

AGENDA

CITY OF HENDERSONVILLE CITY COUNCIL – REGULAR MEETING

JANUARY 3, 2019 – 5:45 P.M.

Council Chambers - City Hall

1. Call to Order
2. Invocation and Pledge of Allegiance
3. Public Comment Time: *Up to 15 minutes is reserved for comments from the public for items not listed on the agenda*
4. Consideration of Agenda
5. Consideration of Consent Agenda: *These items are considered routine, noncontroversial in nature and are considered and approved by a single motion and vote.*
 - A. Consideration of Minutes:
 - i. December 6, 2018 Regular Meeting
 - ii. December 20, 2018 Special Meeting
 - B. Consideration of a Resolution Authorizing the City to Engage in Electronic Payments as Defined by NCGS 159-28
6. Presentations:
 - A. Towne Forest Homeowners Association to Address the Council on the Impact of the U.S. Highway 64 West Widening project on Blythe Street and Towne Forest Subdivision and Request to NCDOT
7. Public Hearing – Consideration of a Zoning Ordinance Text Amendment of Section 4-5 Classification of Uses, Section 5-19-1 CMU Permitted Uses and Section 5-19-2 CMU Conditional Uses *(Continued from December 6, 2018 Meeting)*
Presenter: Development Assistance Director Susan Frady
8. Consideration of Amending the Future Land Use Map
Presenter: Senior Planner Matt Champion
9. Consideration of a NC-319 Grant Agreement
Presenter: Mike Huffman
10. Consideration of an Amendment to the Code of Ordinances, Chapter 22, to Allow a Third-Party Inspection Reporting System and Require the Reporting Parties to Pay Associated Fees to the Service Provider
Presenter: Fire Marshall Justin Ward

11. Consideration of Request to Change Parking Spaces on Fifth Avenue

Presenter: City Manager John Connet

12. Reports/Comments by Mayor and City Council Members

13. Staff Reports

- a. Report on Contingencies
- b. Report on Board/Commission vacancies

14. Adjourn





CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: John Buchanan

Department: Finance

Date Submitted: 12/18/18

Presenter: John Buchanan

Date of Council Meeting to consider this item: 1/3/19

Nature of Item: Presentation Only

Summary of Information/Request:

Item # 05b

The NC Local Government Commission adopted rules to address the execution of the pre-audit and disbursement process related to electronic transactions for local government units.

A unit of government can now be exempt from the pre-audit certificate and disbursement certificate requirements on electronic transactions if requirements of the new administrative code (20 NCAC 03 .0409) are followed.

In order to meet the requirements of code 20 NCAC 03 .0409, a unit of government must approve the use of electronic payments and adopt and implement a policy outlining procedures for electronic disbursements and pre-audit of electronic disbursements.

None of the rule changes exempts a unit of government from going through the pre-audit process; the rules only exempt a unit from affixing the certificate of preaudit on electronic transactions.

Electronic transactions covered by this change are charge cards, credit cards, gas cards, and electronic funds transfers.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? No If no, describe how it will be funded.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I move that City Council approve the resolution authorizing electronic transactions and the creation of a written policy outlining procedures for disbursing and pre-auditing electronic transactions.

Attachments:

Resolution

RESOLUTION AUTHORIZING THE CITY OF HENDERSONVILLE TO ENGAGE IN
ELECTRONIC PAYMENTS AS DEFINED BY G.S. 159-28

WHEREAS, it is the desire of the City Council that the City of Hendersonville is authorized to engage in electronic payments as defined by G.S. 159-28

WHEREAS, it is the responsibility of the Finance Officer, who is appointed by and serves at the pleasure of the City Council, to create a written policy outlining procedures for pre-auditing obligations that will be incurred by electronic payments as required by NC Administrative Code 20 NCAC 03 .0409

WHEREAS, it is the responsibility of the Finance Officer, who is appointed by and serves at the pleasure of the City Council, to create a written policy outlining procedures for disbursing public funds by electronic transaction as required by NC Administrative Code 20 NCAC 03 .0410

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

Section 1. Authorizes the City of Hendersonville to engage in electronic payments as defined by G.S. 159-28;

Section 2. Authorizes the Director of Finance to create a written policy outlining procedures for pre-auditing obligations that will be incurred by electronic payments as required by NC Administrative Code 20 NCAC 03 .0409; and authorizes the City Manager to adopt a written policy outlining procedures for pre-auditing obligations that will be incurred by electronic payments as required by NC Administrative Code 20 NCAC 03 .0409

Section 3. Authorizes the Director of Finance to create a written policy outlining procedures for disbursing public funds by electronic transaction as required by NC Administrative Code 20 NCAC 03 .0410; and authorizes the City Manager to adopt a written policy outlining procedures for disbursing public funds by electronic transaction as required by NC Administrative Code 20 NCAC 03 .0410

Section 4. This resolution shall take effect immediately upon its passage.

Adopted this 3rd day of January, 2019.

Barbara G. Volk, Mayor

Attest:

Tammie K. Drake, MMC, City Clerk

Approved as to form:

Samuel H. Fritschner, City Attorney



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: John Connet

Department: Admin

Date Submitted: 12/21/2018

Presenter: John Connet

Date of Council Meeting to consider this item: 01/03/2019

Nature of Item: Discussion/Staff Direction

Summary of Information/Request:

Item # 06

Councilman Smith has requested an opportunity for the Town Forest Homeowners' Association President to address the City Council regarding the impact of the US 64 widening project on Blythe Street and the Town Forest Subdivision. It is my understanding that the subdivision residents would like for the City Council to request the following from NCDOT:

1. Installation of a retaining wall versus a sloped ditch bank
2. Install the sidewalks directly next to curb and gutter (no planting strip)
3. Install an evergreen planting buffer between Blythe Street and private property

Budget Impact: \$ TBD Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion:

I move that the City Council ask NCDOT to _____ as part of the US 64 widening project.

