

A Regular Meeting of the City Council of the City of Hickory was held in the Council Chamber of the Municipal Building on Tuesday, February 21, 2023 at 7:00 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, Deputy City Manager Rodney Miller, Assistant City Manager Rick Beasley, Deputy City Attorney Arnita Dula, City Attorney John W. Crone, III, 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 Reverend Monica Childers, Associate Pastor St. Luke's United Methodist Church
- III. Pledge of Allegiance
- IV. Special Presentations
 - A. Oath of Office for Appointed Ward 4 Alderman Reverend Dr. Anthony Freeman

Mayor Guess explained Alderman David Williams who was elected as the Ward 4 Council was unable to fulfill the term of his service. He moved from the Ward and from the City, so that made him ineligible to be on Council. When that happens, it was the job of Council to appoint someone to fulfill his unexpired term. Council conducted interviews with six folks from the community, all who were quite capable of being on Council, but ultimately, Council voted unanimously for the Reverend Dr. Freeman to fulfill that unexpired term of Alderman David Williams. Mr. Freeman would be taking the oath of office to fulfill that unexpired term. He asked Mr. Freeman to join him at the podium and to introduce his immediate family and anyone else that he would like to introduce.

Reverend Dr. Anthony Freeman thanked the Mayor, City Council members, and certainly the City Manager. He introduced some people who traveled near and far. He introduced his wife, Rhonda Denise Freeman, and their son who was a Junior at Hickory Christian Academy Aylan Josiah Freeman. He recognized, traveling all the way from Colerain, North Carolina, his dad, William Freeman. Also, who traveled from where he was born and raised, all the way from Middletown, Connecticut, his big sister who thought she was in charge, Anita Dempsey White and her husband, his brother-in-law, Reggie White. His mother-in-law was present who he was certainly very close to Mama Barbara Patterson. Members of Clinton Tabernacle were present. Some people who were really special to him who traveled all the way from Hemingway, South Carolina, almost like his second parents, William Rogers, and Mother Lilly Rogers and from Clover, South Carolina his best friend, they grew up in Connecticut together, and he pastors in Clover, South Carolina, Pastor Glen Rogers. He also recognized some people who he used to Pastor all the way from Landis, North Carolina who had traveled to be with them today.

Mayor Guess commented he had one of those older big sisters that thought she was in charge also, so he knew how that worked. He asked Mr. Freeman's wife and son to join them at the podium. Mr. Freeman's son held the bible, and his wife held his arm. Mayor Guess administered the oath of office to Alderman Freeman.

Alderman Freeman took his seat with Council members.

- B. Presentation of a Proclamation for SkillsUSA Week to Gary Muller, CVCC Executive Dean, Economic Development and Corporate Education and Tammy Muller, Executive Director, Strategic Business Partnerships and Skills USA.

Mayor Guess asked Gary Muller, CVCC Executive Dean, Economic Development and Corporate Education and Tammy Muller, Executive Director, Strategic Business Partnerships and Skills USA to the podium. He advised it was a partnership between students, teachers, and industry working together to ensure that America has a skilled workforce. He was sure they all recognized how important that was, particularly in this day of time. CVCC's SkillsUSA Chapter was recognized as one of the best programs in the country. They have had a campus wide success with CVCC winning 19 National medals in the past five-years. He read and presented the SkillsUSA Week Proclamation to Gary Muller and Tammy Muller.

Executive Dean, Economic Development and Corporate Education, Tammy Muller commented they were so proud to receive this tonight because it truly supported all that they were doing on their campus, because they truly believed that the skills that their students were learning in the classroom were so critical, but the destination was for them to have a career. Partnering with SkillsUSA allowed them to prepare their students for life and work. She thanked Council.

CVCC Executive Dean, Economic Development and Corporate Education Gary Muller thanked Council.

- C. Presentation of the Year of the Trail Proclamation to Hickory Metro Convention Center & Visitors Bureau, Chief Executive Officer Mandy Hildebrand and Director of Sales and Marketing Sarah Jones.

Mayor Guess asked Mandy Hildebrand, Chief Executive Officer and Sarah Jones, Director of Sales and Marketing, Hickory Metro Convention Center & Visitors Bureau to the podium. He advised North Carolina had proclaimed this was the Year of the Trail as a Statewide initiative designed to showcase, promote, and celebrate trails and greenways and blue ways throughout 2023. The Hickory Trail was an economic catalyst that showcased the diverse landscapes of the community and connects destinations across the City. He did not have to tell them, those that were from Hickory, the City Walk was already complete, and there were two other trails that were almost there. They would be there this year, and then two more just directly behind those. Residents and visitors would have access to some of Hickory's greatest assets, a beautiful lake, vibrant downtown, educational centers, sporting, and entertainment venues, and of course the airport. He read and presented the Year of the Trail Proclamation to Ms. Hildebrand and Ms. Jones.

