon analysis, staff has determined the petition meets the statutory requirements for voluntary contiguous annexation, and adequate public services are available. Staff finds the petition to be in conformity with applicable statutes and recommends approval of the petition.

The public hearing was advertised in a newspaper having general circulation in the Hickory area on December 9, 2023.

City Manager Warren Wood asked Planning Manager Cal Overby to the podium to present Council with the voluntary contiguous annexation of .553-acres of property, located at 920 30th Avenue Drive NW, owned by Pride Design Construction Inc.

Planning Manager Cal Overby gave a PowerPoint presentation. He discussed the voluntary annexation by Pride Design Construction Inc. for property at 920 30th Avenue Drive Northwest. It was about a half an acre in size. If it were annexed, it would be in Alderwoman Patton’s ward. Currently it was vacant. Future development was for a single-family residence to be constructed on the property and the annexation was being requested for public utilities mainly. He referred to the PowerPoint and displayed a map. He pointed out the subject property. He mentioned that Council did an annexation of the property just beside it on December 5th. There was a bit of miscommunication between himself and the builder regarding the annexation. The paperwork they gave him on the 5th was for only one lot when it was supposed to have been for two. They split them up. They were in no dire rush to get 920 done because they were going to start construction on the one beside it prior to that. He displayed a map which showed the existing zoning in the area. It was zoned R-2 residential, which was basically a single-family residential zoning. The entire area was like that. It was continuation of the existing development pattern in the area. He displayed an aerial photograph of the area and pointed out the lot in question as well as the lot beside of it which was

currently vacant. There would be two single family homes constructed on these lots. That was the future development for the property. As with any annexation, staff conducted an evaluation to see if all public services were available to serve the properties as they needed to be served in order to be inside the City. Upon conducting the annexation staff determined that all the services were in place. Staff recommended annexation of the property. He asked for questions.

Mayor Guess asked for any questions. He 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. Mayor Guess asked if there was anyone present to speak in favor of the proposal. No one appeared. Mayor Guess closed the public hearing.

Alderwoman Patton moved, seconded by Alderwoman Williams approval of the voluntary contiguous annexation of 920 30th Avenue Drive NW. The motion carried unanimously.

ANNEXATION ORDINANCE NO. 497

VOLUNTARY ANNEXATION ORDINANCE (CONTIGUOUS)

Pride Design Construction, Inc.

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF HICKORY, NORTH CAROLINA, PURSUANT TO GENERAL STATUTES 160A-58.1, AS AMENDED (CONTIGUOUS)

WHEREAS, the City Council of the City of Hickory desires to annex the area described herein, under G.S. 160A-58.1, as amended; and

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

WHEREAS, the City Clerk has certified to the sufficiency of said request, and a public hearing on the question of this annexation was held in the Council Chambers of the Julian G. Whitener Municipal Building, located at 76 North Center Street, Hickory, North Carolina, at 6:00 p.m. on the 19th day of December, 2023; and

WHEREAS, the City Council of the City of Hickory further finds that the area described therein meets the standards of G.S. 160A-58.1(b), to wit:

- a. The nearest point on the proposed satellite corporate limits is not more than three miles from the corporate limits of the City of Hickory.
- b. No point on the proposed satellite corporate limits is closer to another city than to the City of Hickory.
- c. The areas described are so situated that the City will be able to provide services on the same basis within the proposed satellite corporate limits that it provides within the primary corporate limits.
- d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation.

WHEREAS, the City Council of the City of Hickory does hereby find as a fact that said petition has been signed by all the owners of real property in the area who are required by law to sign and all other requirements of G.S. 160A-58.1 as amended, have been complied with; and

WHEREAS, the City Council further finds that the annexation is otherwise valid, and that the public health, safety, and welfare of the City of Hickory and of the areas proposed for annexation will be best served by annexing the area herein described.

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

Contiguous Annexation
by the
City of Hickory

known as the
Pride Design Construction Inc. Property

That certain parcel or tract of land lying and being about 2.94 miles north northwest of the center of the City of Hickory. Bounded on the south by the right-of-way of 30th Avenue Drive NW; on the west by the lands of Hugh D. Bogue and wife Betty Z. Bogue as described in Deed Book 172 at Page 1730; on the north by the lands of Pride Design Construction, Inc. as described in Deed Book 3811 at Page 1388, Tracy G. Pope as described in Deed Book 3420 at Page 1654, Laura V. Austin-Lockhart; on the east by the lands of Pride Design Construction, Inc. as described in Deed Book 3746 at Page 1045 and more particularly described as follows, to wit.

Beginning at a ¾" pipe, the northwest corner of the lands of Pride Design Construction, Inc. as described in Deed Book 3746 at Page 1045, located South 23 degrees 44 minutes 13 seconds East 946.94 feet from NCGS Monument "Myrtle", said monument having N.C. grid coordinates (NAD 83/2011) of N 746,072.24, E 1,304,751.09 and running thence, as new City of Hickory city limits and with the west line of Pride Design Construction, Inc. as described in Deed Book 3746 at Page 1045, South 00 degrees 22 minutes 35 seconds West 153.21 feet to a ½" pipe on the north right-of-way of 30th Avenue Drive NW; thence, as existing City of Hickory city limits and a concave curve to the left, said curve having radius of 1847.50 feet, an arc length of 124.71 feet and a chord bearing and distance of South 85 degrees 58 minutes 21 seconds West 124.89 feet to a ½" pipe, the southeast corner of the lands of Hugh D. Bogue and wife Betty Z. Bogue as described in Deed Book 172 at Page 1730; thence, as new City of Hickory city limits and the east line of Bogue North 09 degrees 18 minutes 15 seconds West 195.45 feet to a #4 rebar, in the south line of the lands of Pride Design Construction, Inc. as described in Deed Book 3811 at Page 1388; thence, with the south line of Pride Design Construction, Inc. and Tracy G. Pope as described in Deed Book 3420 at Page 1654, South 78 degrees 51 minutes 40 seconds East 160.00 feet to the point of beginning. Containing 0.553 acres more or less.

This description was drawn from a plat by Marcus H. Miller, PLS L-3481 entitled "Contiguous Annexation by the City of Hickory known as the Pride Design Construction, Inc." dated November 1, 2023.

Section 1. By virtue of the authority granted by G.S. 160A-58.2, as amended, the following-described contiguous territory is hereby annexed and made a part of the City of Hickory as of the 31st day of December, 2023:

Section 2. Upon and after the 31st day of December 2023, 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 and shall be entitled to the same privileges and benefits as other parts of the City of Hickory. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10, as amended.

Section 3. The newly annexed territory described herein shall become part of Ward No. 6 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 duly certified copy of this Ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

2. Approved on First Reading Rezoning Petition 23-07 for Property Owned by Michael and Kem Pollard Located at 2239 Robinson Road and Three Additional Parcels – Presentation by Planning Manager Cal Overby.

Michael and Kem Edward Pollard, requests consideration of the rezoning of their property located at 2239 Robinson Road (including three additional parcels) from R-1 Residential to R-2 Residential. The property has been annexed, and during the process the owners requested the property be rezoned to R-2 Residential. The subject property is currently zoned R-1 Residential, and totals 62.873 acres in total size. The current R-1 district provides areas for the development of low-density residential development, which includes single-family and two-family development at a rate of 2 dwelling units per acre. The requested R-2 Residential provides areas for the development of low to medium density residential development, which includes primarily single-family development at a rate of 4 dwelling units per acre. The Hickory Regional Planning Commission conducted a public hearing on December 6, 2023 to consider the petition. Upon closing the public hearing, the Hickory Regional Planning Commission acknowledged the petition's consistency with the Hickory by Choice 2030 Comprehensive Plan. Based upon its findings,

the Hickory Regional Planning Commission voted unanimously to recommend approval of the petition. Staff concurs with the recommendation of the Hickory Regional Planning Commission.

The public hearing was advertised in a newspaper having general circulation in the Hickory area on December 9, and December 16, 2023.

City Manager Warren Wood asked Planning Manager Cal Overby to the podium to present Council with rezoning petition 23-07 for property owned by Michael and Kem Pollard, located at 2239 Robinson Road and three additional parcels.

Planning Manager Cal Overby gave a PowerPoint presentation. He discussed the rezoning request by Michael and Kem Pollard. The applicant was Prestige Acquisitions acting on their behalf as their agent. They were looking at approximately 63-acres of property which currently was zoned R-1 residential. This property was annexed by the City of Hickory on December 5th. The property was currently within Hickory and zoned R-1. Prior to being annexed, the property was in Hickory's extra territorial area, so it was already under Hickory's zoning authority at that point in time. The request was zone it from R-1 residential to R-2 residential. He explained some of the differences between the two districts. R-1 residential was a residential district, the density was two dwellings per acre. The predominant uses within R-1 residential were single-family houses, duplexes, and manufactured homes, along with agricultural, churches, schools, and things of that like. R-2 residential was a residential district, it was almost purely single-family residential. It permitted residential development at a density of four units an acre. The predominant uses were single-family residential, which would be detached houses and owner-occupied townhomes. Those were two building types for residential that were permitted there, along with schools, churches, and likewise, things that you would typically see in that type of setting. He referred to the PowerPoint and displayed the Hickory by Choice future land use map. The future land use map for Hickory by Choice was the vision the City had for the area. This was a policy document, not an ordinance or law. He pointed out the property in question. It was classified as low-density residential. The property across Robinson Road to the east was high-density residential with some medium-residential to the north and to the southeast, as well as regional commercial to the northeast. He discussed the current zoning of the properties. This property was actually annexed into Hickory. He pointed out the surrounding property which was Hickory's ETJ (extra-territorial jurisdiction), and Hickory City limits. He noted the area which was actually accessed from Eller Drive and Short Road/Startown Road further to the east. He displayed an ortho photograph of the property. The property was largely vacant. There was one residence on the property and part of the property appeared to be in an agricultural district because the property tax values by the County showed it as being reduced. He pointed out the uses in the area noting the areas which was mainly single family, vacant, farmland, or lower density housing. He pointed out the higher density residential area, a development which was currently under construction, the Target Shopping Center, and a development in Hickory along Timberland Drive. The consistency with the Hickory by Choice 2030 plan, which he mentioned earlier, the plan called for low-density residential, which was the classification of the properties to be between two and four units per acre development type for residential. The current R-1 zoning was two dwelling units per acre, while the proposed R-2 zoning was 4 dwelling units per acre, those parameters fall within what was predicted and called for by the Hickory by Choice plan. As far as plan consistency, yes, the rezoning was consistent with the plan in this particular instance. Some of the other criteria they typically look at was natural resources and property values. Any development that may occur on the property in the future would be required to adhere to any development standards that exist at the local State, or Federal levels. In terms of promotion of wise public resources, infrastructure was in place in the area. There was State roadways, the City had infrastructure in terms of water and sewer in the area. It would be the responsibility of the property owner, or subsequent property owners from that point to get to those utilities, that would be their responsibility. They would just provide the utilities that were there. In terms of regulation and development, it was largely residential in the area, this residential district just being requested was pretty much the same in a lot of instances. It perhaps would be denser than some of the existing areas through there. Most of Catawba County zoning was around half an acre. You see very little density greater than that in the County, mainly because of the lack of public utilities. In terms of protection from hazardous events, being it was annexed in Hickory, Hickory handles police, fire, and things of that nature and also anything that happens Catawba County would not leave them high and dry; they would help out too if that was needed there. He discussed the suitability of the permissible uses. It was predominantly residential now. The requested district was residential and would continue that development pattern in the area. Detrimental impacts on the property. None were anticipated. If any traffic improvements have to occur, if any development ever occurred on this property,

that should be addressed at that point in time, as well as anything else on the property that may be discovered. Effects on public services were in place. They may be required by anyone that tries to develop the property in the future to get to those utilities. Hickory would provide the utilities, but it would be their responsibility to get to them. As far as protection of public health, safety and welfare, any applicable regulations, whether it be development, health, or whatnot, they would be held to, and required to follow those standards there. The Planning Commission considered the item on December 6th and heard from a number of citizens, as well as the representatives of the property owners. Upon their considerations, the Planning Commission found the request of rezoning to be reasonable and consistent with the Hickory by Choice 2030 Comprehensive Plan and recommended Council approve the request. He asked for questions.