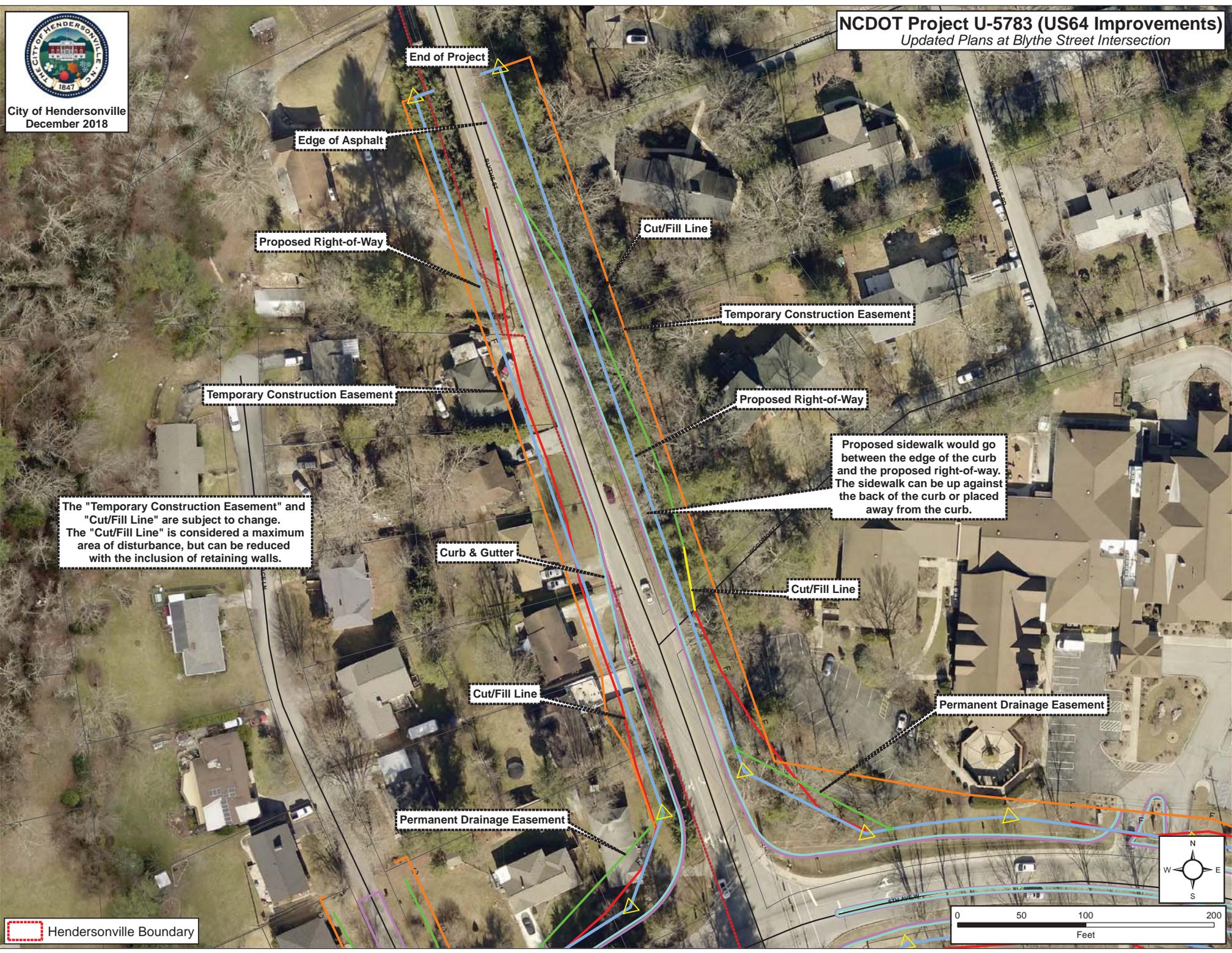
Attachments:

Map of Area
Draft Letter to Brian Burch



City of Hendersonville
December 2018

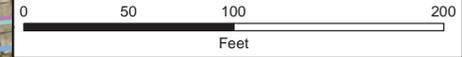
NCDOT Project U-5783 (US64 Improvements) Updated Plans at Blythe Street Intersection



The "Temporary Construction Easement" and "Cut/Fill Line" are subject to change. The "Cut/Fill Line" is considered a maximum area of disturbance, but can be reduced with the inclusion of retaining walls.

Proposed sidewalk would go between the edge of the curb and the proposed right-of-way. The sidewalk can be up against the back of the curb or placed away from the curb.

Hendersonville Boundary



CITY COUNCIL:
BARBARA G. VOLK
Mayor
RON STEPHENS
Mayor Pro Tem
STEVE CARAKER
JERRY A. SMITH, JR.
JEFF MILLER

CITY OF HENDERSONVILLE

The City of Four Seasons

OFFICE OF THE CITY MANAGER
JOHN F. CONNET

OFFICERS:
JOHN F. CONNET
City Manager
SAMUEL H. FRITSCHNER
City Attorney
TAMMIE K. DRAKE
City Clerk

January 4, 2019

Mr. Brian Burch, P.E.
Division Engineer
Division 14
253 Webster Road
Sylva, NC 28779

Dear Mr. Burch:

At their regular meeting on January 3, 2019, the Hendersonville City Council unanimously voted to formally request that the following items be included in the design of the US 64 Widening Project (NCDOT U-5783) directly adjacent to the Town Forest Subdivision

1. Install retaining wall on the east side of Blythe Street instead of sloped bank
2. Install all sidewalks directly adjacent to the curb
3. Install an evergreen vegetative buffer between Blythe Street and Town Forest Subdivision

The City Council believes that these items will provide additional protections for the residents of Town Forest Subdivision.

Thank you for your attention in this matter. If you have any questions or need additional information, please feel free to contact me at (828) 233-3201.

Sincerely,

John F. Connet
City Manager



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Susan Frady

Department: Development Asst Dept

Date Submitted: 12/21/2018

Presenter: Susan G. Frady, Development Asst Director

Date of Council Meeting to consider this item: 01/03/2019

Nature of Item: Council Action

Summary of Information/Request:

Item # 07

Based on the Planning Boards recommendation to not approve these amendments, Councilman Smith has requested that the proposed changes be withdrawn from consideration by the City Council. If the City Council agrees with this request, you will need to simply cancel/close the public hearing and make a motion to withdraw this item from consideration.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion:

I move that this text amendment be withdrawn from consideration by the City Council.

Attachments:

Memo
Map

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Development Assistance Department
RE: Text Amendment of Section 5-19 Central Mixed Use Zoning District
FILE #: P18-24-ZTA
DATE: November 27, 2018

PROJECT HISTORY

At the August City Council meeting, the City Council discussed that some permitted uses within the CMU Central Mixed Use Zoning District may need to be changed to conditional uses. The proposed amendment does not add any new uses, or remove any existing uses, from the CMU zoning district. Several uses that are currently permitted uses are proposed to change to conditional uses.

The Board of Adjustment reviews conditional use permits. A quasi-judicial public hearing is required and abutting property owners are notified by mail. A complete site plan must be submitted and all requirements of the zoning ordinance must be met including: parking, buffers, street trees, streetscape design, etc. After the public hearing, and on consideration of the record, the Board of Adjustment will take action on the application, either denying it, approving it, or approving it subject to one or more reasonable and appropriate conditions.

The Board of Adjustment shall not approve an application for a conditional use permit, with or without conditions, unless it makes each of the following findings of fact: (1) the proposed use complies with the standards for such use contained in Article XVI; (2) the proposed use will not adversely affect the health or safety of persons residing or working in the neighborhood of such proposed use; and (3) the proposed use will not be detrimental or injurious to property or public improvements in the neighborhood of the proposed use.

Currently, site plans with structures up to 20,000 sq. ft. are reviewed by staff. Structures from 20,000 to 50,000 sq. ft. are reviewed by the Planning Board. Anything greater than 50,000 sq. ft. requires a rezoning to a conditional zoning district. Additionally, for development plans between 10,000 and 20,000 sq. ft. a sign, that is a minimum of 18 in. x 24 in., giving notice of receipt of a development application must be posted on the property for a minimum of 30 days with our contact information displayed.

Listed below are proposed changes to the Zoning Ordinance. Additions are underlined and deletions are ~~struck-through~~.

Article IV Classifications of Uses. The matrix shall be amended to reflect the following changes to Section 5-19-1 permitted uses and 5-19-2 conditional uses.