Ms. Mandy Hildebrand thanked City Council, City Manager, and staff. She commented they have tremendous assets in the City. The City of Hickory had already started celebrating the Year of the Trail. If they read their City snippets, those of them from out of town could see them online, it was a wonderful story about the importance of trails, not only for public health but for mental health, and for economic development. She thanked everyone for really investing into the community. They were going to spend the year celebrating these trails that were great for residents, but also attracted visitors.

- D. Presentation of a Proclamation Celebrating a 30-Year Sister Cities German Partnership to Western Piedmont Sister City Association Chair and Catawba County Designee, Tracy Trimble.

Mayor Guess asked Tracy Trimble, Chair and Catawba County Designee, Western Piedmont Sister City Association. Alderman Seaver joined Mayor Guess and Ms. Trimble at the podium. This year, our region was celebrating their 30th Year Anniversary with our Sister City, Altenburg County Germany. The two areas shared much in common. They were very similar in size and location and also were working on their economic development, workforce, and social issues. Their partnership allowed for an exchange of ideals and fellowship. He mentioned that Alderman Seaver had been a part of that organization for quite some time. Alderman Seaver was part of the delegation that visited there. He read and presented Ms. Trimble with a Proclamation celebrating the 30-year Sister Cities German Partnership.

Chair and Catawba County Designee, Western Piedmont Sister City Association, Tracy Trimble advised if anybody wanted to get involved, she had some information. They were going to be doing a lot of different events this year. She thanked Council.

- E. Annual Audit – Presentation by Kari Dunlap, Martin Starnes & Associates

Mayor Guess asked Ms. Kari Dunlap, Martin Starnes & Associates to the podium to present the annual audit. He thanked Ms. Dunlap for being their partner for all these years and they were excited to hear what she was going to discuss concerning their audit. He mentioned that Alderman Wood, Alderman Seaver, and himself, along with City staff had served on the audit committee. They had already had some meetings. He noted a lot of times they hear this part of it, and they think what happened before that. They had a lot of discussions and there had been a lot of time spent here prior to this. He advised this was the culmination of that.

Ms. Kari Dunlap, Martin Starnes & Associates presented a PowerPoint presentation. She thanked everyone for allowing her to be present to share the audit results for Fiscal Year 2022. She discussed the audit process; this was a very brief version of everything that goes into the audit each year. They start with their planning and risk assessment. They start that as soon as the prior year audit concludes. They had already started their planning. They look at Council minutes to see what was discussed. They learn about any new debt, any new grants. It was a continuous cycle where they were always looking and evaluating what was happening, so they know how to tailor their audit procedures.

Mayor Guess interjected that everybody knew it was independent and she was not on City staff.

Ms. Dunlap advised she worked with Martin Starnes & Associates. She continued they have their fieldwork procedures where they do their internal control testing, any grant testing, compliance testing, that was during the interim. Then in the fall, they do all of their balance sheet analysis where they tie all of their source documents to the supporting documentation from finance. Once the fieldwork was complete, then they

have the audit committee meeting, which Mayor Guess spoke to, which consisted of Hickory's Council members as well as staff. That was where they discussed any issues, anything that they need to address going forward, anything that went well, anything they could work on. Then they issue the audit report to the LGC (Local Government Commission) and present to City Council.

Ms. Dunlap discussed audit highlights this year. There was an unmodified opinion on the financial statements and compliance which was the goal of the audit. That meant there was no reason to think that any of the numbers were materially misstated. A very cooperative staff. The unassigned General Fund balance had a slight decrease and the available fund balance increased \$1.4 million. Overall, the City could continue with their savings account for about 3.5 months with the fund balance measures. She noted there were no findings or questioned costs related to the single audit of their compliance for grant spending. She referred to the PowerPoint and showed the available fund balance. This was the measurement that the LGC used to compare the City to other municipalities of similar population groups. It increased to \$1.4 million. When you take that available fund balance, divided by their total expenditures and any transfers to other funds, that gave them their percentage and that percentage went down a little bit 39%, but the minimum was 25%, so they were well above the minimum. Similar population groups were around 46%. She referred to the PowerPoint and showed the City's total fund balance, she noted the total fund balance increased \$3.9 million. This included the City's Capital Reserve Fund; the General Fund and the Capital Reserve Fund. She referred to the PowerPoint and displayed a graph, she pointed out the only part of fund balance that had no other outside restrictions. Everything else had some kind of external restriction by law or it was assigned to be spent for next year, or anything like that. She pointed out the true not designated to be spent numbers. That had a small decrease of \$354,000. City Council has a policy for this to be a minimum of 25%, this was a more conservative measure than the available fund balance that the LGC uses. The goal was met, and it was around 28%. The General Fund summary showed the City's total revenues including any transfers in and any debt proceeds for this year and then their expenditures included any transfers out. She referred to the PowerPoint and noted they both significantly increased over the prior year. Revenues increased about \$10.6 million, and expenditures increased about \$7 million.