Mayor Guess asked for any questions for Mr. Overby.

Alderman Freeman commented at the Planning Commission meeting, Mr. Overby heard some of the concerns of the citizens in that area. He asked him if he could tell Council what some of them were.

Planning Manager Cal Overby commented that some of the concerns were loss of the rural character in the area, the availability of infrastructure, traffic concerns. Those were the main issues he would say that came up at that point in time. There may have been some others, but those were the overarching issues that were discussed and considered by the Planning Commission.

Alderman Freeman asked him did he feel, not saying that he could answer for the whole board, but did he feel that their questions and concerns that many of them may have left feeling better about the project or still have questions and concern.

Planning Manager Cal Overby believed there were still some questions that were out there.

Mayor Guess asked for any other questions. He thanked Mr. Overby. Mayor Guess 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.

OPPONENT

Mr. Ross Penland, 3649 Fisher Street, Newton NC lived on a piece of property that abuts a large portion of this track. He was present on behalf of his family to oppose the rezoning of this property. First and foremost, he thanked Council for hearing him out. He had learned how his local small government works and it had been a really unique process, and he just appreciated the time each and every person gave him, but he stood in opposition to this because by Hickory's own consulting agency or whatever, the Hickory by Choice 2030 plan zones this area as R-1. So, when the City gets up and says that it was consistent to ask it to be rezoned R-2, he would argue that consistency was keeping something the same. Being surrounding landowners their big concern was just the density of houses that they were going to be putting out there. From their standpoint, if it moved to R-2 they would be able to put twice as many dwellings as they were if it was to remain R-1. He had not spoken to the surrounding landowners and his family would like to see it remain R-1, and if it was going to be developed, it would be developed as such. He thanked Council.

Mr. David Penland, 3645 Fisher Street, he lived just up from Ross. He was present to oppose the rezoning pretty much for the same reasons that he stated. He did not see why there was a need to build four units per acre as opposed to two. He was sure if they were sitting in the same situation they were and they wanted to look across, they would much rather see a smaller number of homes that were probably better built, and it would be better for their families and all the landowners around them. He advised he opposed the rezoning. He thought it should stay at R-1, that should be adequate to meet the 2030 recommendations for the City as the man stated. He thanked Council for their time.

Ms. Lucinda Miller Fulbright, resided at 738 Advent Church Road, Taylorsville. She and her family own property that abuts on the side of this property. This was her great aunt and her grandmother and her great grandmother and grandfather's property. They were opposed to the zoning from R-1 to R-2. She knew they had worked diligently to try to continue to sustain growth in the Hickory area. A big part of their concern was the changing from two houses per acre to four homes per acre and how much that could put into one area. Of course, she was concerned about the traffic on Robinson Road. That was a direct pipeline for the GDS and the City of Hickory trucks that go to the landfill many, many times. Those trucks

December 19, 2023

were up and down that road. There was a lot of traffic on that street. She was asking also that if they do decide to change the zoning to R-2, that they know from the developer that there would be buffers for them that were landowners, homeowners there, so that there was something that keeps them out of their business and them out of their business, so to speak, so that they have some sort of a buffer that looks very nice and amicable to what they were doing. She was not in the City of Hickory, but she felt like she was. What she does here in the City of Hickory because she does everything over here. She worked over here; she shopped over here. She did not go to Taylorsville for anything. This was her home. She thanked Council for their time and all they did.

Mr. Glenn Miller advised his grandfather owned this property, great grandfather. He had taken care of it. For 15 years he took care of his great aunt and took care of him when he was only 10 years old. He was led to believe by the developer that he wanted to be a good neighbor. R-1 was a good neighbor, R-2 was not. This land has a lot of historical value. The land down the road, Robinson Road, has a lot of historical value in this County. The first home, the land was given by the King of England to the Robinsons on a land grant. Their first home was a log cabin that was burnt down. He had hunted arrowheads on that land and hunted deer on that land. He did not like being misled by the owner. He took care of this property for him for 15 years. He appreciated Council's time. He was against R-2, R-1 was acceptable to him, but the R-2 was not. He appreciated their time.

Mr. Gene Cline, 2156 Robinson Road, Newton, was co-owner of over a 200-acre farm directly across from this property. This farm had been in his family for over 150 years. They have over 100 head of cattle and they operate farm equipment up to 15 feet wide on Robinson Road. That takes up both lanes. He operates tractors almost daily on Robinson Road. He wanted everybody present, including the developer, to be told right now they were going to smell cow manure. If they do not want to smell it, go home, because he was not going anywhere. He was opposed to it. He thanked Council.

Mr. Matthew Leach, 621 Club Circle NE, Valdese, North Carolina was a previous Hickory citizen and moved about two years ago up to Valdese. As an avid outdoorsman and enjoyer of the Conservancy property that Hickory had purchased on the opposite side of the power line, there was about 550 total acres that the Hickory Conservancy combined owns there, with the intention, his understanding as to not do anything at all to that property. He believed it a mistake to increase from R-1 to R-2 because it was allowing a much denser population that would require a lot more need on the utility services that it seems like the opposite idea of what they were trying to do just directly across the property at their Conservancy land. If the idea was to have nature and peace and not develop that property too, immediately adjacent to it, double the number of houses, it just seems counterintuitive, and he would stand in opposition. He appreciated Council's time.

Mayor Guess asked if anyone else wished to speak in opposition. No one else appeared. He advised two people signed up to speak in favor of the proposal.

PROPONENT

Mr. Miles Wright advised he worked with Wright Associates Engineering surveying company out of Conover, North Carolina, their address was 209 1st Avenue South, Conover, North Carolina. He was present with Prestige Acquisitions in favor of this rezoning. He basically was present to answer any kind of technical questions they may have. Mr. Bonda will be speaking next, and he could answer anything about the development of the property. He was just present basically for any kind of technical questions Council may have.

Mayor Guess advised this was not the time for questions, but he certainly was welcome to say anything that he would like to say.

Mr. Wright thanked Mayor Guess.

Mr. Alex Bonda, Prestige Acquisitions, the applicant, 7224 Jameson Way, Stanley NC advised they were a local developer in the Charlotte region. They were a turnkey developer, and they take properties from land acquisition all the way through entitlements and permitting. They have a site works division that actually will do the land clearing, erosion control measures, putting in the utilities, the roads, padding out the lots, and then they sell those finished lots to homebuilders. Most of their clients were national homebuilders, the Baltes, the DR Hortons, the Lennar's of the world. They currently have 8,000 lots in their pipeline and were very dedicated to the Charlotte region. They know it well. Hickory is a great city and he thought with the growth that had come to the Charlotte region and the need for housing that this was a great location for folks to live in a beautiful community.

He did not really have a rebuttal to some of the comments that were made. Buffers were mentioned, he knew this was not a conditional rezoning, but they were more than happy to talk with the adjacent landowners about the buffers as far as widths and landscaping, they were not opposed to that at all. They typically do that on most of their projects. As far as Mr. Miller's family and the history on that property, he knew they were developers, but they do like to be sensitive to the history of the properties that they do develop. They were more than happy to talk to Mr. Miller about his family, as far as names that might be used in the development if he was open to that or naming the development after a past family member. More than open to talking more on that. Otherwise, he knew it was not this point in time for questions, but he was available for any additional questions. He thanked Council.

Mayor Guess asked if anyone else wished to speak in favor. No one else appeared. He asked if anyone in opposition wished to speak in rebuttal. No one appeared. He closed the public hearing and asked for a motion or discussion.

Alderman Freeman commented first of all being the new kid on the block, part of the City Council, he would never come to a meeting already having the vote in mind. Anytime there is a time of public hearing, he wants to be able to hear both sides. He thanked those who came out as concerned citizens and voiced their convictions, their concerns, and also hearing one who certainly was very emotional about where they live. Tonight was certainly putting him in a tough spot because, it was Christmas time and so on one end, he might be Santa Claus on the other end he might be the Grinch. But the truth of the reality was that Hickory was certainly experiencing exponential growth. And that on one hand was a wonderful thing, but on the other hand, he knew that it would always present challenges, because he knew there was more property that would be annexed and rezoned, and they would have more citizens, not the same citizens, but there would be more citizens with the same type of concerns and convictions. He wanted them to know however he voted tonight it was simply just letting them know that he appreciated them coming and sharing and he just believed one of the greatest gift that they could have on earth was just to be heard.

Alderman Wood followed up on Alderman Freeman's comments. He sat and listened, and people were passionate about their property and that was fundamental. That was fundamental, not just in Hickory, that was fundamental in our country. When he looks at these situations, he looks through it through the lens of private property ownership and the right and the ability to do what they want with their property as long as it is within the law and the ordinances of our State, municipality, those types of things. So, that makes it tough. Like Alderman Freeman said, it makes it difficult because property ownership was fundamental and unless it was outside the bounds of the law or the ordinances or just a totally improper use of it, it tends to side that way. He tends to go that direction with the rights of the property owner. He appreciated everybody coming out and sharing their perspectives. He rode out to the property and looked around it and like the gentleman said, the Conservancy land as a buffer that was going to remain in perpetuity, he believed. He did not know all the laws about Conservancy, but that was a buffer that was going to last to a lot of people. He meant they do not have many of those to enjoy. Buffers like that, 550 acres he thought he said. It was a very tough decision and he respected everybody coming out and sharing their views.

Alderman Patton thanked the citizens for their calls, she appreciated that they engaged City Council. She agreed with Alderman Wood, they were growing and as a community, she liked to hear the developer would work with the property owners and have some buffer there to protect them. And as he said, the Conservancy obviously has buffer and it was up to the developer to get water and sewer and if they could not, that was on them.

Alderman Williams followed up. They had heard a number of these types of issues right outside of her own neighborhood. She guessed they filled up the auditorium even fuller. She was hoping and what they had seen in the past was that there had been a lot of good discussion and compromise. So even when a development looks a certain way, but they were hearing there was openness to discuss with property owners, they had seen how even the developers had compromised and hopefully in working together, they could come up with something that would be more amenable to just thinking this development was going to happen with no input. She knew in some of their areas they start with a certain number of units and talking to the neighbors and just looking at the landscape. They have reduced and they have seen that on numerous occasions. She was hoping that would happen in this case as well.

Mayor Guess asked for any other comments. He appreciated those who spoke and those who called Council. He thought everybody on the Council had probably

talked to individuals that were in favor and that were opposed, and he appreciated the respect that everyone had given them this evening. He thanked them for letting Council know how they felt about this situation.

Alderman Wood had a question of the developer. He asked the developer, Alex Bonda to the podium. He asked Mr. Bonda if he anticipated any problems connecting to public utilities with this property.

Mr. Alex Bonda commented there was always the potential for some conflicts either with adjacent neighbors or routing, sewer for example. There was multiple ways to get to the sewer line. They would address exactly which would be the best route. They would certainly be reaching out to adjacent neighbors about the sewer line connection and also working through alternate designs as well if they could not work through that.

Alderman Wood commented like you said, this was not a contingent rezoning, so they could not hold him to this. He respectfully asked that Mr. Bonda stick to his word, and he had no reason to believe that he would not stick to his word if this does pass that he would work with these people on this buffer issue and make sure that to the extent possible everybody was satisfied with this project if it does pass.

Mr. Alex Bonda replied yes, sir. They were a local company and were not a national conglomerate. They have a reputation in the Charlotte area, and they intend to stand by their word.

Alderman Wood thanked Mr. Bonda.

Mayor Guess asked for any further discussion.

Alderman Wood moved, seconded by Alderwoman Patton approval of rezoning petition number 23-07. The motion carried unanimously.

ORDINANCE 23-37

AN ORDINANCE OF THE HICKORY CITY COUNCIL AMENDING THE OFFICIAL HICKORY ZONING ATLAS TO REZONE +/- 62.873 ACRES OF PROPERTY LOCATED AT 2239 ROBINSON ROAD, FROM R-1 RESIDENTIAL TO R-2 RESIDENTIAL.