Article V Zoning District Classifications Section 5-19 CMU Central Mixed Use Zoning District Classification

5-19-1 Permitted Uses: The following uses are permitted by right in the CMU, Central Mixed Use Zoning District Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units subject to special requirements contained in Section 16-4, below

Accessory uses & structures

Adult care centers registered with the NC Department of Human Resources

Adult care homes

~~Animal hospitals & clinics so long as the use contains no outdoor kennels~~

~~Automobile car washes~~

~~Banks and other financial institutions~~

Bed & breakfast facilities

Bus stations

~~Business services~~

Child care homes

Congregate care facilities, subject to special requirements contained in Section 16-4, below

~~Construction trades facilities so long as the storage of equipment and materials is screened from view from public rights-of-way~~

~~Convenience stores with or without gasoline sales~~

Cultural arts buildings

Dance and fitness facilities

Dry cleaning and laundry establishments containing less than 2,000 ft² of floor area

~~Funeral homes~~

Garage Apartments

Home occupations

~~Hotels and motels~~

Laundries, coin-operated

~~Microbreweries, subject to special requirements contained in Section 16-4, below~~

Mobile food vendor, subject to special requirements contained in Section 16-4, below

Music and art studios

~~Newspaper offices and printing establishments~~

Nursing homes subject to special requirements contained in Section 16-4, below

~~Offices, business, professional and public~~

~~Parking lots and parking garages~~

Parks

~~Personal services~~

Planned residential developments (minor), subject to the requirements of Article VII, below

Progressive care facilities subject to special requirements contained in Section 16-4, below

~~Public & semi-public buildings~~

Recreational facilities, indoors

Religious institutions

~~Repair services, miscellaneous~~

Residential dwellings, single-family

Residential dwellings, multi-family

Residential dwellings, two-family

Rest Homes, subject to special requirements contained in Section 16-4, below

~~Restaurants~~

~~Retail stores~~

Schools, post-secondary, business, technical and vocational

Schools, primary & secondary

Signs, subject to the provisions of Article XIII

Telecommunications antennas, subject to special requirements contained in Section 16-4, below

~~Theaters, indoor~~

5-19-2 Conditional Uses:

Animal hospitals & clinics so long as the use contains no outdoor kennels

Automobile car washes

Banks and other financial institutions

Business services

Child care centers

Civic clubs & fraternal organizations

Construction trades facilities so long as the storage of equipment and materials is screened from view from public rights-of-way

Convenience stores with or without gasoline sales

Funeral homes

Hotels and motels

Microbreweries, subject to special requirements contained in Section 16-4, below

Newspaper offices and printing establishments

Offices, business, professional and public

Parking lots and parking garages

Personal services

Private clubs

Public & semi-public buildings

Public Utility Facilities

Repair services, miscellaneous

Restaurants subject to special requirements contained in Section 16-4, below

Retail stores

Theaters, indoors

Vehicle repair & service, without outdoor operations

PLANNING BOARD RECOMMENDATION

The Planning Board discussed this matter at its regular meeting of October 8, 2018. The Planning Board voted unanimously not to recommend that City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance Section 5-19-1 CMU Permitted Uses and 5-19-2 CMU Conditional Uses.

The Planning Board discussed the quasi-judicial hearing process for the Board of Adjustment and the extra time that it would take to construct just a small office or building. The Planning Board recommended that staff review this and come back with a different recommendation.

ZONING ORDINANCE GUIDELINES

Per Section 11-4 of the City's Zoning Ordinance, the following factors shall be considered by City Council prior to adopting or disapproving an amendment to the text of the City's Zoning Ordinance:

1. Comprehensive Plan consistency. Consistency with the Comprehensive Plan and amendments thereto.
2. Compatibility with surrounding uses. Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property.
3. Changed conditions. Whether and the extent to which there are changed conditions, trends or facts that require an amendment.
4. Public interest. Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare.
5. Public facilities. Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment.
6. Effect on natural environment. Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands and wildlife.

SUGGESTED MOTIONS

For Recommending Approval:

I move that City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance Section 5-19-1 Permitted Uses and 5-19-2 Conditional Uses.

For Recommending Approval With Modifications:

I move that City Council adopt an ordinance amending the City of Hendersonville Zoning Ordinance Section 5-19-1 Permitted Uses and 5-19-2 Conditional Uses with the following modifications.

[PLEASE STATE THE MODIFICATIONS AND YOUR REASONS]

For Recommending Denial:

I move that City Council not adopt an ordinance amending the City of Hendersonville Zoning Ordinance Section 5-19-1 Permitted Uses and 5-19-2 Conditional Uses.

[PLEASE STATE YOUR REASONS]

AN ORDINANCE AMENDING SECTION 5-19 CMU CENTRAL MIXED USE ZONING DISTRICT

WHEREAS, the General Assembly of the State of North Carolina has granted authority to municipalities to adopt, administer and enforce zoning and subdivision regulation ordinances, building codes, and minimum housing standards and other related measures, and

WHEREAS, the General Assembly of the State of North Carolina has granted authority to municipalities to amend, supplement, change, modify or repeal zoning regulation ordinances, and

WHEREAS, the City of Hendersonville understands the need to encourage redevelopment and revitalization of the community, and

WHEREAS, the City of Hendersonville desires to amend those regulations with regards to permitted uses and conditional uses within the CMU, Central Mixed Use Zoning District

NOW, THEREFORE, be it ordained by the City Council of the City of Hendersonville:

1. Article V Zoning District Classifications, Section 5-19-1 CMU Central Mixed Used Zoning District Permitted Uses is hereby amended to remove the following uses:

- Animal hospitals & clinics so long as the use contains no outdoor kennels
- Automobile car washes
- Banks and other financial institutions
- Bus stations
- Business services
- Construction trades facilities so long as the storage of equipment and materials is screened from view from public rights-of-way
- Convenience stores with or without gasoline sales
- Funeral homes
- Hotels and motels
- Microbreweries, subject to special requirements contained in Section 16-4, below
- Newspaper offices and printing establishments
- Offices, business, professional and public
- Parking lots and parking garages
- Personal services
- Public and semi-public buildings
- Repair services, miscellaneous
- Restaurants
- Retail stores
- Theaters, indoor

2. Article V Zoning District Classifications, Section 5-19-2 CMU Central Mixed Used Zoning District Conditional Uses is hereby amended to include the following uses:

- Animal Hospitals & clinics so long as the use contains no outdoor kennels
- Automobile car washes
- Banks & other financial institutions
- Bus stations
- Business services
- Construction trades facilities
- Convenience stores with or without gasoline sales
- Funeral homes
- Hotels & motels
- Microbreweries, subject to special requirements contained in Section 16-4, below
- Newspaper & Printing companies
- Offices, business, professional & public
- Parking lots and parking garages
- Personal services
- Public & semi-public buildings
- Repair services, miscellaneous
- Restaurants
- Retail stores
- Theaters, indoors

3. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 9-8 of the Zoning Ordinance.
4. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.
5. If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.
6. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing zoning violations.
7. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this ____ day of _____, 2018

Barbara Volk, Mayor

Attest:

Tammie K. Drake, CMC, City Clerk

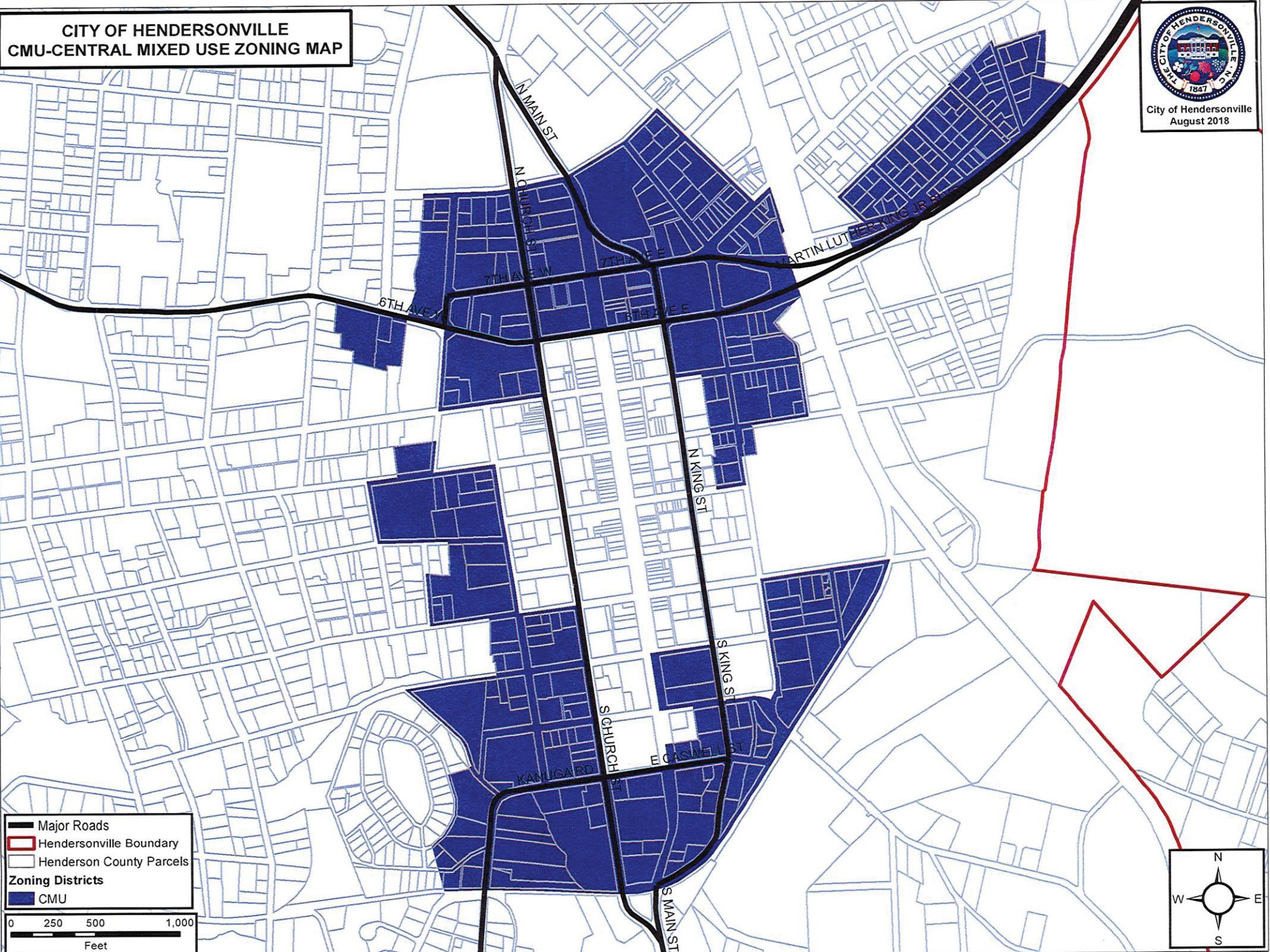
Approved as to form:

Samuel H. Fritschner, City Attorney

CITY OF HENDERSONVILLE CMU-CENTRAL MIXED USE ZONING MAP

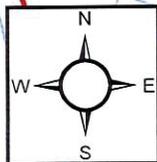


City of Hendersonville
August 2018



Major Roads
— Major Roads
Hendersonville Boundary
— Hendersonville Boundary
Henderson County Parcels
— Henderson County Parcels
Zoning Districts
■ CMU

0 250 500 1,000
Feet





CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Susan Frady

Department: Development Asst Dept

Date Submitted: 12/7/18

Presenter: Matt Champion, Senior Planner

Date of Council Meeting to consider this item: 1.3.19

Nature of Item: Council Action

Summary of Information/Request:

Item # 08

The Development Assistance Department is in receipt of a request from Marilyn Gordon proposing to amend the City's Future Land Use Map as shown in the 2030 Hendersonville Comprehensive Plan by changing the classification of the area shown on the attached map from Medium Intensity Neighborhood to High Intensity Neighborhood. Staff has reviewed the application and suggest City Council consider expanding the request to adjacent properties in order to reduce the likelihood of spot zoning.

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion:

I move that City Council refer the proposed Future Land Use Map amendment submitted by Marilyn Gordon to the Planning Board for a recommendation.

Attachments:

Memo
Map

MEMORANDUM

TO: City Council

FROM: Development Assistance Department

RE: Proposal to Amend City's Future Land Use Map

DATE: January 3, 2019

The Development Assistance Department received a request from Marilyn Gordon proposing to amend the City's Future Land Use Map as shown in the 2030 Hendersonville Comprehensive Plan by changing the classification of the area shown on the following page from Medium Intensity Neighborhood to High Intensity Neighborhood. Staff reviewed the application and suggest to City Council to consider expanding the request to adjacent properties in order to reduce the likelihood of spot zoning.

Surrounding Land Uses

The subject area is surrounded by residential structures, consisting of single-family and multi-family, and agricultural land. South east of the subject area, across the Kanuga Road/State Road/Erkwood Road intersection, is an agricultural produce stand. North Carolina G.S. 160A-360 was amended in 2011 to exclude land that is classified as "bona fide farm purposes" from municipal extraterritorial jurisdiction. "Bona fide farm purposes" include activities incidental to the farm. Land classified as a "bona fide farm purposes" within the ETJ is not subject to city zoning, subdivision, or other municipal development regulations.

Options for Consideration

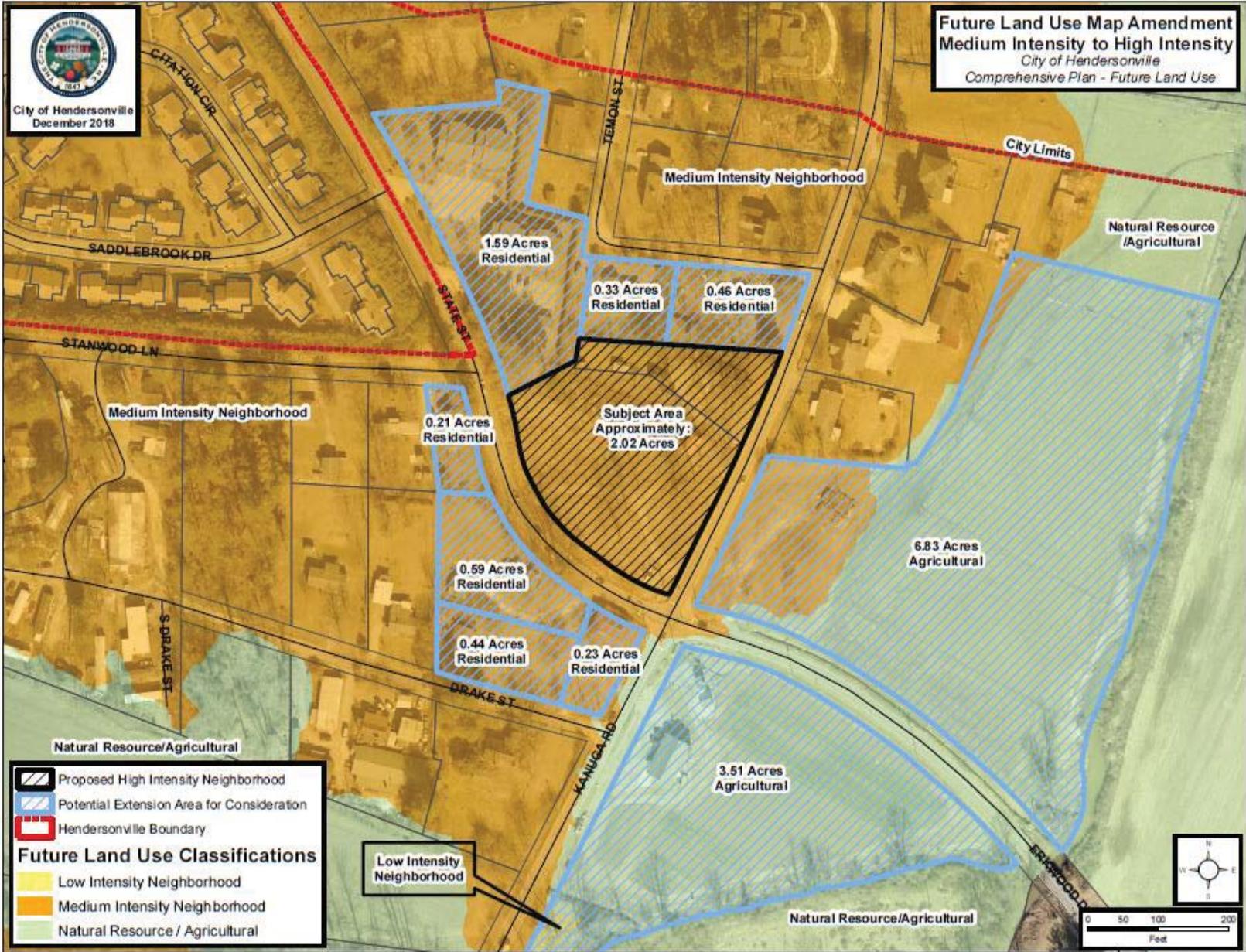
In order to amend the Comprehensive Plan, City Council must first determine if they are willing to consider the proposed amendment. If Council is willing to consider the amendment, the matter is then referred to the Planning Board for a recommendation to City Council. Upon receiving a recommendation from the Planning Board, City Council shall then hold at least one public hearing on the amendment.