Ms. Dunlap referred to the PowerPoint and advised the numbers would reflect the City's top revenues. Ad valorem taxes increased \$2.7 million or about 8% over last year. This was the City's tax-based growth in the year. It also included any penalties and delinquent tax payments. She showed other taxes, and this increased \$3.1 million or 16% and this included their local option sales tax, franchise tax, and occupancy tax. Those were the top three other taxes.

Ms. Dunlap referred to the PowerPoint and showed the City's restricted intergovernmental, and the increase over last year was about \$170,000 or 7%. This included any grant spending, Powell Bill, street maintenance, and any other grants that come from other agencies.

Ms. Dunlap referred to the PowerPoint and showed the City's expenditures compared to the prior year. Public safety was the top expenditure for the City, and it went up \$3.7 million or 15%. There was a capital outlay purchase of a fire truck that was a planned expenditure this year. The next top expenditure was general government, and it went up \$2.4 million about 25%, a million of this was the Henry Fork Turf Field. Their landscape services had previously been reported in the cultural and recreation department and that was now under the general government in landscape services. The other amounts that increased were for park maintenance. Transportation was the third top expenditure and that increased \$702,000 about 12%. This included the City's street and traffic departments. There were some capital outlay purchases in those departments as well this year.

Ms. Dunlap discussed the Enterprise Funds. In the water and sewer fund the current assets increased over last year and current liabilities decreased slightly. There were some additional capital project expenditures in water/sewer as well. She referred to a quick ratio which was a number that the LGC uses to make sure that they could pay their bills with the water/sewer fund. They would be concerned if the quick ratio was less than one and she pointed out it was 7.72% at the end of the year. There were no concerns there. Another measure that they look out for the water and sewer fund was to make sure their operating net income was greater than zero and that unrestricted cash and expenditures were greater than 16%, which was two months of operations and the City met both of those indicators.

Ms. Dunlap referred to the PowerPoint and pointed out the City's Transportation Fund, which was the airport and solid waste fund. She noted the unrestricted net position. Both of these were positive. That was the goal of enterprise funds. You do not want to have a negative unrestricted position. The airport had some cargo planes, additional revenue, and hanger activity this year and the solid waste fund was self-sustaining, there

were no transfers in. Those were things to note in those two funds. Next year the Transportation Fund was going to be called the Airport Fund. That was something to look for next year.

Ms. Dunlap referred to the PowerPoint and advised the LGC was requiring any performance indicators to be shared in a public meeting. There was a slight delay in the audit submission this year. There was a stable property tax valuation collection percent, that was good, and there were two audit findings. The first one was a material weakness, there were significant audit adjustments made after fieldwork and then the other was a significant deficiency that opioid settlement funds were not accounted for in a separate fund. The opioid had been moved into a separate fund so that had been corrected. The City was currently going through a software conversion which was a very cumbersome project for finance, but it would be worth it in the end. Due to that there were some staffing turnover, there was lots of training, there were just a lot of things involved in that which they knew once the software was implemented, they knew they would be able to move forward and should not have any of these kinds of issues going forward. It was a work in progress, and everyone was aware, and they were looking forward to Fiscal Year 2023 at the new chart of accounts and everything going smoothly from there on. She appreciated Melissa Miller and the finance staff getting everything to them as much as they could.

Mayor Guess asked if Council or staff had any questions for Ms. Dunlap.

Alderman Wood referred to the delay in the audit submission. He mentioned Hickory was becoming more complex, with all the grants and the projects and those types of things, plus the software conversion. In the spirit of partnership could Martin Starnes adjust this submission deadline to get them a little bit more time.

Ms. Dunlap advised that they could not change the submission deadline. The absolute audit submission for the LGC was December 1st. They would do everything they could do to get that done by December 1st.

Alderman Wood commented when the City gets their stuff to Martin Starnes.