WHEREAS, Article 2, Section 2.2 of the Hickory Land Development Code provides for amendments to the Official Zoning Atlas; and

WHEREAS, the property owner has been petitioned to rezone +/- 62.873 acres of property located at 2239 Robinson Road, more particularly described on Exhibit A attached hereto, to allow a R-2 Residential; and

WHEREAS, the Hickory Regional Planning Commission considered the proposed rezoning during a public hearing on December 6, 2023, and forwarded a recommendation of approval to the City Council; and

WHEREAS, Article 2 of the Hickory Land Development Code requires findings the proposed rezoning is in response to changing conditions and is reasonably necessary to promote the public health, safety, and general welfare; and

WHEREAS, the City Council has found Petition 23-07 to be in conformance with the Hickory by Choice 2030 Comprehensive Plan and Zoning Ordinance,

NOW, THEREFORE, BE IT ORDAINED by the City Council of Hickory, North Carolina, THAT THE REZONING OF PROPERTY DESCRIBED IN EXHIBIT A is approved.

SECTION 1. Findings of fact.

- The subject properties are located 2239 Robinson Road, and identified as PINs 371110452075, 371114344769, 371114442597, 371114348055.
- The rezoning request is intended to further implement the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.
- The rezoning of the property is consistent with the Hickory by Choice 2030 Comprehensive Plan.

SECTION 2. All ordinances or provisions of the Hickory City Code which are not in conformance with the provisions of the Amendment occurring herein are repealed as of the effective date of this Ordinance.

SECTION 3. Statement of Consistency and Reasonableness

Upon considering the matter, the Hickory City Council found:

The general area is classified as Low Density Residential by the Hickory by Choice 2030 Comprehensive Plan. The Hickory by Choice 2030 Comprehensive Plan states the following about Low Density Residential areas: "This land use category is intended to provide an area of transition between higher density housing in Hickory and the surrounding rural areas by offering development at two to four units per acre." The comprehensive plan also indicates a density of 2 to 4 dwelling units per acre is appropriate for the Low-Density Residential classification.

Given these factors, the rezoning of the properties to R-2 Residential are consistent with the findings and recommendations of the Hickory by Choice (2030) Comprehensive Plan.

Section 1.7 of the Hickory Land Development Code contains its Stated Purpose and Intent. This section contains five (5) specific items which the Land Development Code is intended to uphold. These are as follows:

- Implement the Hickory by Choice 2030 Comprehensive Plan.

The area under consideration for rezoning is indicated by the Hickory by Choice 2030 Comprehensive Plan as being an area for future low density residential development, which is what the R-2 Residential district provides.

- Preserve and protect land, air, water and environmental resources and property values.

All improvements that are to take place on the properties will be required to follow all applicable development regulations.

- Promote land use patterns that ensure efficiency in service provision as well as wise use of fiscal resources and governmental expenditures.

The subject property has access to a state-maintained roadway Robinson Road and also has access to water and sewer infrastructure. The land-use pattern of the area, with the inclusion of the subject property, represents an efficient use of public services, and the wise use of public funding.

- Regulate the type and intensity of development; and

The current land use pattern of the larger area consists largely of residential uses. The future use of the property is best suited to further the existing development pattern of the area. Public resources to provide critical public services are in place or will be provided by the property owner / developer to service the development. These include public utilities and transportation infrastructure.

- Ensure protection from fire, flood, and other dangers.

The subject properties will be required to adhere to all state and local building, fire, and flood zone related development regulations. Such regulations will ensure proper protections are provided to ensure surrounding residents, and property are properly protected as prescribed by law.

- The suitability of the subject property for the uses permitted under the existing and proposed zoning classification:

The current land use pattern of the larger area consists of single-family residences. The rezoning of the property to R-2 Residential would continue this development pattern.

- The extent to which zoning will detrimentally affect properties within the general vicinity of the subject property:

Given the similarity of the current and requested districts, conflicts in use types would not be anticipated, nor expected to cause detrimental impacts on the surrounding area.

- The extent to which the proposed amendment (zoning map) will cause public services including roadways, storm water management, water and sewer, fire, and police protection to fall below acceptable levels.

Public resources to provide critical public services are in place to service the area. These include public utilities transportation infrastructure, as well as police and fire protection.

- The proposed amendment (zoning map) will protect the public health, safety, and general welfare.

The subject property is located within an area where the Hickory by Choice 2030 Comprehensive Plan anticipated residential development.

Based upon these findings, the Hickory City Council has found Rezoning Petition 23-05 to be reasonable, and consistent with the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.

SECTION 4. This Ordinance shall become effective upon adoption.

B. Departmental Reports:

1. Appointments to Boards and Commissions

COMMUNITY APPEARANCE COMMISSION

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

Ward 1 (Wood Appoints)

VACANT

At-Large (Outside City but within HRP) (Council Appoints)

VACANT

Alderman Wood nominated Lynn Sampson as Ward 1 Representative on the Community Appearance Commission.

COMMUNITY RELATIONS COUNCIL

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

Other Minority (Council Appoints)

VACANT

Other Minority (Council Appoints)

VACANT

Other Minority (Council Appoints)

VACANT

HICKORY REGIONAL PLANNING COMMISSION

(Term Expiring 6-30; 3-Year Terms With Unlimited Appointments) (Appointed by City Council)

Burke County Representative (Mayor Appoints with Recommendation from Burke County)

VACANT

Ward 5 (Zagaroli Appoints) (Wallace Johnson Resigned 12-7-2023)

VACANT

Alderman Zagaroli nominated Robert Lelewski as Ward 5 Representative on the Hickory Regional Planning Commission.

HISTORIC PRESERVATION COMMISSION

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

Historic Properties Owner (Council Appoints)

VACANT

LIBRARY ADVISORY BOARD

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

Ward 3 (Seaver Appoints)

VACANT

PUBLIC ART COMMISSION

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

Ward 3 (Seaver Appoints)

VACANT

Alderman Seaver nominated Michael McLamb as Ward 3 Representative on the Public Art Commission.

RECYCLING ADVISORY BOARD

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

Ward 6 (Patton Appoints)

VACANT

Mayor Guess moved seconded by Alderman Seaver approval of the above nominations. The motion carried unanimously.

December 19, 2023

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 Wood commented Merry Christmas, it was at the doorstep. Right?

Mayor Guess commented this year is gone.

Alderman Wood commented Merry Christmas to Council and everybody present. He hoped everybody had a safe holiday.

Alderman Seaver commented maybe they would see some snow. He heard there was a few flakes up around Lenoir last night.

Alderman Wood advised they could see it on the mountains from his office. He was in the People's Bank and if you looked you could see the snow on the mountains. So that was nice. He thought the big travel day started tomorrow. The bulk of the travel starts happening tomorrow. So be careful when they are out there.

Alderman Freeman said Merry Christmas to everyone. He really wanted the Hickory High School football team to really know that they as City leaders were extremely proud of them and certainly, he knew one of the greatest joys of any coach was watching the process of maturation of the boys turn into men. He wanted to go on record and let the football team know they were extremely proud of them.

Mayor Guess reminded everyone once again that Friday night, the public celebration at six o'clock downtown on Union Square. Just put that on your calendar and plan on being there.

Alderman Wood commented this was changing lives too. Having a State title was huge. He asked if they had been reading about the scholarship offers that have been coming to these young men. This was life changing for some of these young men. It was tremendous.

Alderman Williams commented Merry Christmas and Happy New Year, they would not be meeting until 2024.

Alderman Wood commented shortly thereafter, January 2nd.

XIV. Closed Session Per NC General Statutes 143-318.11(a)(1)(3) to consult with the attorneys regarding the following: (Action on these items, if any, will occur in Open Session)

Mayor Guess moved that Council go into closed session to consult with the attorneys to discuss the items below, seconded by Alderman Williams. The motion carried unanimously.

1. Approval of Closed Session Minutes of October 17, 2023 - NCGS §143-318.11(a)(1)
2. Discussion of Potential Litigation - NCGS §143-318.11(a)(3)

Council convened to closed session at approximately 6:57 p.m.

Council reconvened to open session at approximately 7:12 p.m.

No action was taken upon return to open session.

XV. There being no further business, the meeting adjourned at 7:12 p.m.

 Mayor

 City Clerk

COUNCIL AGENDA MEMOS**To: City Manager's Office****From: Steve Miller – Public Works Director****Contact Person: Jarod Marshall – Civil Engineer I****Date: December 12, 2023****Re: Neighborhood Traffic Calming Program; Speed limit Reduction to 25mph; 9th Ave NE****REQUEST**

Staff request Council acceptance and approval to implement a speed limit reduction to 25mph along 9th Ave NE between 16th St NE and 20th St NE.

BACKGROUND

City Council implemented a Neighborhood Traffic Calming Program that enables citizens to request measures to improve traffic safety in the area where they own property. Citizens are required to submit an application to request measures and provide a reason for the request. Then, the City performs analysis to determine what, if any, measures are warranted. Citizens requesting traffic calming measures are required to complete and submit a petition with 75% of properties in favor of implementation for the request to move forward.

ANALYSIS

Traffic Division staff received the completed petition from property owners along 9th Ave NE with regards to the Neighborhood Traffic Calming Program and have found the property owners to be in compliance with the guidelines. The petition does qualify for a speed limit reduction to 25mph. Nineteen (19) properties were included in the petition and fourteen (14) properties signed in favor of implementation. This represents at least 75% approval, which meets the requirement. The necessary sign modifications along the roadway can be performed as a normal part of the Traffic Division's signs/markings shop operations.

RECOMMENDATION

Staff recommends Council acceptance and approval to implement a speed limit reduction to 25mph along 9th Ave NE between 16th St NE and 20th St NE.

BUDGET ANALYSIS:

Budgetary Action

Is a Budget Amendment required?

Yes

No

LIST THE EXPENDITURE CODE:

Reviewed by:

Steve Miller
Initiating Department Head

12/13/23
Date

Rodney Miller
Asst. City Manager Rodney Miller

12/28/23
Date

Melissa Miller
Finance Officer, Melissa Miller

12/22/23
Date

Yaidee Fox
Asst. City Manager Yaidee Fox

12/28/23
Date

Deputy City Attorney, A. Dula

Date

R. Beasley
Asst. City Manager, R. Beasley

12/28/23
Date

Cameron McHargie
Deputy Finance Officer,
Cameron McHargie

12-22-23
Date

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

W. Wood
City Manager, W. Wood

12-28-23
Date

ORDINANCE NO. ____ - ____

AN ORDINANCE OF THE HICKORY CITY COUNCIL
AMENDING THE TRAFFIC ORDINANCE AUTHORIZED IN THE
HICKORY CODE OF ORDINANCES – ARTICLE III, SECTION 18-81

WHEREAS, Article III of the City of Hickory Code of Ordinances be and is hereby amended through the modification of the official maps authorized therein as follows, to wit:

Amend the Traffic Ordinance by reducing the speed limit along 9th Ave NE between 16th St NE and 20th St NE to 25 mph.

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.

This Ordinance shall become effective immediately upon adoption.

ORDAINED by the City Council of Hickory, North Carolina, this _____ day of _____, 20__.

CITY OF HICKORY,
A North Carolina Municipal Corporation

(SEAL)

Hank Guess, Mayor

Attest:

Debbie D. Miller, City Clerk

Approved as to form this _____ day of _____, 20__.

Arnita M. Dula, Deputy City Attorney

2

COUNCIL AGENDA MEMOS

To: City Manager's Office

From: Steve Miller – Public Works Director

Contact Person: Jarod Marshall – Civil Engineer I

Date: December 12, 2023

Re: Neighborhood Traffic Calming Program; Speed limit Reduction to 25mph; 7th Ave NW

REQUEST

Staff request Council acceptance and approval to implement a speed limit reduction to 25mph along 7th Ave NW between 4th St Dr NW and 6th St NW.

BACKGROUND

City Council implemented a Neighborhood Traffic Calming Program that enables citizens to request measures to improve traffic safety in the area where they own property. Citizens are required to submit an application to request measures and provide a reason for the request. Then, the City performs analysis to determine what, if any, measures are warranted. Citizens requesting traffic calming measures are required to complete and submit a petition with 75% of properties in favor of implementation for the request to move forward.