Staff is seeking direction from City Council on whether the Council wishes to consider amending the Comprehensive Plan Future Land Use Map and to identify, if any, additional property to be considered in this request. If so, staff will present this to the Planning Board for a recommendation, then the proposal will come back to City Council for a public hearing.



City of Hendersonville
December 2018

Future Land Use Map Amendment
Medium Intensity to High Intensity
City of Hendersonville
Comprehensive Plan - Future Land Use

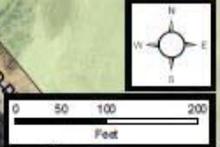


Proposed High Intensity Neighborhood
 Potential Extension Area for Consideration
 Hendersonville Boundary

Future Land Use Classifications

Low Intensity Neighborhood
 Medium Intensity Neighborhood
 Natural Resource / Agricultural

Low Intensity Neighborhood





CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Michael Huffman

Department: Engineering

Date Submitted: 12/21/18

Presenter: Michael Huffman

Date of Council Meeting to consider this item: 1/3/19

Nature of Item: Council Action

Summary of Information/Request:

Item # 09

Resolution Accepting Grant Offer for Stormwater Projects at Patton Park

In May 2018 City staff applied for a NC-319 Grant to implement several innovative stormwater projects in Patton Park. The funding is administered by the North Carolina Department of Environmental Quality's (DEQ). We received the attached contract on 12/5/18 informing the City that the grant application for \$100,000.00 was approved. Staff intends for this Stormwater Infrastructure grant to fund a portion of the stormwater management system at the new Public Works Facility and the installation of two additional innovative stormwater control measures in Patton Park. Please note that there is a matching component that will consist a total of \$77,000. \$10,000 of in-kind work by City staff and \$67,000 for materials and construction of a Bioretention cell (rain garden) at the new PW Facility. Attached is the Grant Contract, which must be executed and returned.

Please feel free to let me know if you have any questions. Thank you.

Budget Impact: \$ 100,000.00 Is this expenditure approved in the current fiscal year budget? No If no, describe how it will be funded.

The NC-319 Grant from NCDEQ will fund the proposed stormwater projects at Patton Park.

Suggested Motion: *To disapprove any item, you may allow it to fail for lack of a motion.*

I hereby move to accept the \$100,000.00 grant offer from NCDEQ and to name the City Manager as the City's Authorized Official when executing or providing any funding application or other documents associated with the project.

Attachments:

NC-319 Grant Contract for execution

STATE OF NORTH CAROLINA
COUNTY OF WAKE

SUBGRANTEE'S FEDERAL
IDENTIFICATION
NUMBER: ** - ***1242

North Carolina Department of Environmental Quality Financial Assistance Agreement

This financial assistance agreement is hereby made and entered into this **1st day of January, 2019**, by and between the **NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY** (the "Department") and the **CITY OF HENDERSONVILLE PATTON PARK STORMWATER RETROFITS** (the "Subgrantee"). The assistance provided to the Subgrantee hereunder is a second-tier subaward of funding made available to the Department under the following Federal grant:

Federal Agency: United States Environmental Protection Agency
CFDA No.: 66.460 – Nonpoint Source Implementation
FAIN No.: 99465718

1. **Audit and Other Reporting Requirements of the Local Government Commission.** If subject to the audit and other reporting requirements of the Local Government Commission pursuant to Article 3 of Chapter 159 of the North Carolina General Statutes (Local Government Budget and Fiscal Control Act), the Subgrantee understands and agrees that the terms, conditions, restrictions and requirements hereinafter set forth shall only apply to the extent not inconsistent with, or superseded by, the audit and other reporting requirements of the Local Government Commission.
2. **Contract Documents.** The agreement between the parties consists of this document (the "Contract Cover") and its attachments, which are identified by name as follows:
 - a. Federal Grant Award, including all terms and conditions associated therewith ("Federal Grant Award") (Attachment A)
 - b. State's General Terms and Conditions (Attachment B)
 - c. Department's Request for Proposal ("RFP") (Attachment C)
 - d. Subgrantee's Response to RFP, including scope of work, line item budget, budget narrative and, *if applicable*, indirect cost documentation (hereinafter referred to generally as the "Award Proposal") (Attachment D)
 - e. Notice of Certain Reporting and Audit Requirements (Attachment E)
 - f. Certification Regarding Lobbying (Attachment F)
 - g. Certification Regarding Debarment (Attachment G)
 - h. Certification Regarding Drug-Free Workplace (Attachment H)
 - i. Certification Regarding Conflict of Interest (Attachment I)

Together, these documents (the "Contract Documents") constitute the entire agreement between the parties (the "Agreement"), superseding all prior oral or written statements or agreements. Modifications to this Contract Cover or to any other Contract Document may only be made through written amendments processed by the Department's Financial Services Division. Any such written amendment must be duly executed by an authorized representative of each party.

3. **Precedence Among Contract Documents.** In the event of a conflict or inconsistency between or among the Contract Documents, the document with the highest relative precedence shall prevail. This Contract Cover shall have the highest precedence. The order of precedence thereafter shall be determined by the order of documents listed in § 2 above, with the first-listed document having the second-highest precedence and the last-listed document having the lowest precedence. If there are multiple contract amendments, the most recent amendment has the highest precedence and the oldest amendment has the lowest precedence.

¹ The contract documents attached hereto may at times use alternative terms to describe the Subgrantee. Such terms might include, but are not necessarily limited to, the following (in common or proper form): "recipient," "applicant," or "participant."