Ms. Dunlap advised the fieldwork of when they complete the audit, that was something that could be addressed. Ms. Melissa Miller had put in a request to try to get that delayed a little bit to help with the software implementation and all that. It was something they were definitely going to be working on together. She mentioned a little bit more on that, the deadline was December 1st, and Council approved an amended contract to get everything done by January 31st, and they met that deadline.

Mayor Guess asked for any other questions from Council or staff. He thanked Ms. Dunlap.

V. Persons Requesting to Be Heard

VI. Approval of Minutes

A. Special Meeting of February 6, 2023

Alderman Patton moved, seconded by Alderman Williams that the Special Meeting Minutes of February 6, 2023 be approved. The motion carried unanimously.

B. Regular Meeting of February 7, 2023

Alderman Seaver moved, seconded by Alderman Patton that the Regular Meeting Minutes of February 7, 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.

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

A. Budget Revision Number 15. (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.

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

- A. Approved the Citizens' Advisory Committee's Recommendation for Assistance through the City of Hickory's Housing Programs.

The following applicant was considered by the Citizens' Advisory Committee at their regular meeting on February 2, 2023:

- Teresa Robinson, 3271 Blue Sky Court SE, Newton, was recommended for approval of up to \$10,292 under the City of Hickory's 2022 Urgent Repair Program.

Funds are budgeted for this item through the City of Hickory's former Housing Rehabilitation Program income received in FY 2022 and/or program income received through the City of Hickory's Community Development Block Grant Program. The Citizens' Advisory Committee recommends approval of the aforementioned request for assistance through the City of Hickory's housing assistance programs.

- B. Approved a Cemetery Deed Transfer from Joan English Dellinger and husband, Michael Ray Dellinger to Deborah Allen Dietz, located in Oakwood Cemetery, Lot 11, Plot V, Section 55, Containing 2 Graves, 80 Square Feet, (Prepared by Attorney Kimberly H. Whitley).
- C. Approved the Sale of City-Owned Property Located at 1100 Highway 70 SE to CPM Enterprise, LLC Subject to the Upset Bid Process.

Staff requests approval of the sale of City-owned property at 1100 Highway 70 SE to CPM Enterprise, LLC. The City owns the approximately 1.66-acre property located at 1100 Highway 70 SE. The City became the owner of the property after the completion of an infrastructure repair on the site. The site is currently vacant. CPM Enterprise, LLC has offered \$250,000 for the purchase of the property. The property has remained vacant for the entire time it has been owned by the City of Hickory. Sale to the private sector will place the property back on the property tax roll and allow for future development. North Carolina General Statutes require that surplus property be sold competitively. The property would need to be sold subject to the upset bid statute and allow other interested parties to bid on the property after the City Clerk places a public notice in the newspaper. The contract does not include an examination period and calls for closing 30-days after contract execution. The offer includes the required 5 percent deposit. Staff recommends that City Council adopt a Resolution accepting the offer from CPM Enterprise, LLC and authorize staff to advertise for upset bids.

RESOLUTION NO. 23-07

RESOLUTION AUTHORIZING THE ADVERTISEMENT OF AN OFFER TO PURCHASE CERTAIN PROPERTY

WHEREAS, City Council of the City of Hickory desires to dispose of certain surplus properties of the City of Hickory.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT:

1. The following described property is hereby declared to be surplus to the needs of the City of Hickory:

Vacant lot located at 1100 Highway 70 SE, Hickory, North Carolina, containing approximately 1.66 acres, identified as PIN 3712-17-11-8376, described in the document recorded in Book 3394 at Page 1825, Catawba County Registry.
2. City Council has received an offer to purchase for the sum of \$250,000 for the property located at 1100 Highway 70 SE, Hickory, North Carolina. The person making the offer must deposit with the City Clerk a sum equal to five percent (5%) of his or her offer in the form of cash or cashier's check.
3. City Council proposes to accept the offer unless a qualifying upset bid shall be made.
4. The City Clerk shall cause a notice of such offer to be published in accordance with G.S. 160A-269.
5. Persons wishing to upset the offer must submit a sealed bid to the City Clerk within ten (10) days after publication of the notice. The person making the bid must deposit with the City Clerk a sum equal to five percent (5%) of his or her offer in the form of cash or cashier's check. At the conclusion of the ten (10) days, the City Clerk shall open the bids, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.