ANALYSIS

Traffic Division staff received the completed petition from property owners along 9th Ave NE with regards to the Neighborhood Traffic Calming Program and have found the property owners to be in compliance with the guidelines. The petition does qualify for a speed limit reduction to 25mph. Eight (8) properties were included in the petition and seven (7) properties signed in favor of implementation. This represents at least 75% approval, which meets the requirement. The necessary sign modifications along the roadway can be performed as a normal part of the Traffic Division's signs/markings shop operations.

RECOMMENDATION

Staff recommends Council acceptance and approval to implement a speed limit reduction to 25mph along 9th Ave NE between 16th St NE and 20th St NE.

BUDGET ANALYSIS:

Budgetary Action

Is a Budget Amendment required?

Yes

No

LIST THE EXPENDITURE CODE:

Reviewed by:

Steve Miller 12/13/23
Initiating Department Head Date

Deputy City Attorney, A. Dula _____
Date

Rodney Miller 12/28/23
Asst. City Manager Rodney Miller Date

R. Beasley 12/28/23
Asst. City Manager, R. Beasley Date

Melissa Miller 12/22/23
Finance Officer, Melissa Miller Date

Cameron McHargue 12-22-23
Deputy Finance Officer, Date

Yaidee Fox 12/28/23
Asst. City Manager Yaidee Fox Date

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

W. Wood
City Manager, W. Wood

12-28-23
Date

ORDINANCE NO. ____ - _____

AN ORDINANCE OF THE HICKORY CITY COUNCIL
AMENDING THE TRAFFIC ORDINANCE AUTHORIZED IN THE
HICKORY CODE OF ORDINANCES – ARTICLE III, SECTION 18-81

WHEREAS, Article III of the City of Hickory Code of Ordinances be and is hereby amended through the modification of the official maps authorized therein as follows, to wit:

Amend the Traffic Ordinance by reducing the speed limit along 7th Ave NW between 4th St Dr NW and 6th St NW to 25 mph.

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.

This Ordinance shall become effective immediately upon adoption.

ORDAINED by the City Council of Hickory, North Carolina, this _____ day of _____, 20__.

CITY OF HICKORY,
A North Carolina Municipal Corporation

(SEAL)

Hank Guess, Mayor

Attest:

Debbie D. Miller, City Clerk

Approved as to form this _____ day of _____, 20__.

Arnita M. Dula, Deputy City Attorney

COUNCIL AGENDA MEMOS

To: City Manager's Office
From: Sarah Greene, Library Director
Contact Person: Sarah Greene
Date: December 14, 2023
Re: Library Closing – Staff In-Service Day 5-03-24

REQUEST

To close both locations of Hickory Public Library 9:00am – 5:00pm on Friday, May 3, 2024 for staff training.

BACKGROUND

Public library staff regularly interact with the public, and to provide the best possible customer service, it is necessary to periodically provide training opportunities in which all staff participate at the same time. This year we will receive training that will focus on community resources; preparing for summer library programs; and customer service. Customer service training specific to each library department will be included.

ANALYSIS

All library staff – both full-time and part-time – interact on a daily basis with the public and, therefore, need periodic opportunities to participate in staff development training to re-energize, acquire new skills, and improve their ability to work together as a team. To allow all coworkers to participate, it is necessary to schedule the training during a workday. Staff determined that Friday, May 3rd is a date that would create as little disruption as possible in service to the public.

RECOMMENDATION

Staff recommends the Patrick Beaver Memorial Library and the Ridgeview Branch Library be closed on Friday, May 3, 2024 to allow time for all library employees to participate in staff training.

BUDGET ANALYSIS:

Budgetary Action

Is a Budget Amendment required?

Yes

No

LIST THE EXPENDITURE CODE:

Reviewed by:

[Signature]
Initiating Department Head
12/19/23
Date

[Signature]
Asst. City Manager Rodney Miller
12/28/23
Date

[Signature]
Finance Officer, Melissa Miller
12/22/23
Date

[Signature]
Asst City Manager Yaldee Fox
12/28/23
Date

Deputy City Attorney, A. Dula
Date

[Signature]
Asst. City Manager, R. Beasley
12/28/23
Date

[Signature]
Deputy Finance Officer,
Cameron McHargue
12-22-23
Date

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

[Signature]
City Manager, W. Wood
12-28-23
Date

COUNCIL AGENDA MEMOS

To: City Manager's Office
From: Steve Miller/Public Works Director
Contact Person: Steve Miller/Public Works Director
Date: December 20, 2023
Re: Call for Public Hearing for Street Closing Petition – Petitioner Jojida, LLC and Linda H. Huffman for a portion of 1st Avenue SE, portion of 8th Street Court SE, portion of 2nd Avenue Drive SE, and an unnamed alley located off of 2nd Avenue Drive SE

REQUEST

Staff request Council call for a Public Hearing to consider closing a portion of 1st Avenue SE, portion of 8th Street Court SE, portion of 2nd Avenue Drive SE, and an unnamed alley located off of 2nd Avenue Drive SE, as petitioned by Jojida, LLC and Linda H. Huffman.

BACKGROUND

The City Clerk received a petition from Jojida, LLC and Linda H. Huffman, owners of the properties abutting a portion of 1st Avenue SE, portion of 8th Street Court SE, portion of 2nd Avenue Drive SE, and an unnamed alley located off of 2nd Avenue Drive SE. The petition requests the City to close the aforementioned areas per NCGS § 160A-299.

ANALYSIS

The City Clerk received a petition from Jojida, LLC and Linda H. Huffman to close a portion of 1st Avenue SE, portion of 8th Street Court SE, portion of 2nd Avenue Drive SE, and an unnamed alley located off of 2nd Avenue Drive SE. The aforementioned areas are bound by the properties owned by the Petitioners Jojida, LLC and Linda H. Huffman. The signatures on the petition represent all the owner(s) of the property abutting these portions of the right-of-way. The petition fee of \$830 has been paid.

A memo was sent to various departments for their input on the street closing. Public Utilities advised 1st Avenue SE and 8th Street Court SE both have public water and sewer infrastructure that is in service. These utilities serve properties that are not part of this closing. A 25-foot utility easement needs to be recorded for this infrastructure or appropriate relocation and easements need to take place at the requestor's cost.

RECOMMENDATION

Staff recommends Council call for the public hearing to consider closing a portion of 1st Avenue SE, portion of 8th Street Court SE, portion of 2nd Avenue Drive SE, and an unnamed alley located off of 2nd Avenue Drive SE as petitioned by Jojida, LLC and Linda H. Huffman. The public hearing will be held on February 6, 2024.

BUDGET ANALYSIS:

Budgetary Action

Is a Budget Amendment required?

Yes

No

LIST THE EXPENDITURE CODE:

Reviewed by:

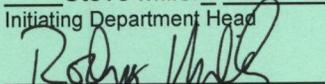


Steve Miller
Initiating Department Head

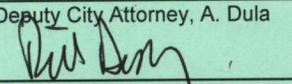
12-2023
Date

Deputy City Attorney, A. Dula

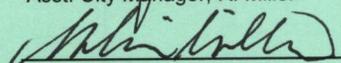
Date


Asst. City Manager, R. Miller

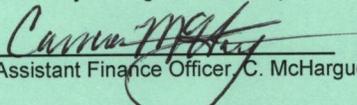
12/28/23
Date


Asst. City Manager, R. Beasley

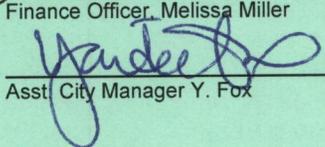
12/28/23
Date


Finance Officer, Melissa Miller

12/22/23
Date

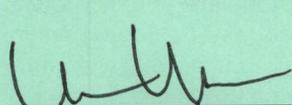

Assistant Finance Officer, C. McHargue

12-22-23
Date


Asst. City Manager Y. Fox

12/28/23
Date

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


City Manager, Warren Wood
12-28-23
Date

RESOLUTION NO. 24-
RESOLUTION OF INTENT

A Resolution Declaring the Intention of the City Council of the City of Hickory to Consider the Closing of a portion of 1st Avenue SE, a portion of 8th Street Court SE, a portion of 2nd Avenue Drive SE, and an unnamed alley located off of 2nd Avenue Drive SE

WHEREAS, G.S. 160A-299 authorizes the City Council of the City of Hickory to close public streets and alleys; and

WHEREAS, the City Council of the City of Hickory considers it advisable to conduct a public hearing for the purpose of giving consideration to the closing of a portion of 1st Avenue SE, a portion of 8th Street Court SE, a portion of 2nd Avenue Drive SE, and an unnamed alley located off of 2nd Avenue Drive SE.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hickory that:

1. A Public Hearing will be held at 6:00 p.m. on the 6th day of February, 2024, in the Council Chambers of the Julian G. Whitener Municipal Building at 76 North Center Street, Hickory, North Carolina to consider a resolution closing a portion of 1st Avenue SE, a portion of 8th Street Court SE, a portion of 2nd Avenue Drive SE, and an unnamed alley located off of 2nd Avenue Drive SE.
2. The City Clerk is hereby directed to publish this Resolution of Intent once a week for four successive weeks in the *Hickory Daily Record*.
3. The City Clerk is further directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of this Resolution of Intent.
4. The City Clerk is further directed to cause adequate notices of this Resolution of Intent and the scheduled public hearing to be posted as required by G.S. 160A-299.

Approved this 2nd day of January, 2024.

THE CITY OF HICKORY,
A North Carolina Municipal Corporation

ATTEST:

By: _____
Hank Guess, Mayor

(Seal)

Debbie D. Miller, City Clerk

Approved as to Form:

Attorney for the City of Hickory

NORTH CAROLINA

PETITION FOR STREET AND ALLEY CLOSURE

CATAWBA COUNTY

TO: THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF HICKORY

NOW COME, JOJIDA, LLC ("Petitioner 1") and LINDA H. HUFFMAN, widow ("Petitioner 2", and collectively with Petitioner 1, the "Petitioners"), and respectfully petition the Honorable Mayor and City Council of Hickory as follows:

- 1. Petitioner 1's address is:

Jojida, LLC
Attn: Joe Rowe
P.O. Box 2610
Hickory, NC 28603

- 2. Petitioner 2's address is:

Linda H. Huffman
6322 Halifax Rd.
Conover, NC 28613

- 3. Petitioner 1 and Petitioner 2 seek to close a portion of: (a) 1st Avenue SE, Hickory, Catawba County, North Carolina ("1st Ave."), and (b) 8th Street Court SE, Hickory, Catawba County, North Carolina ("8th St.").
- 4. Petitioner 1 seeks to close: (a) a portion of 2nd Avenue Drive SE, Hickory, Catawba County, North Carolina ("2nd Ave."), and (b) all of an unnamed alley shown on Plat Book 1, Page 97, Catawba County Registry (the "Alley", and collectively with 1st Ave., 2nd Ave., and 8th St., the "Streets").
- 5. A survey showing the location of the portions of 1st Ave., 2nd Ave., and 8th St., to be closed and the location of the Petitioners' parcels in relation thereto is shown on Exhibit A-1 attached hereto and incorporated by reference herein.
- 6. A copy of Plat Book 1, Page 97, Catawba County Registry which shows the Alley to be closed and the location of Petition 1's parcels in relation thereto is shown on Exhibit A-2 attached hereto and incorporated by reference herein.
- 7. Metes and bounds descriptions of the portions of the Streets to be closed and the description of the Alley are detailed on Exhibit B attached hereto and incorporated by reference herein.
- 8. Petitioner 1 owns the following six (6) parcels of land which adjoin the portion of 1st Ave. for which closure is sought:

RECEIVED
BY: D.M. H
DATE: 12-14-23

- a. PIN # 371205084655 (LRK/REID 28278) Book 2224, Page 817, Catawba County Registry (Lots 1-36 and part of Lots 37 & 38 (less the portion conveyed to NCDOT in Book 913, Page 230, Catawba County Registry), Plat Book 1, Page 97, Catawba County Registry).
 - b. PIN # 371205082637 (LRK/REID 28268) Book 2224, Page 817, Catawba County Registry (Lot 7, Plat Book 3, Page 45, Catawba County Registry).
 - c. PIN # 371205081697 (LRK/REID 28267) Book 2228, Page 1502, Catawba County Registry (Lot 6, Plat Book 3, Page 45, Catawba County Registry).
 - d. PIN # 371205081636 (LRK/REID 28266) Book 2244, Page 1530, Catawba County Registry (Lot 5, Plat Book 3, Page 45, Catawba County Registry).
 - e. PIN # 371205080781 (LRK/REID 28264) Book 2244, Page 1530, Catawba County Registry.
 - f. PIN # 371205080645 (LRK/REID 28263) Book 2244, Page 1530, Catawba County Registry.
9. Petitioner 2 owns the following parcel of land in the vicinity of the portion of 1st Ave. for which closure is sought:
- PIN # 370208989678 (LRK/REID 28262) Book 1597, Page 156, Catawba County Registry.
10. To the best of the Petitioners' knowledge, the closing and abandonment of the portion of 1st Ave. described on Exhibit B is not contrary to the public interest, and no individual or other party, owning property in the vicinity of 1st Ave. will be deprived of reasonable means of ingress or egress to his or its property. There are no other adjoining property owners.
11. Petitioner 1 owns the following eight (8) parcels of land which adjoin the portion of 8th St. for which closure is sought:
- a. PIN # 371205084655 (LRK/REID 28278) Book 2224, Page 817, Catawba County Registry (Lots 1-36 and part of Lots 37 & 38 (less the portion conveyed to NCDOT in Book 913, Page 230, Catawba County Registry), Plat Book 1, Page 97, Catawba County Registry).
 - b. PIN # 371205082575 (LRK/REID 28314) Book 2736, Page 1088, Catawba County Registry.
 - c. PIN # 371205083439 (LRK/REID 28315) Book 2736, Page 1088, Catawba County Registry.
 - d. PIN # 371205083453 (LRK/REID 28316) Book 2278, 515, Catawba County Registry.
 - e. PIN # 371205081336 (LRK/REID 28273) Book 2944, Page 1924, Catawba County Registry.

- f. PIN # 371205081572 (LRK/REID 28270) Book 2249, Page 145, Catawba County Registry (Lot 3, Plat Book 3, Page 45, Catawba County Registry).
 - g. PIN # 371205081587 (LRK/REID 28269) Book 2228, Page 1500, Catawba County Registry (Lot 4, Plat Book 3, Page 45, Catawba County Registry).
 - h. PIN # 371205082637 (LRK/REID 28268) Book 2224, Page 817, Catawba County Registry (Lot 7, Plat Book 3, Page 45, Catawba County Registry).
12. Petitioner 2 owns the following parcel of land in the vicinity of the portion of 8th St. for which closure is sought:
- PIN # 370208989678 (LRK/REID 28262) Book 1597, Page 156, Catawba County Registry.
13. To the best of the Petitioners' knowledge, the closing and abandonment of the portion of 8th St. described on Exhibit B is not contrary to the public interest, and no individual or other party, owning property in the vicinity of 8th St. will be deprived of reasonable means of ingress or egress to his or its property. There are no other adjoining property owners.
14. Petitioner 1 owns the following five (5) parcels of land which adjoin the portion of 2nd Ave. for which closure is sought:
- a. PIN # 371205084655 (LRK/REID 28278) Book 2224, Page 817, Catawba County Registry (Lots 1-36 and part of Lots 37 & 38 (less the portion conveyed to NCDOT in Book 913, Page 230, Catawba County Registry), Plat Book 1, Page 97, Catawba County Registry).
 - b. PIN # 371205086458 (LRK/REID 28282) Book 2736, Page 1088, Catawba County Registry (Lots 51 & 52, Plat Book 1, Page 97, Catawba County Registry).
 - c. PIN # 371205087207 (LRK/REID 28318) Book 2460, Page 996 and Book 2323, Page 1140, Catawba County Registry.
 - d. PIN # 371205083439 (LRK/REID 28315) Book 2736, Page 1088, Catawba County Registry.
 - e. PIN # 371205082575 (LRK/REID 28314) Book 2736, Page 1088, Catawba County Registry.
15. To the best of the Petitioner 1's knowledge, the closing and abandonment of the portion of 2nd Ave. described on Exhibit B is not contrary to the public interest, and no individual or other party, owning property in the vicinity of 2nd Ave. will be deprived of reasonable means of ingress or egress to his or its property. There are no other adjoining property owners.

16. Petitioner 1 owns the following parcel of land which encompasses the entire Alley, for which closure is sought:

PIN # 371205084655 (LRK/REID 28278) Book 2224, Page 817, Catawba County Registry (Lots 1-36 and part of Lots 37 & 38 (less the portion conveyed to NCDOT in Book 913, Page 230, Catawba County Registry), Plat Book 1, Page 97, Catawba County Registry).
17. To the best of the Petitioner 1's knowledge, the closing and abandonment of the Alley described on Exhibit B is not contrary to the public interest, and no individual or other party, owning property in the vicinity of the Alley will be deprived of reasonable means of ingress or egress to his or its property. There are no other adjoining property owners.
18. Petitioners are under contract to sell all parcels adjoining the Streets to a single purchaser who intends to combine the parcels and develop the same as a single, integrated development, and the Streets are no longer needed and serve as an impediment to the purchaser's planned development.
19. The City of Hickory acting through its Mayor and City Council is authorized by North Carolina General Statutes §160A-296 et seq. to close the Streets as hereinabove described.

(signature pages to follow)

WHEREFORE, the undersigned Petitioner 1 respectfully requests the Mayor and City Council of the City of Hickory to declare their intent to close the Streets as described above and as indicated on the attached Exhibits, and to give Notice of Hearing to be held to consider such closing in accordance with the provisions of North Carolina General Statute §160A-299.

This the 14 day of December, 2023.

JOJIDA, LLC

DocuSigned by:

Joe C. Rowe

By: _____
2CBA033E05784AD...

Name: JOE C. ROWE

Title: Member Manager

WHEREFORE, the undersigned Petitioner 2 respectfully requests the Mayor and City Council of the City of Hickory to declare their intent to close the Streets as described above and as indicated on the attached Exhibits, and to give Notice of Hearing to be held to consider such closing in accordance with the provisions of North Carolina General Statute §160A-299.

This the 13 day of December, 2023.

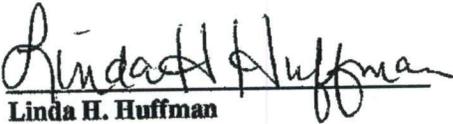

Linda H. Huffman

Exhibit A-1

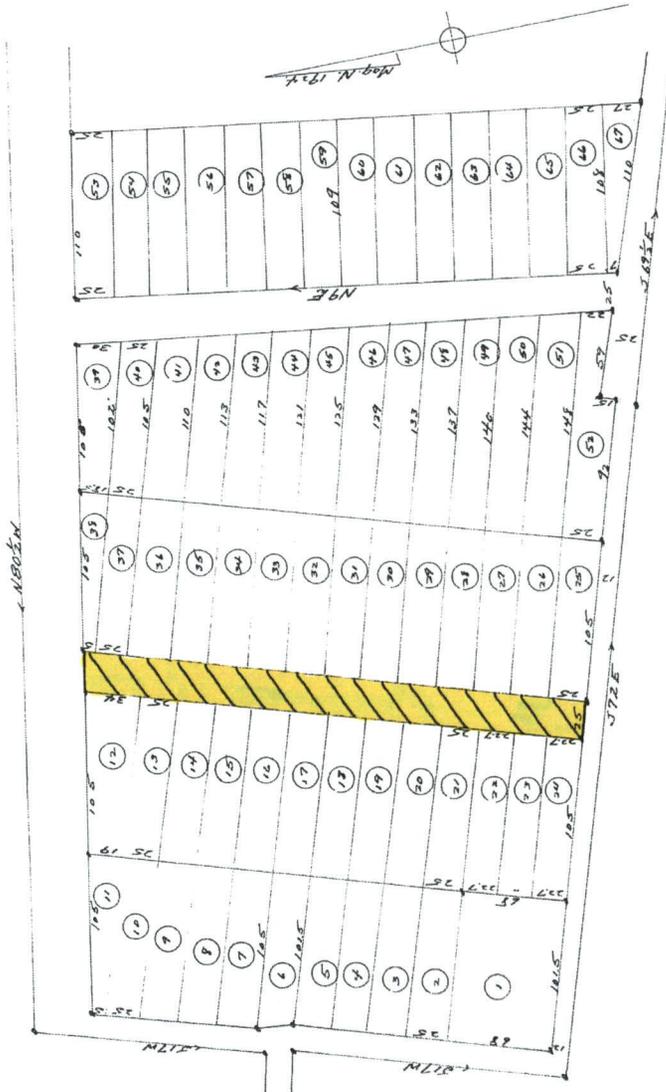
[Attach Survey]

Exhibit A-2

[attach Plat]

Exhibit A-2

The unnamed alley for which Petitioners seek closure is highlighted and crosshatched.



Johndson C. C. Reed, Proprietor
 South East Hoke, N.C.
 Carolina Land Co. Surveying Agents
 Hoke, N.C.

G. L. Stone, Esq. Secy.
 Hoke, N.C.

April 15, 1924
 Scale 1" = 50'

N.C. G. L. Stone Great being duly sworn, say that he is a Reg. Surv. under the laws of N.C. that on April 20, 1924, at request of Carolina Land Co., Hoke, N.C. L. B. Corbett, owner, he made a survey of the lands described in the attached plat, said lands located in Hoke, Columbus Co., N.C. that said plat was prepared from an actual survey and are in all respects correct, all distances given thereon are as measured by chainmen and those he believes to be correct, all lines were run on magnetic bearing for that date.

G. L. Stone
 Reg. Surv.

Subscribed and sworn before me this 20th day of April 1924.
 Oscar Ffelle
 N.P. [My commission expires 1925]

Ms. Coroline
 Columbus Co.

The foregoing correct plat of said lands, as N.P. of Columbus Co. is judged to be correct and the instrument with the certificate to be registered.

J. C. Edmond, C. C. C.
 Filed for registration of this instrument on May 14, 1924, and registered on May 19, 1924 in the office of the Reg. of Deeds for Columbus Co. in Plat Book 1 at Page 97.
 Register-Deeds.

Exhibit B

Tract 1 (portions of 1st Ave., 2nd Ave., and 8th St. requested to be closed):

Being those streets lying and being in the City of Hickory, Catawba County, North Carolina and being more particularly described as follows:

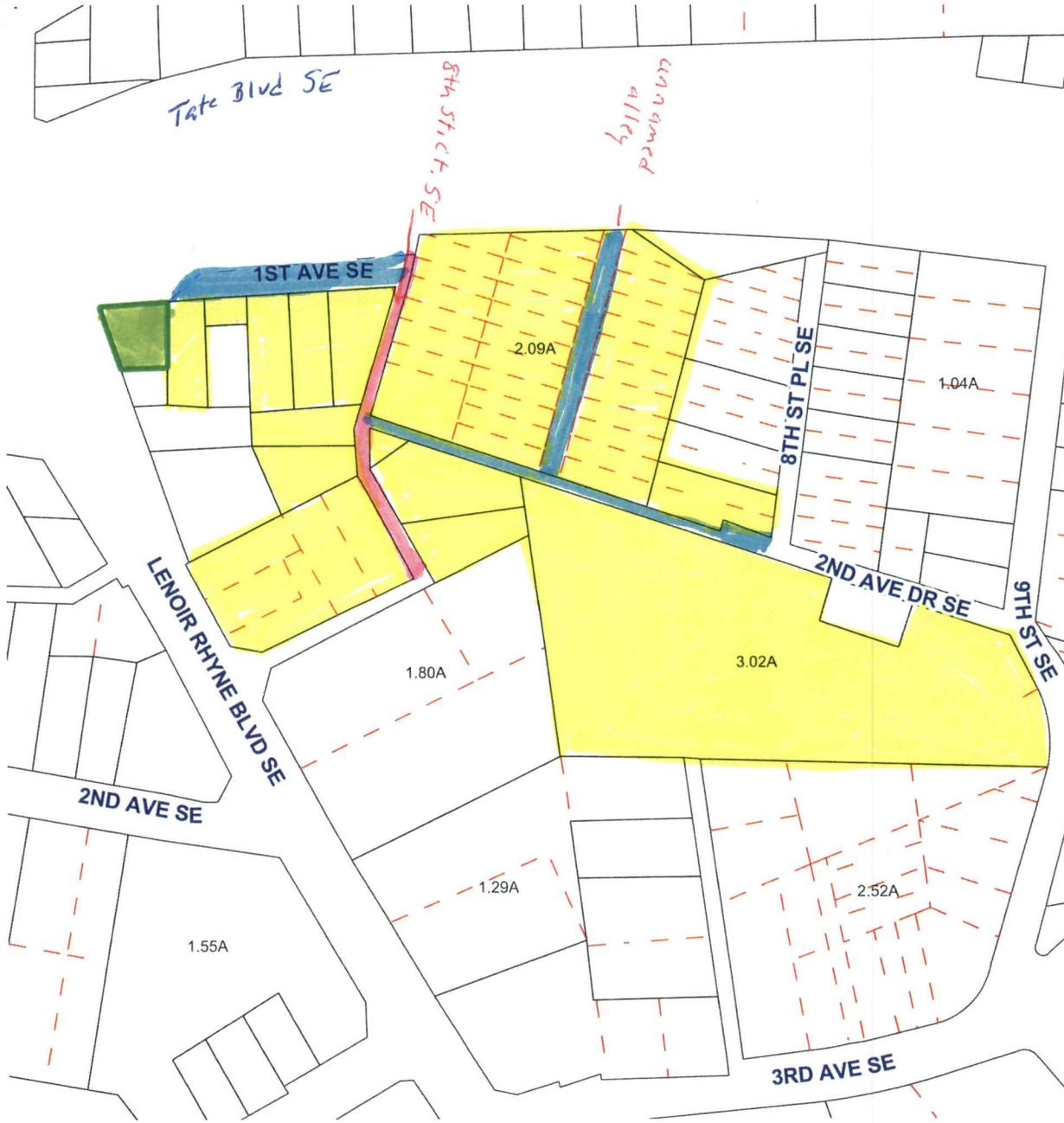
Commencing at a 1/2" existing iron rod in the eastern margin of Lenoir Rhyne Boulevard S.E., said rod also being the northwestern corner of Linda H. Huffman, now or formerly (Deed Book 1597, Page 156) ("Huffman"); thence N78°26'53"E 86.90 feet along the northern line of Huffman to the point and place of BEGINNING, said place of beginning also being the northeastern corner of Huffman:

Thence from the point and place of BEGINNING along the old northern margin of 1st Avenue SE the following six courses and distances: (1) N54°16'05"E 49.16 feet to a 1" existing iron rod; (2) N86°15'22"E 64.64 feet to a 1/2" new iron rebar; (3) N86°57'52"E 54.76 feet to a 1/2" new iron rebar; (4) S89°33'12"E 105.00 feet to a 1/2" new iron rebar; (5) N13°52'47"E 30.82 feet to an existing right-of-way monument; and, (6) N85°20'51"E 34.00 feet to a 1/2" new iron rebar, said new iron rebar also being the northwestern corner of Jojida, LLC, now or formerly (Deed Book 2224, Page 817) ("Jojida 1"); thence, turning South, and proceeding along the old eastern margin of 8th Street Court SE, the same being the western line of Jojida 1, the following three courses and distances: (1) S17°35'21"W 30.14 feet to a 1/2" new iron rebar; (2) thence S12°15'53"W 23.68 feet to a 1/2" new iron rebar; (3) thence S17°21'53"W 161.97 feet to a 1/2" new iron rebar; thence, turning East, and proceeding along the old northern margin of 2nd Avenue Drive SE, the same being the southern line of Jojida 1 and Jojida, LLC, now or formerly (Deed Book 2736, Page 1088) ("Jojida 2"), the following three courses and distances: (1) S70°11'56"E 418.50 feet to a 1/2" new iron rebar being a corner of Jojida 2; (2) thence turning North, N18°23'14"E 13.20 feet to a 1/2" new iron rebar being a corner of Jojida 2; and, (3) thence turning East, S70°11'56"E 59.00 feet to a 1/2" new iron rebar being a corner of Jojida 2; thence turning South, and crossing 2nd Avenue Drive SE, S09°39'35"W 26.49 feet to a point in the northern line of Jojida, LLC, now or formerly (Deed Book 2460, Page 996 and Deed Book 2323, Page 1140) ("Jojida 3"); thence turning West, and proceeding along the old southern margin of 2nd Avenue Drive SE, the same being the northern lines of Jojida 3 and Jojida 2, N70°11'56"W 477.50 feet to a 1/2" new iron rebar being the northwestern corner of Jojida 2; thence, turning South, and proceeding along the old eastern margin of 8th Street Court SE, the same being the western line of Jojida 2 and Jojida, LLC, now or formerly (Deed Book 2278, Page 515) ("Jojida 4") the following two courses and distances: (1) S00°17'20"W 43.75 feet to a 1/2" new iron rebar being the southwestern corner of Jojida 2; and, (2) thence S25°03'02"E 133.26 feet to a 1/2" existing iron rebar, being a point in the western line of Jojida 4; thence, turning West and crossing 8th Street Court SE, S64°35'15"W 19.13 feet to a 1/2" new iron rebar being the southeastern corner of Jojida, LLC, now or formerly (Deed Book 2944, Page 1924) ("Jojida 5"); thence turning North, and proceeding along the old western margin of 8th Street Court SE, the same being the eastern lines of Jojida 5 and Jojida, LLC, now or formerly (Deed Book 2249, Page 145; Deed Book 2228, Page 1500; and, Deed Book 2224, Page 817) the following three courses and distances: (1) N26°07'11"W 128.49 feet to a 1/2" existing iron rebar; (2) thence N02°09'07"E 72.42 to a 1/2" existing iron rebar being a point in the eastern line of Jojida, LLC; and, (3) thence N 17°21'53"E 151.69 feet to a 1/2" existing iron rebar being a point in the eastern line of Jojida, LLC; thence, turning West, and proceeding along the old southern margin of 1st Avenue SE, S88°15'13"W 273.29 feet to the point and place of BEGINNING.

Tract 2 (alley requested to be closed):

Being that unnamed alley lying in the City of Hickory, Catawba County, North Carolina and being bordered on the east by Lots 25 through 38 and on the west by Lots 12 through 24 as shown on the plat entitled "Subdivision of C.C. Bost Property" prepared by G.L. Stine dated April 15, 1924, and recorded in Plat Book 1, Page 97 of the Catawba County Registry (the "Plat"). The same being described by metes and bounds as follows:

BEGINNING at the northwestern corner of Lot 38, as shown on the Plat; thence $S17^{\circ}W$ 330 feet along the western lines of Lots 25 through 38 to a point, said point being the southwestern corner of Lot 25, as shown on the Plat; thence $N72^{\circ}W$ 25 feet to a point, said point being the southeastern corner of Lot 24, as shown on the Plat; thence $N17^{\circ}E$ 327 feet along the eastern lines of Lots 12 through 24 to a point, said point being the northeastern corner of Lot 12 as shown on the Plat; thence $S80.5^{\circ}E$ 25 feet, to the point and place of BEGINNING.



1in=200ft

Parcel: 370208989678, 107 LENOIR RHYNE BLVD SE HICKORY, 28602

Owners: HUFFMAN LINDA H,

Owner Address: 6322 HALIFAX RD

Values - Building(s): \$0, Land: \$10,500, Total: \$10,500

- to be closed
- 8th St Ct SE to be closed
- Linda Huffman
- Jajida LLC

This map/report product was prepared from the Catawba County, NC Geospatial Information Services. Catawba County has made substantial efforts to ensure the accuracy of location and labeling information contained on this map or data on this report. Catawba County promotes and recommends the independent verification of any data contained on this map/report product by the user. The County of Catawba, its employees, agents, and personnel, disclaim, and shall not be held liable for any and all damages, loss or liability, whether direct, indirect or consequential which arises or may arise from this map/report product or the use thereof by any person or entity.

COUNCIL AGENDA MEMOS

To: City Manager's Office

From: Yaidee Fox, Assistant City Manager

Contact Person: Yaidee Fox

Date: December 13, 2023

Re: Approval of the Retainer Agreement between the City of Hickory and Cranfill Sumner, LLP, Smouse & Mason, LLC, and Napoli Shkolnik, PLLC as Special Counsel for PFAS/PFOA and Associated Resolution

REQUEST

Staff requests Council approval of the retainer agreement between the City of Hickory and Cranfill Sumner, LLP, Smouse & Mason, LLC, and Napoli Shkolnik, PLLC for Special Counsel for per- and polyfluoroalkyl and related substances (PFAS/PFOA), etc., and associated Resolution.

BACKGROUND

The City of Hickory has no findings of PFAS/PFOA contaminants. However, due to pending lawsuits, the City has engaged with Cranfill Sumner, LLP, Smouse & Mason, LLC, and Napoli Shkolnik, PLLC (Special Counsel) who will provide legal representation in identifying and pursuing the City of Hickory's potential claims for injuries and/or property damages arising out of the contamination of water supplies, wastewater treatment facilities, solid waste facilities, fire training facilities, and/or airports by emerging hazardous contaminants including, but not limited to, per- and polyfluoroalkyl and related substances (PFAS/PFOA), 1,4 Dioxane, and micro-plastics, including representation in connection any claim made in the Aqueous Film-Forming Foams (AFFF) Products Liability Litigation MDL No. 2873 pending in the United States District Court, District of South Carolina.

ANALYSIS

The Retainer Agreement is a contingent fee contract. Fees are only owed if there is a recovery from the lawsuit. Special Counsel will be entitled to a contingency fee of 33% (thirty-three percent) of the claim recovery should there be a claim recovery.

RECOMMENDATION

Staff recommends City Council's approval of the retainer agreement between the City of Hickory and Cranfill Sumner, LLP, Smouse & Mason, LLC, and Napoli Shkolnik, PLLC as Special Counsel for PFAS/PFOA, and associated Resolution.

BUDGET ANALYSIS:

Budgetary Action

Is a Budget Amendment required?

Yes

No

YF

LIST THE EXPENDITURE CODE:

Reviewed by:

Yaidee Fox _____

Initiating Department Head

Rodney Miller
Deputy City Mgr Rodney Miller

12/13/2023 _____

Date

12/28/23
Date

Deputy City Attorney, A. Dula _____

Rail Beasley
Asst. City Manager, R. Beasley

12/28/23
Date

Melissa Miller
Finance Officer, Melissa Miller

12/22/23
Date

Cameron McHargue
Deputy Finance Ofr, Cameron McHargue

12-22-23
Date

Yaidee Fox _____

Asst City Mgr, Yaidee Fox

12/13/23 _____

Date

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

W. Wood

City Manager, W. Wood

12-28-23

Date

RESOLUTION OF THE CITY OF HICKORY CITY COUNCIL TO RETAIN CRANFILL SUMNER LLP; SMOUSE AND MASON, LLC; AND NAPOLI SHKOLNK, PLLC AS SPECIAL COUNSEL

WHEREAS, the City desires to appoint and employ the attorneys at the law firms of Cranfill Sumner LLP; Smouse & Mason, LLC; and Napoli Shkolk, PLLC as special counsel for the City for the purpose of investigating and litigating the City's potential claims for injuries and/or property damages arising out of emerging hazardous contaminants including, but not limited to, per- and polyfluoroalkyl and related substances (PFAS/PFOA), 1,4 Dioxane, and micro-plastics (the "Claims"), including representation in connection with the Aqueous Film-Forming Foams (AFFF) Products Liability Litigation MDL No. 2873 pending in the United States District Court, District of South Carolina, now, therefore be it:

RESOLVED, that the City Council hereby appoint and employ the law firms of Cranfill Sumner LLP; Smouse & Mason, LLC and Napoli Shkolk, PLLC as special counsel to investigate and litigate the Claims on the terms and conditions of the Retainer Agreement attached hereto as "Exhibit A," and that the City Manager is fully authorized to execute the Retainer Agreement on behalf of the City.