- 4. **Contract Period.** This Agreement shall be effective from **January 01, 2019** to **June 30, 2020**, inclusive of those dates.
- 5. **Subgrantee’s Duties.** As a condition of the grant award, the Subgrantee agrees to:
 - a. Undertake and deliver the grant award project, plan or services as described in the Award Proposal (Attachment D), adhering to all budgetary provisions set out therein throughout the course of performance.
 - b. Ensure that all award funds are expended in a manner consistent with the underlying purposes of the Federal Grant Award.
 - c. Comply with all terms, conditions, restrictions and requirements applicable to subgrantees under the Federal Grant Award.
 - d. Comply with the requirements of 09 NCAC 03M .0101, *et seq.* (Uniform Administration of State Awards of Financial Assistance), including, but not limited to, those provisions relating to audit oversight, access to records, and availability of audit work papers in the possession of any auditor of any recipient of State funding.
 - e. Comply with the applicable provisions of Attachment E, Notice of Certain Reporting and Audit Requirements.
 - f. Maintain all records related to this Agreement (i) for a period of six (6) years following the date on which this Agreement expires or terminates, (ii) for the period of time required by the Federal Grant Award, or (iii) until all audit exceptions have been resolved, whichever is longest.
 - g. Comply with all laws, ordinances, codes, rules, regulations, and licensing requirements applicable to its performance hereunder and/or the conduct of its business generally, including those of Federal, State, and local agencies having jurisdiction and/or authority.
 - h. Obtain written approval from the Department’s Contract Administrator (see § 13 below) prior to making any subaward or subgrant not already described in the Award Proposal.
 - i. Ensure that the terms, conditions, restrictions and requirements of this Contract Cover, including those incorporated by reference to applicable law, the Federal Grant Award and/or any other Contract Document, are made applicable to, and binding upon, any lower-tier subgrantee who receives as a subaward or subgrant any portion of the award funds made available to the Subgrantee hereunder.
 - j. Take reasonable measures to ensure that any lower-tier subgrantee (i) complies with the terms, conditions, restrictions and requirements set forth in this Contract Cover, including those incorporated by reference to applicable law, the Federal Grant Award and/or any other Contract Document, and (ii) provides such information in its possession as may be necessary for the Subgrantee to comply with such terms, conditions, restrictions and requirements.
- 6. **Department’s Duties.** The Department shall pay the Subgrantee in the manner and amounts specified below and in accordance with the approved budget set forth in the Award Proposal.
- 7. **Total Award Amount.** The total amount of award funds paid by the Department to the Subgrantee under this Agreement shall not exceed **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)** (the “Total Award Amount”). This amount consists of:

Funding:

Type of Funds	Funding Source	CFDA No.
Federal Grant	U. S EPA	66.460

Accounting Code Information:

Dollars	GL Company	GL Account	GL Center
\$100,000.00	1601	532199017	172072252022

Subgrantee Matching Information:

- a. There are no matching requirements from the Subgrantee.
- b. There are no matching requirements from the Subgrantee; however, the Subgrantee has committed the following match to this project:

	In-Kind	\$
	Cash	\$
	Cash and In-Kind	\$
	Other / Specify:	\$

- c. The Subgrantee's matching requirement is \$77,000.00, which shall consist of:

X	In-Kind	\$10,000.00
X	Cash	\$67,000.00
	Cash and In-Kind	\$
	Other / Specify:	\$

- d. The Subgrantee is committing to an additional \$0 to complete the project or services described in the Award Proposal.

Based on the figures above, the total contract amount is \$177,000.00. The Subgrantee represents that any contributions of its own shall be sourced from non-Federal funds.

- 8. **Invoice and Payment.** The award funds shall be disbursed to the Subgrantee in accordance with the following provisions:
 - a. The Subgrantee shall submit invoices to the Department's Contract Administrator at least quarterly. The final invoice must be received by the Department within forty-five (45) days following the date on which termination or expiration of this Agreement becomes effective. Amended or corrected invoices must be received by the Department's Financial Services Division within six (6) months of such date. Any invoice received thereafter shall be returned without action.
 - b. The Department shall reimburse the Subgrantee for actual allowable expenditures, with the Department retaining a minimum of ten percent (10%) of the Total Award Amount until all grant-related activities are completed and all reports/deliverables are received and accepted by the Department. As used herein, "allowable expenditures" are expenditures associated with work conducted to meet performance obligations under this Agreement, provided such work is carried out in a manner consistent with the Award Proposal. The Department may withhold payment on invoices when performance goals and expectations have not been met or when the manner of performance is inconsistent with Attachment D.
- 9. **Subgrantee's Fiscal Year.** The Subgrantee represents that its fiscal year is from July 1 to June 30.
- 10. **Availability of Funds.** The Subgrantee understands and agrees that payment of the sums specified herein shall be subject to, and contingent upon, the allocation and appropriation of funds to the Department for the purposes described in this Agreement.

- 11. **Reversion of Unexpended Funds.** The Subgrantee understands and agrees that any unexpended grant funds shall revert to the Department upon termination of this Agreement.
- 12. **Supplantation of Expenditure of Public Funds.** The Subgrantee understands and agrees that funds received pursuant to this Agreement shall be used only to supplement, not to supplant, the total amount of Federal, State and local public funding that the Subgrantee would otherwise expend to carry out the project or services described in the Award Proposal.
- 13. **Contract Administrators.** Each party shall submit notices, questions and correspondence related to this Agreement to the other party's Contract Administrator. The contact information for each party's Contract Administrator is set out below. Either party may change its Contract Administrator and/or the associated contact information by giving timely written notice to the other party.

Subgrantee Contract Administrator	Department's Contract Administrator
Michael Huffman City of Hendersonville 305 Williams Street Hendersonville, NC 28792 Telephone: 828-697-3013 Email: mhuffman@hvlnc.gov	Rishi Bastakoti North Carolina Department of Environmental Quality, Division of Water Resources 1611 Mail Service Center Raleigh NC 27699-1611 Telephone: (919) 707-3623 Email: rishi.bastakoti@ncdenr.gov

- 14. **Assignment.** The Subgrantee may not assign its obligations or its rights to receive payment hereunder.
- 15. **Procurement.** The Subgrantee understands and agrees that all procurement activities undertaken in connection with this Agreement shall be subject to the following provisions:
 - a. None of the work or services to be performed under this Agreement involving the specialized skill or expertise of the Subgrantee shall be contracted without prior written approval from the Department.
 - b. In the event the Subgrantee or any subrecipient of the Subgrantee contracts for any of the work to be performed hereunder, the Subgrantee shall not be relieved of any duties or responsibilities herein set forth.
 - c. The Subgrantee shall not contract with any vendor who is restricted from contracting with the State of North Carolina pursuant to N.C.G.S. §§ 143-133.3, 143-59.1, 143-59.2 or 147.86.60.
- 16. **Subawards.** The Subgrantee understands and agrees that any subaward or subgrant of any portion of the financial assistance provided hereunder shall not relieve the Subgrantee of any duties or responsibilities herein set forth.
- 17. **Title VI and Other Nondiscrimination Requirements.** Throughout the course of its performance hereunder, the Subgrantee shall comply with all applicable State and Federal laws, regulations, executive orders and policies relating to nondiscrimination, including, but not limited to:

- Title VI of the Civil Rights Act of 1964, as amended;
- Civil Rights Restoration Act of 1987, as amended;
- Section 504 of the Rehabilitation Act of 1973, as amended;
- Age Discrimination Act of 1975, as amended;
- Titles II and III of the Americans with Disabilities Act of 1990, as amended;
- Title IX of the Education Amendments of 1972, as amended;

Part III of Executive Order No. 11246 (September 24, 1965), as amended; and

Section 13 of the Federal Water Pollution Control Act Amendments of 1972.