6. If a qualifying upset bid is received, the City Clerk is directed to re-advertise the offer at the increased upset bid amount, and to continue with this process until a ten (10) day period has passed without receipt of a qualifying upset bid.
 7. Upon approval of the final upset bid, total payment for the property must be received by the City of Hickory within 30 days of the bid award.
 8. City Council authorizes the City Manager to execute all documents related to the sale if no upset bids are received after due advertisement.
- D. Approved Addendum No. 2 (Revised) to the Grant Agreement with the United States Department of Transportation and Federal Highway Administration for the 2018 BUILD Transportation Discretionary Grant Award.

Staff requests Council's approval of Addendum No. 2 (Revised) to the grant agreement with United States Department of Transportation and Federal Highway Administration for the 2018 BUILD Transportation Discretionary Grant Award of the "Hickory Reconnected Through Transportation Infrastructure Investment" Application. The purpose of Addendum No. 2 (Revised) to FHWA FY 2018 BUILD Grant No. 6, is to recognize and accept modifications to extend the schedule for the "Hickory Reconnected Through Transportation Infrastructure Investment Project". This Addendum will constitute a formal amendment to the Grant Agreement which was executed by the U.S. Department of Transportation, the Federal Highway Administration, and the City of Hickory. FHWA also requested the following change for Section 1.5 Period of Performance: Existing Language 1.5 Period of Performance. The period of performance for this award begins on the date of this agreement and ends on the project end date in FMIS. Proposed Language 1.5 Period of Performance. The period of performance for this award begins on the date of this agreement and ends on the project end date in FMIS, which will be the same as the budget period end date listed in section 1.6. Staff recommends Council approval of Addendum No. 2 (Revised) to the grant agreement with United States Department of Transportation and Federal Highway Administration for the 2018 BUILD Transportation Discretionary Grant Award of the "Hickory Reconnected Through Transportation Infrastructure Investment" Application to extend the project schedule and amend language.

- E. Approved an Agreement with Catawba County for the Sewer Extension Microsoft/DEQ in the Amount of \$8,800,000.

Staff requests Council's approval of an agreement with Catawba County for the sewer extension (Microsoft/DEQ), in the amount of \$8,800,000. With the announcement of Microsoft building infrastructure in Catawba County, this agreement has been made between the two parties to best serve the area with sewer service. Catawba County is a recipient of a direct wastewater project appropriation in the amount of \$8,800,000 in the FY 2021-2022 Budget Bill (S.L. 2021-180) of the General Assembly of North Carolina, Section 12.13.(f). The NC DEQ/Division of Water Infrastructure (Division) is administering the funds. The Division pays out these grant funds to the local government unit (the Recipient) on a reimbursement basis after the recipient awards a division-approved construction contract. Recipients must use the ARPA funds in accordance with all applicable Federal law and guidance, as well as NC State statutes. City of Hickory, as a subrecipient, and its contractor must also utilize the funds in accordance with Federal and State laws and guidance. Staff recommends Council's approval of an agreement between Catawba County and City of Hickory, Sewer Extension (Microsoft/DEQ), in the amount of \$8,800,000.

- F. Approved an Agreement with Catawba County for the McLin Creek/Lyle Creek Sewer Project in the Amount of \$3,500,000.

Staff requests Council's approval of an agreement with Catawba County for the McLin Creek/Lyle Creek Sewer Project in the amount of \$3,500,000. In 2018, Council approved a contract with Claremont for the treatment of their wastewater. In the agreement, the City of Claremont wishes to purchase the right to treat 450,000 gallons per day at a cost of \$1,860,000. With this contract Claremont would also be allowed to purchase additional 50,000-gallon increment of right to treat. Claremont will receive inside City of Hickory rates for treatment with a discount if the Operation and Maintenance contract is in place. This contract for Right to Treat will be valid for a minimum of 20-years with 5-year review periods and renewals. This agreement will require both the City of Claremont and the City of Hickory to install additional infrastructure to transfer the wastewater to the Hickory-Catawba Wastewater Treatment Facility. This project was advertised and bid on May 25, 2022. The City of Claremont will be constructing a line and metering station to connect this segment of line to their Wastewater Treatment Facility. Buckeye Bridge, LLC, was low bidder at \$5,122,839 and awarded the project. The City of Hickory and Catawba County will be sharing the cost of installation for this sewer system. This agreement covers the cost of Catawba County's portion of the project of \$3,500,000. Staff

recommends approval of the agreement with Catawba County for the McLin Creek/Lyle Creek sewer project in the amount of \$3,500,000.

- G. Approved an Agreement with Catawba County for the Hickory-Catawba Wastewater Treatment Facility Expansion Design in the Amount of \$1,500,000.