Adopted this the ____ day of _____, 2023.

ATTEST:

City Clerk

November 29, 2023

VIA ELECTRONIC DELIVERY

City of Hickory, North Carolina
76 North Center St
Hickory, NC 28601

**ATTORNEY-CLIENT COMMUNICATION
RETAINER AGREEMENT ("AGREEMENT")**

City of Hickory, North Carolina ("Client" or "You") hereby agrees to separately retain Cranfill Sumner LLP ("CS") with an address of 5420 Wade Park Boulevard, #300, Raleigh, North Carolina 27607, Smouse & Mason, LLC ("Mason") with an address of 223 Duke of Gloucester St, Annapolis, MD 21401, and Napoli Shkolnik, PLLC ("NS") with an address of 360 Lexington Avenue, 11th Floor, New York, New York, 10017, to provide legal services to Client on the terms and conditions set forth below. CS, Mason, and NS are collectively referred to as "Co-Counsel" or "We". This Agreement shall be made effective upon the date of execution.

1. Condition

This Agreement will not take effect, and We will have no obligation to provide legal services, until You return a signed copy of this Agreement to Co-Counsel.

2. Key Deliverables

Co-Counsel will provide legal representation in identifying and pursuing Your potential claims for injuries and/or property damages arising out of the contamination of water supplies, wastewater treatment facilities, solid waste facilities, fire training facilities, and/or airports by emerging hazardous contaminants including, but not limited to, per- and polyfluoroalkyl and related substances (PFAS/PFOA), 1,4 Dioxane, and micro-plastics, including representation in connection any claim made in the Aqueous Film-Forming Foams (AFFF) Products Liability Litigation MDL No. 2873 pending in the United States District Court, District of South Carolina ("Cases").

We have identified the key deliverables that we will provide to you in connection with the Cases:

- a) Represent Your interests in pursuing a claim in the Cases and recovering the maximum amount of compensation You may be entitled to under the controlling law.
- b) Represent Your interests in the litigation and pursuit of claim recovery, with Co-Counsel's respective responsibilities defined in the following subsections.

City of Hickory, North Carolina
November 29, 2023
Page 2

ATTORNEY/CLIENT COMMUNICATION
RETAINER AGREEMENT

In consideration for these services, Client agrees to pay the contingency fee set forth in Section 5.A.

3. Additional Services

Your matter is complicated and it is difficult to predict how your claim eligibility and potential recovery may unfold. The Key Deliverables above do not include assisting You, by way of example, in any administrative or regulatory agency proceedings outside of the defined Cases. We are not agreeing to represent You in any other matter other than as set out in this agreement; any additional representation must be agreed to in writing.

4. Client Duties

You agree to be completely truthful and candid with us, to cooperate, to keep us informed of all developments, and to keep us advised of your address and telephone number. You agree to be available upon reasonable notice to discuss matters, to attend meetings, testify, assist with depositions, and participate in court conferences and hearings. You agree to help review documents and to provide factual or technical expertise. You will maintain and not delete, discard or destroy any documents (including text messages, instant messages, messages sent by way of messaging apps, and emails) relating to the Cases, and will put procedures in place to make sure all such documents remain preserved. You authorize Co-Counsel to advertise their respective roles in the Cases subject to all applicable professional rules of conduct.

5. Co-Counsel Fees

A. Contingency Fee

Co-Counsel shall be entitled to a contingency fee of 33% (thirty three percent) of the claim recovery ("Contingency Fee"). In the event of a claim recovery, We shall further be entitled to our costs and expenses advanced in the representation (as set forth in paragraph 6 below), in addition to the 33% (thirty three percent) Contingency Fee. You shall not be obligated to pay these costs unless there is a claim recovery.

Co-Counsel shall divide any Contingency Fee in the following manner. For a Contingency Fee below \$10,000,000.00 (ten million dollars), CS shall receive 40% (forty percent), Mason shall receive 40% (forty percent), and NS shall receive 20% (twenty percent). In the event of a Contingency Fee exceeding \$10,000,000.00 (ten million dollars), CS shall receive 50% (fifty percent), Mason shall receive 30% (thirty percent), and NS shall receive 20% (twenty percent). In either scenario, and in addition to the Contingency Fee, CS, Mason, and NS and Mason shall be entitled to recover any costs and expenses advanced by Co-Counsel from any award or payment made to You arising from the representation as permitted by law.

Any amendment to this Contingency Fee arrangement shall be required to be made in writing with consent of the undersigned parties. CS, Mason, and NS are assuming joint responsibility for Your representation.

It is anticipated, contemplated and understood by the Client and Co-counsel that the division of responsibility and labor between Co-Counsel shall be as follows:

1. Mason/NS Responsibilities. Mason shall be responsible as lead litigation counsel, including entering any and all appearances in, and leading the prosecution of, any court proceedings as may be required to recover any claim for the Client. Mason shall be responsible for communicating to CS all pertinent procedural, litigation and settlement updates concerning the Client's claim so that CS may be appropriately informed and globally advise the Client in its settlement considerations. The parties agree that all tactical decisions regarding litigation shall be determined by Mason who will be lead counsel on all filings. NS shall assist Mason in all aspects of the litigation.
2. CS Responsibilities. CS shall be responsible for advising the Client on legal strategy concerning its claim(s) in the Cases, claim valuation, and settlement valuation. This includes communicating with the Client's attorney and council / board about the Cases. CS shall further be responsible for liaising with Mason and NS regarding litigation in order to give the foregoing advice to Client and advising the Client on all litigation developments pertinent to prosecuting or settling the Client's claim for the maximum recoverable value permitted under controlling law.

You acknowledge the 33% Contingency Fee plus costs arrangement accounts for the amount of time and expertise required in this representation, the risk, costs and expenses incurred by Co-Counsel in the event there is no claim recovery, as well as the likely duration of time before any claim recovery will occur, if ever. You acknowledge Co-Counsel is accepting a very high degree of risk that no claim recovery will be made, but Co-Counsel will nonetheless invest significant time and costs in the matter. You further acknowledge the fee share arrangement between CS, Mason, and NS, and that CS, Mason, and NS are entitled to recover their costs and expenses advanced in the representation as permitted by law.

6. Costs

In addition to fees for legal services, there are certain costs and expenses that you may be obligated to pay in connection with the Key Deliverables. These include, but may not be limited to, costs for court filing fees, sheriff fees, court reporter fees, deposition costs, expert fees for expert depositions and court appearances, trial and deposition exhibits, photocopying, postage and express mail charges, travel, airfare, mileage charges, any other reasonable fees or costs which CS or Mason may be required to advance in the course of providing the Key Deliverables. Expenses incurred in connection with the Key Deliverables shall not be required to be repaid if there is no recovery. Expenses and costs related to Additional Services shall be paid as incurred, but no expenses or costs shall be incurred without prior client approval. Co-Counsel agree that they shall confer with each other in writing before proceeding to incur any costs exceeding \$1,000.00 (one thousand dollars).

City of Hickory, North Carolina
November 29, 2023
Page 4

ATTORNEY/CLIENT COMMUNICATION
RETAINER AGREEMENT

7. Statute of Limitations

You understand that any lawsuit must be commenced within a certain limited time period, (that may vary, depending upon the defendant) starting from the "discovery of the injury" or of "the date when through the exercise of reasonable diligence such injury should have been discovered... whichever is earlier". You further understand that the Statute of Limitations period for any case must be investigated, and that this Agreement is made subject to that investigation as well as an investigation of the entire case.

8. Discharge and Withdrawal

You can terminate Co-Counsel's representation of You at any time, either individually or collectively. For the avoidance of doubt, in the event You terminate Co-Counsel's representation of You and do not pursue the Cases with other counsel or on your own, terminated Co-Counsel shall be entitled to recover its costs.

Co-Counsel may respectively withdraw at any time with your consent or for good cause. Good cause includes your breach of this Agreement, your failure to cooperate with or follow Co-Counsel's advice on a material matter, any fact or circumstance that would render Co-Counsel's continuing representation unlawful or unethical, or any developments which render the pursuit of this case economically unfeasible. Co-Counsel individually reserves the right, and You consent, to each firm's respective withdrawal at any time if the anticipated evidence does not materialize, or if the allegations in the complaint turn out to be incorrect or not supported by the evidence. After Co-Counsel's services conclude, We will deliver your file to You, along with any funds or property of yours in Co-Counsel's respective possession.

9. Disclaimer of Guarantee and Negotiability

Nothing in this Agreement and nothing in Co-Counsel's past, present or future respective statements to You are a promise or guarantee about the outcome of your matter. We make no such promises or guarantees and no statement of Co-Counsel can be construed as offering the same. Our comments about the outcome of your matter are expressions of opinion only. You acknowledge that You have been advised that the attorneys' fee provided in this Agreement is negotiable between Co-Counsel and You.

10. Effective Date, Severability and Subsequent Written Modifications

This Agreement contains the entire agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties. If any provision of this Agreement is held wholly or partly unenforceable for any reason, the remainder of that provision and the entire agreement will be severable and remain in effect. This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by each of them. The person signing below for You has full authority and consent to do so and can fully bind You to the terms of this Agreement without further approval by any other person, board, or entity.

11. Document Retention Policy; Privacy of Information

Our document filing system is primarily digital and so Co-Counsel may not keep copies of paper documents that have been scanned. After the conclusion of the Matter all documents retained by Co-Counsel will be transferred to the person responsible for administering our records retention program. For various reasons, including the minimization of unnecessary storage expenses, We reserve the right to destroy or otherwise dispose of any such documents or other materials retained by us within a reasonable time after the termination of the engagement. At the conclusion of the Matter, you must notify us within 30 days if you want copies of any documents. Respective Co-Counsel legal files relating to the Cases and any documents not returned to the client will be retained in accordance with the applicable rules of professional conduct or other regulation or requirements. At the end of the retention period, files will be destroyed in a manner protecting client confidentiality, barring further written instruction from You.

Attorneys, like other professionals who advise clients on personal financial and tax matters, are now required by federal law to inform their clients of their policies regarding privacy of client information. In addition to these federal laws, attorneys have been and continue to be bound by professional standards of confidentiality under state law and our ethics standards. In the course of providing our clients with advice and representation in diverse areas of practice, we receive significant personal information from our clients and their other advisors. Information we receive about You is held in confidence, and is not released to people outside the firm, except as agreed to by You, or as appropriate under applicable laws, rules, and regulations.

12. Governing Law

The laws of the State of North Carolina shall govern this Agreement, without regard to North Carolina’s choice of conflict of law provisions.

13. Co-Counsel Status

You acknowledge that Co-Counsel are neither partners nor joint venturers nor otherwise affiliated with one another, and that neither Co-Counsel firm guarantees any obligation of the other the firm and that Co-Counsel does not assume joint or several liability for the actions or omissions of the other firm.

* * * *

[SIGNATURE PAGE FOLLOWS]

City of Hickory, North Carolina
November 29, 2023
Page 6

ATTORNEY/CLIENT COMMUNICATION
RETAINER AGREEMENT

YOU HAVE READ AND AGREE TO THE FOREGOING FIVE PAGES, FULLY UNDERSTAND ITS TERMS AND CONDITIONS, AND AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS.

Date: _____, 2023

CITY OF HICKORY

By:
Its:

Date: _____, 2023

CRANFILL SUMNER LLP

By: F. Marshall Wall
Its: Managing Partner

Date: _____, 2023

SMOUSE & MASON, LLC

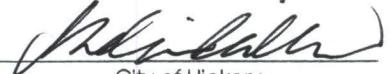
By: Roy L. Mason _____
Its: Partner

Date: _____, 2023

NAPOLI SHKOLNIK, PLLC

By: Paul Napoli _____
Its: Senior Partner

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



City of Hickory
Finance Officer

COUNCIL AGENDA MEMOS

To: City Manager's Office

From: Yaidee Fox, Assistant City Manager

Contact Person: Yaidee Fox

Date: December 21, 2023

Re: Approval of Resolution for Construction Management at Risk Construction Delivery Method for the City Park Project

REQUEST

Staff requests Council approval of the Resolution for Construction Management at Risk Construction Delivery Method for the City Park Project.