In accordance with the above laws and their implementing regulations, the Subgrantee agrees to ensure that no person in the United States is, on the basis of race, color, national origin, sex, age or disability, excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity for which the Subgrantee receives Federal assistance. For purposes of this provision, "program or activity" shall have the meaning ascribed to that term under Federal law (see 42 U.S.C.S. § 2000d-4a).

The Subgrantee understands and acknowledges that, in addition to itself, any lower-tier recipient of the financial assistance provided hereunder must also comply with the requirements of this section. Accordingly, the Subgrantee agrees to include a similar provision in any financial assistance agreement made with any lower-tier recipient of such assistance.

18. **E-Verify.** To the extent applicable, the Subgrantee represents that it and each of its lower-tier subgrantees, contractors and/or subcontractors performing work pursuant to, or in association with, this Agreement are in compliance with Article 2 of Chapter 64 of the North Carolina General Statutes, including, in particular, the requirement that certain employers verify the work authorization of newly hired employees using the Federal E-Verify system.
19. **Termination by Mutual Consent.** This Agreement may be terminated by mutual consent of the parties, provided the consent is documented in writing and duly executed by an authorized representative of each party.
20. **Survival.** Any provision contained in this or any other Contract Document that contemplates performance or observance subsequent to the termination or expiration of this Agreement shall survive the termination or expiration hereof and continue in full force and effect.
21. **Signature Warranty.** The undersigned represent and warrant that they are authorized to bind their principals to the terms and conditions of this Contract Cover and the Agreement generally, including those incorporated by reference to applicable law.

THIS SPACE INTENTIONALLY BLANK

IN WITNESS WHEREOF, the Subgrantee and the Department execute this Agreement in two (2) originals, one (1) to be retained by the Subgrantee and one (1) to be retained by the Department, the day and year first above written.

CITY OF HENDERSONVILLE

NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY

By _____
Subgrantee's Signature

By _____
Signature of Department Head or Authorized Agent

Printed Name and Title

Tommy Kirby, Purchasing Director _____
Printed Name and Title

Organization

Financial Services Division, Purchasing and Contracts Section
Division/Section

ORIGINAL

	U.S. ENVIRONMENTAL PROTECTION AGENCY Grant Agreement	GRANT NUMBER (FAIN): 99465718 MODIFICATION NUMBER: 0 PROGRAM CODE: C9	DATE OF AWARD 07/16/2018
		TYPE OF ACTION New	MAILING DATE 07/23/2018
		PAYMENT METHOD: ASAP	ACH# 40192
RECIPIENT TYPE: State		Send Payment Request to: Las Vegas Finance Center	
RECIPIENT: North Carolina DEQ 512 N Salisbury St Raleigh, NC 27604 EIN: 56-6000372		PAYEE: NC Department of Environmental Quality 217 W Jones Street Raleigh, NC 27603	
PROJECT MANAGER Rishi Bastakoti 512 N Salisbury St MSC 1611 Raleigh, NC 27604 E-Mail: rishi.bastakoti@ncdenr.gov Phone: 919-707-3623		EPA PROJECT OFFICER Geryl Ricks 61 Forsyth Street Atlanta, GA 30303-8960 E-Mail: ricks.geryl@epa.gov Phone: 404-562-9837	
EPA GRANT SPECIALIST Laura Fowler Grants & Audit Management Section E-Mail: fowler.laura@epa.gov Phone: 404-562-8427			
PROJECT TITLE AND DESCRIPTION Non point Source Implementation This action approves an award in the amount of \$3,772,333 to the State of North Carolina Department of Environmental Quality to implement its non point source management program, focusing on watersheds with water quality impairments caused by polluted run-off from non point sources.			
BUDGET PERIOD 10/01/2017 - 09/30/2022	PROJECT PERIOD 10/01/2017 - 09/30/2022	TOTAL BUDGET PERIOD COST \$6,287,222.00	TOTAL PROJECT PERIOD COST \$6,287,222.00
NOTICE OF AWARD			
Based on your Application dated 08/04/2017 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$3,772,333. EPA agrees to cost-share <u>59.99%</u> of all approved budget period costs incurred, up to and not exceeding total federal funding of \$3,772,333. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.			
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)		AWARD APPROVAL OFFICE	
ORGANIZATION / ADDRESS 61 Forsyth Street Atlanta, GA 30303-8960		ORGANIZATION / ADDRESS U.S. EPA, Region 4 Water Protection Division 61 Forsyth Street Atlanta, GA 30303-8960	
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY			
Digital signature applied by EPA Award Official Keva R. Lloyd - Grants Management Officer			DATE 07/16/2018

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 3,772,333	\$ 3,772,333
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$	\$ 0
State Contribution	\$	\$ 2,514,889	\$ 2,514,889
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 6,287,222	\$ 6,287,222

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.460 - Nonpoint Source Implementation	Clean Water Act: Sec. 201(g)(1)(B) Under Sec. 319(h)	2 CFR 200 2 CFR 1500 40 CFR 33 and 40 CFR 35 Subpart A

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	1804VX8036	18	E1	04V6	000B01	4113			3,722,333
-	1804VX8036	18	E1	04V6	000B01	4113			50,000
									3,772,333

Budget Summary Page: NC FY18 319 Non Point Source

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$2,133,106
2. Fringe Benefits	\$527,753
3. Travel	\$144,725
4. Equipment	\$0
5. Supplies	\$202,987
6. Contractual	\$0
7. Construction	\$0
8. Other	\$3,100,962
9. Total Direct Charges	\$6,109,533
10. Indirect Costs: <u>15.10%</u> Base <u>Total Direct Salaries/Wages</u>	\$177,689
11. Total (Share: Recipient <u>40.01</u> % Federal <u>59.99</u> %.)	\$6,287,222
12. Total Approved Assistance Amount	\$3,772,333
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$3,772,333
15. Total EPA Amount Awarded To Date	\$3,772,333

Administrative Conditions

GENERAL TERMS AND CONDITIONS

The recipient agrees to comply with the current EPA general terms and conditions available at: https://www.epa.gov/sites/production/files/2017-10/documents/updated_epa_general_terms_and_conditions_effective_october_2_2017_or_later.pdf . These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at <http://www.epa.gov/grants/grant-terms-and-conditions>.

A. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E

MBE/WBE reporting is required in annual reports. Reporting is required for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category that exceed the threshold amount of \$150,000, including amendments and/or modifications.

Based on EPA's review of the planned budget, this award meets the conditions above and is subject to the Disadvantaged Business Enterprise (DBE) Program reporting requirements. However, if recipient believes this award does not meet these conditions, it must provide [insert Regional or Headquarters point of contact] with a justification and budget detail within 21 days of the award date clearly demonstrating that, based on the planned budget, this award is not subject to the DBE reporting requirements.

The recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable, not just that portion which exceeds \$150,000.