Staff requests Council's approval of an agreement with Catawba County for the Hickory-Catawba Wastewater Treatment Facility expansion design in the amount of \$1,500,000. With the continued growth in the southeast Catawba County corridor, plans for expansion of the wastewater need to be forecast and completed when needed. City of Hickory will complete the design of the expansion of the Hickory-Catawba Wastewater Treatment Facility from 1.5 million gallons per day to 3 million gallons per day. In doing so, Hickory will post the Request for Qualifications, select a design firm, design the project, and permit it for construction. Construction will not be part of this project. Staff recommends Council's approval of an agreement with Catawba County for the Hickory-Catawba Wastewater Treatment Facility expansion design in the amount of \$1,500,000.

- H. Approved the Professional Services Agreement with KCI Technologies, Inc. in the Amount of \$35,100 for Additional Services Related to the FEMA BRIC Grant Project for Flood Mitigation at the Wastewater Treatment Facility.

Staff requests Council's approval of a Professional Services Agreement with KCI Technologies Inc. in the amount of \$35,100 for additional soils characterization related to the FEMA BRIC grant project for flood mitigation at the Northeast Wastewater Treatment Facility. Due to the increased frequency of significant damaging flood events, Staff has applied for and received FEMA grant assistance for a flood mitigation project at Northeast Wastewater Treatment Facility. The Federal Government provides funding through the FEMA Building Resilient Infrastructure and Communities (BRIC) program. The BRIC grant program provides funding to mitigate risks to infrastructure to better protect public investment and the environment. Due to the significant damages and environmental impact resulting from flooding events over the past several years, the City of Hickory was awarded a grant for flood mitigation efforts at the Northeast Wastewater Treatment Facility on March 16, 2022. This project requires that a clean closure certificate be obtained from NCDEQ prior to construction activities. Staff recommends Council's approval of a Professional Services Agreement with KCI Technologies Inc. in the amount of \$35,100 for additional soils characterization related to the FEMA BRIC grant project for flood mitigation at the Northeast Wastewater Treatment Facility.

- I. Approved the Resolution Approving an Installment Financing Contract and a Deed of Trust with Respect Thereto and Delivery Thereof and Providing for Certain Other Related Matters Regarding the Hickory Metro Convention Center Improvements.

RESOLUTION NO. 23-08

Resolution of the City Council of the City of Hickory, North Carolina Approving an Installment Financing Contract and a Deed of Trust With Respect Thereto and Delivery Thereof and Providing for Certain Other Related Matters

WHEREAS, the City of Hickory, North Carolina (the "City") is a municipal corporation duly created and validly existing under the Constitution, statutes, and laws of the State (the "State");

WHEREAS, the City has the power, pursuant to the General Statutes of North Carolina, to (1) enter into installment contracts in order to purchase, or finance or refinance the purchase of, real or personal property and to finance or refinance the construction or repair of fixtures or improvements on real property and (2) create a security interest in some or all of the property financed or refinanced to secure repayment of the purchase price;

WHEREAS, the City, in cooperation with the Hickory-Conover Tourism Development Authority (the "TDA"), (1) previously entered into a Finance Agreement and Deed of Trust dated as of October 22, 2014, as modified and amended (the "2014 Contract") in order to (a) finance improvements to the Hickory Metro Convention Center (the "Convention Center") and (b) secure its obligations under the 2014 Contract by granting a security interest in the site of the Convention Center and all improvements thereon (the "Existing Mortgage"), and (2) has determined to provide further expansion, renovations and improvements to the Convention Center (the "Project");

WHEREAS, the City Council hereby determines that it is in the best interest of the City to receive an advance of funds in an aggregate principal amount of not more than \$15,365,000 by entering into an Installment Financing Contract (the "Contract") with Truist Commercial Equity, Inc. (the "Lender") in order to (1) finance the Project and (2) pay certain costs incurred in connection with the execution and delivery of the Contract;

WHEREAS, the obligation of the City to make Installment Payments under the Contract is a limited obligation of the City payable solely from currently budgeted appropriations of the City and does not constitute a pledge of the faith and credit of the City within the meaning of any constitutional debt limitation;

WHEREAS, in order to provide security for the City's obligations under the Contract, the City will grant to the Lender a security interest under a deed of trust, security agreement and fixture filing (the "Deed of Trust") in all or a portion of the City's interest in the real property on which the Project is and will be located, together with all improvements and fixtures located thereon (collectively, the "Mortgaged Property"), and the Deed of Trust will be subordinate to the Existing Mortgage as long as the 2014 Contract is outstanding;

WHEREAS, the City Council conducted a public hearing on February 7, 2023 to receive public comments on the Contract;