BACKGROUND

The City of Hickory is engaged in a City Park Project that will be situated on approximately 12 acres adjacent to Lake Hickory in the current Rotary Geitner Park owned by the City. The City Park Project will consist of the construction of a family shelter with restrooms, site improvements, including vehicular access, and a parking lot, pedestrian access to the lake, shoreline restoration, the addition of a fishing pier, boat slips and a kayak/canoe launch, along with other recreational amenities in the park.

ANALYSIS

Staff has reviewed the advantages and disadvantages of using the Construction Management at Risk method for the Project in lieu of the delivery methods identified in G.S. 143-128(a1)(1) through G.S. 143128(a1)(3) and recommends using Construction Management at Risk Construction Delivery Method for the City Park Project. Construction Management at Risk provides an opportunity for the contractor's involvement during the design process to provide the architect with feedback on constructability and other design issues, using prequalified subcontractors, and transparency of the overall bidding and construction process, including costs incurred by the Construction Manager.

RECOMMENDATION

Staff recommends City Council's approval of the Resolution for Construction Management at Risk Delivery Method for the City Park Project.

BUDGET ANALYSIS:

Budgetary Action

Is a Budget Amendment required?

Yes

No

(Handwritten initials)

LIST THE EXPENDITURE CODE:

Reviewed by:

Yaidee Fox _____ 12/21/2023 _____
Initiating Department Head Date

(Signature)
Deputy City Mgr Rodney Miller

(Signature)
Date

Deputy City Attorney, A. Dula _____
Date

(Signature)
Asst. City Manager, R. Beasley

_____ Date

(Signature)
Date

(Signature)
Finance Officer, Melissa Miller

(Signature)
Date

(Signature)
Deputy Finance Off, Cameron McHargue

(Signature)
Date

Yaidee Fox _____ 12/21/23 _____
Asst City Mgr, Yaidee Fox Date

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

(Signature)
City Manager, W. Wood

(Signature)
Date

RESOLUTION NO. 24-___

A RESOLUTION OF THE CITY OF HICKORY APPROVING CONSTRUCTION MANAGEMENT AT RISK CONSTRUCTION DELIVERY METHOD FOR THE CITY PARK PROJECT PURSUANT TO THE PROVISIONS OF N.C.G.S. § 143-128.1

WHEREAS, the City of Hickory is engaged in a City Park Project that will be situated on approximately 12 acres adjacent to Lake Hickory in the current Rotary Geitner Park owned by the City (the "Project"); and

WHEREAS, the Project will consist of the construction of a family shelter with restrooms, site improvements, including vehicular access and a parking lot, pedestrian access to the lake, shoreline restoration, the addition of a fishing pier, boat slips and a kayak/canoe launch, along with other recreational amenities in the park; and

WHEREAS, City Council has compared the advantages and disadvantages of using the Construction Management at Risk method for the Project in lieu of the delivery methods identified in G.S. 143-128(a1)(1) through G. S. 143128(a1)(3); and

WHEREAS, City Council finds the Construction Management at Risk method allows for selection of the most qualified contractor for the Project; and

WHEREAS, Construction Management at Risk provides an opportunity for involvement of the contractor during the design process for the purpose of providing the architect with feedback on constructability and other design issues; and

WHEREAS, Construction Management at Risk requires the Construction Manager to use prequalified subcontractors; and

WHEREAS, Construction Management at Risk allows for transparency of the overall bidding and construction process, including the costs incurred by the Construction Manager; and

WHEREAS, City Council has concluded the Construction Management at Risk method is in the overall best interest of the Project compared to the use of one of the delivery methods in G.S. 143-128(a1)(1) through G.S. 143-128(a1)(3).

NOW, THEREFORE, BE IT HEREBY RESOLVED, that City Council for the City of Hickory selects the Project for the Construction Management at Risk construction delivery method in accordance with G.S. 143-128.1.

RESOLUTION NO. 24-___

A RESOLUTION OF THE CITY OF HICKORY APPROVING CONSTRUCTION MANAGEMENT AT RISK CONSTRUCTION DELIVERY METHOD FOR THE CITY PARK PROJECT PURSUANT TO THE PROVISIONS OF N.C.G.S. § 143-128.1

Read, approved and adopted this ____ day of _____, 2023.

THE CITY OF HICKORY a
North Carolina Municipal Corporation

(SEAL)

ATTEST:

By: _____
Hank Guess, Mayor

Debbie D. Miller, City Clerk

Approved as to form this ____ day of _____, 2023.

Deputy City Attorney for the City of Hickory

RESOLUTION NO. 24-__

**A RESOLUTION OF THE CITY OF HICKORY APPROVING CONSTRUCTION
MANAGEMENT AT RISK COSNTRUCTION DELIVERY METHOD FOR THE CITY
PARK PROJECT PURSUANT TO THE PROVISIONS OF N.C.G.S. § 143-128.1**

COUNCIL AGENDA MEMOS

Exhibit VIII.G.

To: City Manager's Office
From: Melissa Miller, Finance Officer
Contact Person: Melissa Miller, Finance Officer
Date: December 21, 2023
Re: Approval to Amend Annual Auditing Contract with Martin Starnes & Associates

REQUEST

Staff requests approval to amend the annual contract for auditing services with Martin Starnes & Associates for fiscal year ending June 30, 2023.

BACKGROUND

The City of Hickory has utilized the services of Martin Starnes & Associates for the past twelve years with excellent results. Since fiscal year 2012, Martin Starnes & Associates has also been contracted to produce the City's Annual Comprehensive Financial Report.

The annual audit is due to the North Carolina Local Government Commission (LGC) as of October 31st of each year. An extension may be granted by the LGC, but requires an amended auditing contract with approval from City Council and Chair of the Audit Committee.

ANALYSIS

An extension of the City's auditing contract is necessary for this fiscal year due to the new GASB 96 standard causing delays in both City and auditor schedules. The City contracted with DebtBook to assist with the standard but still incurred many new processes to properly document the standard into the City's financial statements.

In addition, Finance Department staff continued to participate in training sessions to implement new Tyler Technologies financial software while still preparing for the annual audit resulting in delays with finalizing audit work.

RECOMMENDATION

Staff recommends approval to amend the annual auditing contract with Martin Starnes & Associates for fiscal year ending June 30, 2023.

LGC-205 Amendment **AMENDMENT TO CONTRACT TO AUDIT ACCOUNTS** Rev. 11/2023

Whereas	Primary Government Unit City of Hickory, NC
and	Discretely Presented Component Unit (DPCU) (if applicable) N/A
and	Auditor Martin Starnes & Associates, CPAs, P.A.

entered into a contract in which the Auditor agreed to audit the accounts of the Primary Government Unit and DPCU (if applicable)

for	Fiscal Year Ending 06/30/23	and originally to be submitted to the LGC on	Date 10/31/23
-----	--------------------------------	--	------------------

hereby agree that it is now necessary that the contract be modified as follows.

<input checked="" type="checkbox"/> Modification to date submitted to LGC	Original date 10/31/23	Modified date 01/31/24
<input type="checkbox"/> Modification to fee	Original fee	Modified fee

Reason(s) for Contract Amendment

Primary (choose 1) Other (choose 0-2)

- Change in scope
- Issue with unit staff/turnover/workload
- Issue with auditor staff/turnover/workload
- Third-party financial statements not prepared by agreed-upon date
- Unit did not have bank reconciliations complete for the audit period
- Unit did not have reconciliations between subsidiary ledgers and general ledger complete
- Unit did not post previous years adjusting journal entries resulting in incorrect beginning balances in the general ledger
- Unit did not have information required for audit complete by the agreed-upon time
- Delay in component unit reports
- Software - implementation issue
- Software - system failure
- Software - ransomware/cyberattack
- Natural or other disaster
- Other (please explain)

Plan to Prevent Future Late Submissions

If the amendment is submitted to modify the date the audit will be submitted to the LGC, please indicate the steps the unit and auditor will take to prevent late filing of audits in subsequent years. Audits are due to the LGC four months after fiscal year end. Indicate NA if this is an amendment due to a change in cost only.

The new GASB 96 standard caused delays in both client and auditor schedules. The City contracted with DebtBook to assist with the standard. The MUNIS conversion will be live as of July 1, 2024. The new software will allow a significant upgrade from the City's current financial software.

Additional Information

Please provide any additional explanation or details regarding the contract modification.

The City experienced beginning balance discrepancies due to rolling the balance sheet prior to finalizing the FY2022 audit. This created issues with our beginning balances as of July 1, 2023. The City's plan to implement new financial software as of July 2023 was extended to a July 2024 go live date. Finance staff were required to attend MUNIS training sessions while still preparing for the annual audit resulting in delays with finalizing audit work.

By their signatures on the following pages, the Auditor, the Primary Government Unit, and the DPCU (if applicable), agree to these modified terms.

LGC-205 Amended **AMENDMENT TO CONTRACT TO AUDIT ACCOUNTS**

Rev. 11/2023

SIGNATURE PAGE

AUDIT FIRM

Audit Firm* Martin Starnes & Associates, CPAs, P.A.	
Authorized Firm Representative* (typed or printed) Amber Y. McGhinnis	Signature* <i>Amber Y. McGhinnis</i>
Date* 12/19/23	Email Address amcghinnis@msa.cpa

GOVERNMENTAL UNIT

Governmental Unit* City of Hickory, NC	
Date Primary Government Unit Governing Board Approved Amended Audit Contract* (If required by governing board policy)	
Mayor/Chairperson* (typed or printed) Hank Guess, Mayor	Signature*
Date	Email Address hgguess@hickorync.gov

Chair of Audit Committee (typed or printed, or "NA") Hank Guess, Chair	Signature
Date	Email Address hgguess@hickorync.gov

GOVERNMENTAL UNIT – PRE-AUDIT CERTIFICATE
ONLY REQUIRED IF FEES ARE MODIFIED IN THE AMENDED CONTRACT
(Pre-audit certificate not required for hospitals)

Required by G.S. 159-28(a1) or G.S. 115C-441(a1)

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

Primary Governmental Unit Finance Officer* N/A	Signature* <i>Melina Miller</i>
Date of Pre-Audit Certificate* 12/21/23	Email Address* mmiller@hickorync.gov

**SIGNATURE PAGE – DPCU
(complete only if applicable)**

DISCRETELY PRESENTED COMPONENT UNIT

DPCU N/A	
Date DPCU Governing Board Approved Amended Audit Contract (If required by governing board policy)	
DPCU Chairperson (typed or printed)	Signature
Date	Email Address

Chair of Audit Committee (typed or printed, or "NA") N/A	Signature
Date	Email Address

DPCU – PRE-AUDIT CERTIFICATE
ONLY REQUIRED IF FEES ARE MODIFIED IN THE AMENDED CONTRACT
(Pre-audit certificate not required for hospitals)

Required by G.S. 159-28(a1) or G.S. 115C-441(a1)

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

DPCU Finance Officer (typed or printed) N/A	Signature
Date of Pre-Audit Certificate	Email Address

BUDGET REVISION # 12

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, 2024 and for the duration of the Project Ordinances noted herein.

SECTION 1. To amend the		General Fund	within the FY 2023-24 Budget Ordinance, the	
expenditures shall be amended as follows:				
	FUNCTIONAL AREA	INCREASE	DECREASE	
Public Safety		12,960		
Contingency			117,473	
Other Financing Uses		117,473		
	TOTAL	130,433	117,473	
To provide funding for the above, the				
	General Fund	revenues will be amended as follows:		
	FUNCTIONAL AREA	INCREASE	DECREASE	
Miscellaneous		12,960		
	TOTAL	12,960	-	

SECTION 2. To amend the		MUNIS/Tyler Technologies (#450001)	Capital Project Ordinance, the expenditures	
shall be amended as follows:				
	FUNCTIONAL AREA	INCREASE	DECREASE	
General Capital Projects		117,473		
	TOTAL	117,473	-	
To provide funding for the above, the				
	MUNIS/Tyler Technologies (#450001)	revenues will be amended as follows:		
	FUNCTIONAL AREA	INCREASE	DECREASE	
Other Financing Sources		117,473		
	TOTAL	117,473	-	

SECTION 3. 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 _____, 2024

Mayor

Clerk