WHEREAS, the City has submitted an application to the Local Government Commission of North Carolina (the "LGC") to consider and approve the Contract as described above and expects to be on the LGC's agenda at its March 7, 2023 meeting;

WHEREAS, in order to provide for the advance of financing proceeds to be deposited and disbursed as set forth under the Contract, the City may enter into a separate project fund agreement and related agreements as may be required by the Lender and/or its affiliate, Truist Bank;

WHEREAS, there has been made available to the City Council the form of the Contract and the Deed of Trust, which the City proposes to approve, enter into, and deliver, as applicable, to effectuate the proposed financing; and

WHEREAS, it appears that each of the Contract and the Deed of Trust (collectively, the "Instruments") is in appropriate form and is an appropriate instrument for the purposes intended;

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

Section 1. Approval, Authorization and Execution of Instruments. The City Council hereby approves the financing of the Project in accordance with the terms of the Instruments, which will be valid, legal, and binding obligations of the City in accordance with their respective terms. The City Council hereby approves the amount to be advanced by the Lender to the City pursuant to the Contract in an aggregate principal amount not to exceed \$15,365,000 at an interest rate not to exceed 3.83% per annum, such amount to be repaid by the City to the Lender as provided in the Contract. The term of the Contract will not exceed April 1, 2043. The form, terms and content of the Instruments are in all respects authorized, approved and confirmed, and the City Manager, the Deputy City Manager/CFO, the Finance Director and the City Clerk, and their respective designees (the "Authorized Officers") are authorized, empowered and directed to execute and deliver the Instruments for and on behalf of the City, including necessary counterparts, in substantially the forms presented to the City Council, but with such changes, modifications, additions or deletions therein as shall to them seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all such changes, modifications, additions or deletions, and that from and after the execution and delivery of the Instruments, each of the Authorized Officers are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Instruments as executed. The Contract is subject to the approval of the LGC.

Section 2. Further Actions. Each of the Authorized Officers are hereby designated as the City's representatives to act on behalf of the City in connection with the transactions contemplated by the Instruments, and each of the Authorized Officers are authorized and directed to proceed with the financing of the Project in accordance with the terms of the Instruments and to seek opinions on matters of law from the City Attorney, which the City Attorney is authorized to furnish on behalf of the City, and opinions of law from such other attorneys for all documents contemplated hereby as required by law. Each of the Authorized Officers are hereby authorized to designate one or more employees of the City to take all actions which each of the Authorized Officers are authorized to perform under this Resolution, and each of the Authorized Officers, including their

designees, are in all respects authorized on behalf of the City to supply all information pertaining to the transactions contemplated by the Instruments. Each of the Authorized Officers are authorized to execute and deliver for and on behalf of the City any and all additional certificates, documents, opinions, or other papers and perform all other acts as may be required by the Instruments or as they may deem necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution. Any and all acts of the Authorized Officers may be done individually or collectively.

Section 3. Related Actions. All acts and doings of officers, employees, and agents of the City, whether taken prior to, on, or after the date of this Resolution, that are in conformity with and in furtherance of the purposes and intents of this Resolution as described above shall be, and the same hereby are, in all respects ratified, approved, and confirmed.

Section 4. Repealer. All motions, orders, resolutions, ordinances, and parts thereof in conflict herewith are hereby repealed.

Section 5. Severability. If any section, phrase, or provision of this Resolution is for any reason declared to be invalid, such declaration will not affect the validity of the remainder of the sections, phrases, or provisions of this Resolution.

Section 6. Effective Date. This Resolution is effective on the date of its adoption.

J. Approved the Resolution Authorizing the Execution of Opioid Settlements and Approving the Supplemental Agreement for Additional Funds between the State of North Carolina and Local Governments on Proceeds Relating to the Settlement of Opioid Litigation.

RESOLUTION NO. 23-09

RESOLUTION BY CITY OF HICKORY
AUTHORIZING EXECUTION OF OPIOID SETTLEMENTS AND APPROVING THE
SUPPLEMENTAL AGREEMENT FOR ADDITIONAL FUNDS BETWEEN THE STATE
OF NORTH CAROLINA AND LOCAL GOVERNMENTS ON PROCEEDS RELATING TO
THE SETTLEMENT OF OPIOID LITIGATION

WHEREAS, the opioid overdose epidemic had taken the lives of more than 32,000 North Carolinians (2000-2021);

WHEREAS, the COVID-19 pandemic has compounded the opioid overdose crisis, increasing levels of drug misuse, addiction, and overdose death; and

WHEREAS, the Centers for Disease Control and Prevention estimates the total economic burden of prescription opioid misuse alone in the United States is \$78.5 billion a year, including the costs of healthcare, lost productivity, addiction treatment, and criminal justice involvement; and

WHEREAS, [Optional - Insert local government-specific impact information or data]; and

WHEREAS, certain counties and municipalities in North Carolina joined with thousands of local governments across the country to file lawsuits against opioid manufacturers, pharmaceutical distribution companies, and chain drug stores to hold those companies accountable for their misconduct; and

WHEREAS, settlements have been reached in litigation against Walmart, Inc., Teva Pharmaceutical Industries Ltd., Allergan Finance, LLC, Allergan Limited, CVS Health Corporation, CVS Pharmacy, Inc., and Walgreen Co., as well as their subsidiaries, affiliates, officers, and directors named in these Settlements; and

WHEREAS, representatives of local North Carolina governments and the North Carolina Department of Justice have negotiated and prepared a Supplemental Agreement for Additional Funds (SAAF) to provide for the equitable distribution of the proceeds of these settlements; and

WHEREAS, by joining the settlements and approving the SAAF, the state and local governments maximize North Carolina's share of opioid settlement funds to ensure the needed resources reach communities, as quickly, effectively, and directly as possible; and

WHEREAS, it is advantageous to all North Carolinians for local governments, including City of Hickory and its residents, to sign onto the settlements and SAAF and demonstrate

solidarity in response to the opioid overdose crisis, and to maximize the share of opioid settlement funds flowing to North Carolina to help abate the harm; and

WHEREAS, the SAAF directs substantial resources over multiple years to local governments on the front lines of the opioid overdose epidemic while ensuring that these resources are used in an effective way to address the crisis;

NOW, THEREFORE BE IT RESOLVED, that the Hickory City Council hereby authorizes the City Manager or City Attorney to execute all documents necessary to enter into opioid settlement agreements with Walmart, Walgreens, CVS, Allergan, and Teva, to execute the SAAF, and to provide such documents to Rubris, the Implementation Administrator.

K. Approved on First Reading Budget Revision Number 16

ORDINANCE NO. 23-05
BUDGET REVISION NUMBER 16

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, 2023, and for the duration of the Project Ordinance noted herein.

SECTION 1. To amend the General Fund within the FY 2022-23 Budget Ordinance, the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Public Safety	8,488	-
Transportation	18,225	-
TOTAL	26,713	-

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

FUNCTIONAL AREA	INCREASE	DECREASE
Miscellaneous	26,713	-
TOTAL	26,713	-

SECTION 2. To amend the Solid Waste Fund within the FY 2022-23 Budget Ordinance the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Environmental Protection	19,661	-
TOTAL	19,661	-

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

FUNCTIONAL AREA	INCREASE	DECREASE
Miscellaneous	19,661	-
TOTAL	19,661	-

SECTION 3. To amend the Project Star (#803311) Capital Project Ordinance, the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Water & Sewer Capital Projects	10,300,000	-
TOTAL	10,300,000	-

To provide funding for the above, the Project Star (#803311) revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Restricted Intergovernmental	10,300,000	-
TOTAL	10,300,000	-

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

- IX. Items Removed from Consent Agenda – None
- 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)
African American (Council Appoints) (Nathaniel Holmes Resigned) VACANT
Other Minority (Council Appoints) VACANT
Other Minority (Council Appoints) VACANT
Other Minority (Council Appoints) VACANT
Differently Abled (Council Appoints) (Ruthie Hill Resigned 2-15-23) 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

PUBLIC ART COMMISSION

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
Ward 4 (Freeman Appoints) VACANT

RECYCLING ADVISORY BOARD

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
Ward 6 (Patton Appoints) VACANT

Mayor Guess reminded everyone that the City has several Boards and Commissions that advise Council and those were all listed on the City’s website. If anyone was interested in any vacancies on those, please do not hesitate to reach out to one of them and they would be glad to help them navigate that.

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

Council members welcomed Alderman Freeman.

Alderman Freeman thanked Council members and staff. Everybody had been wonderful, welcoming, and embracing. He was looking forward to the new journey.

Mayor Guess commented they were glad to have him. There would be an election in November, and he would not be the only one being elected either. He would not say anything else about elections. He thanked all of those present to help to celebrate the oath of office. He knew some of them traveled from quite some distance, and some of them not so far away, but he knew that he certainly appreciated the support and Council did also. They were welcome here any time. He commented if they came back to visit that they come back to visit at a City Council meeting, and if they could assist them with anything they would be happy to do that as well.

XIV. There being no further business, the meeting adjourned at 7:36 p.m.

Mayor

City Clerk