When completing the annual report, recipients are instructed to check the box titled "annual" in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30th of each year. Final reports are due by October 30th or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

**MBE/WBE reports should be sent to:
To: R4epagrantsmbewbereporting@epa.gov
and optional
to the Grant Specialist listed on the award document**

The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Good Faith Effort requirements as described in 40 CFR Part 33 Subpart C, and Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D and explained below.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

Current Fair Share Objective/Goal

The dollar amount of this assistance agreement is \$250,000, or more; or the total dollar amount of all of the recipient's non-TAG assistance agreements from EPA in the current fiscal year is \$250,000, or more. The State of North Carolina has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

10.9% MBE: CONSTRUCTION; SUPPLIES; SERVICES; EQUIPMENT:
10.4% WBE: CONSTRUCTION; SUPPLIES; SERVICES %; EQUIPMENT:

Negotiating Fair Share Objectives/Goals

In accordance with 40 CFR, Part 33, Subpart D, established goals/objectives remain in effect for three fiscal years unless there are significant changes to the data supporting the fair share objectives. The recipient is required to follow requirements as outlined in 40

CFR Part 33, Subpart D when renegotiating the fair share objectives/goals.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
- (f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section

33.501 (b) and (c) for specific requirements and exemptions.

B. ANNUAL FFR (INTERIM) PURSUANT TO 2 CFR 200.327

Pursuant to 2 CFR 200.327, EPA recipients shall submit an interim annual Federal Financial Report (FFR, SF-425) to EPA no later than 90 calendar days following the anniversary of the award date. The form is available on the internet at: <http://www2.epa.gov/financial/forms>. The following reporting period end dates shall be used for interim annual reports: 3/31, 6/30, 9/30, or 12/31.

At the end of the project, the recipient must submit a final FFR to EPA no later than 90 calendar days after the end of the project period. The form is available on the internet at: <http://www2.epa.gov/financial/forms>. All FFRs must be submitted to the Las Vegas Finance Center (LVFC) via email LVFC-grants@epa.

C. EXTENSION OF PROJECT/BUDGET PERIOD EXPIRATION DATE

EPA has not exercised the waiver option to allow automatic one-time extensions for non-research grants under 2 CFR 200.308 (d)(2). Therefore, if a no cost time extension is necessary to extend the period of availability of funds the recipient must submit a written request to the EPA prior to the budget/project period expiration dates. The written request must include: a written justification describing the need for additional time, an estimated date of completion, and a revised schedule for project completion including updated milestone target dates for the approved workplan activities. In addition, if there are overdue reports required by the administrative and programmatic terms and conditions of this assistance agreement, the recipient must ensure that they are submitted along with or prior to submitting the no cost time extension request.

The extension request must be submitted to the local Grants Office via email to: fowler.laura@epa.gov. An interim FFR (SF-425) covering all expenditures and obligations to date, must be emailed to the Las Vegas Finance Office at LVFC-grants@epa.gov or sent to the following address:

US EPA, Las Vegas Finance Center
4220 S. Maryland Pkwy, Bld C, Rm 503
Las Vegas, NV 89119

To expedite processing of your request, please submit a courtesy copy of the interim FFR to the local Grants Office along with your written extension request. All email attachments must be sent in pdf format. Documents emailed to us in any other format will not be accepted.

D. PRE AWARD COST

In accordance with 2 CFR 1500.8, the grantee may charge pre-award costs (both Federal and non-Federal matching shares) incurred from **10/01/2017** to the actual award date provided that such costs were contained in the approved application and all costs are incurred within the approved budget period.

Programmatic Conditions

NORTH CAROLINA

FY 18 Programmatic §319 Grant Conditions

A. Reporting Requirements: The recipient agrees to comply with all reporting requirements required by EPA regulation {40 CFR part 35, 2 CFR part 200.328(b)(1) and (b)(2)(i)}, §319(h)(10) and (11) of the Clean Water Act, and by the *Nonpoint Source Program and Grants Guidelines for States and Territories* (2013). Failure to comply with the above referenced reporting requirements may result in a disruption of grantee funding and/or early termination of the grant agreement in accordance with 2 CFR part 200.

Project Reports: The recipient agrees to submit reports for all projects identified in the approved work plan, including those performed by the recipient, subgrantees, contractors, and through interagency agreements. Reports shall include a comparison of actual accomplishments to the outputs/outcomes established in the workplan for that period, the reasons for slippage if those outputs/outcomes could not be met, and any other pertinent information such as cost overruns. Reports are due **annually** on **December 31st** until the project end date and the grant is closed. Reports should be submitted in Grants Reporting and Tracking System (GRTS). In accordance with **200.328(d)** the recipient agrees to inform EPA as soon as problems, delays or adverse conditions arise which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan. In addition, reports should include the three essential elements:

- Strategic plan Goal 1.0
- Strategic Plan Objective 1.2, and
- Work plan commitments plus timeframe.

A final project report is due to the EPA project officer within 90 days after the end of the Assistance Agreement Project Period. The report must describe project activities and identify and discuss the extent to which project goals have been achieved, and the amount of funds spent on the project. The report should emphasize successes, failures, lessons learned, load reduction data, and should include any available water quality and habitat data demonstrating project results. Acceptance and approval of final project reports is the responsibility of the recipient. Final project reports will be provided electronically as attachments in GRTS, and submitted in hard copy if required. In addition, the GRTS database should be updated to reflect the project status as complete.

Annual Nonpoint Source (NPS) Program Report: The recipient agrees to provide information required under §319(h)(11) of the Clean Water Act for the purpose of annual reporting on progress under the State's NPS management program. The §319 Annual Program Report will be due by **December 31st**. At a minimum, the report shall contain a summary of progress, including rationale/evidence, in meeting the schedule of milestones in the approved management program and reductions in NPS pollutant loading and improvements in water quality that has resulted from implementation of the NPS management program. Failure to submit the annual NPS program report may affect the

recipient's eligibility for future §319 grant funding.

GRTS: The recipient shall enter all mandated data elements into the GRTS for NPS projects funded under §319 of the Clean Water Act, and any other data and/or information required by the EPA according to deadlines specified by EPA.

Initial data entry is due 90 days from award and includes all mandated data elements except the geographic area (if still to be determined), best management practices (BMPs) and load reduction data. The recipient will report BMP and load reduction data as projects are implemented. At a minimum, the BMP and load reduction data will be reported by February 15th of each year for projects implementing BMPs in the previous federal fiscal year.

STORET Data Reporting: The recipient agrees to enter water quality monitoring data, for data collected in a waterbody pursuant to the implementation of a §319 project, into EPA's "storage and retrieval" (STORET) data system. All water quality data generated with §319 funding, either directly or by sub-award, are required to be transmitted into the STORET data warehouse using either the Water Quality Exchange (WQX) or WQXweb. When uploading data through WQX or WQXweb, data should be identified as 319 grant related by providing project ID **CWA319** in the data submission. If you have an existing project ID, please include this in addition to data collected using 319 funds. Please contact the STORET helpdesk (Storet@epa.gov) if you need assistance assigning multiple project IDs to a dataset.

Programmatic Subaward Reporting Requirement: The recipient must report on its subaward monitoring activities under [2 CFR 200.331\(d\)](#). Examples of items that must be reported if the pass-through entity has the information available are:

1. Summaries of results of reviews of financial and programmatic reports.
2. Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance.
3. Environmental results the subrecipient achieved.
4. Summaries of audit findings and related pass-through entity management decisions.
5. Actions the pass-through entity has taken to correct deficiencies such as those specified at 2 CFR 200.331(e), 2 CFR 200.207 and the 2 CFR Part 200.338 Remedies for Noncompliance.

B. Sufficient Progress/Satisfactory Progress: EPA may terminate the assistance agreement for failure of the recipient to make sufficient progress so as to reasonably ensure completion of the project within the project period, including any extensions. EPA will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period, and/or the availability of funds necessary to complete the project. In determining sufficient progress, EPA may also consider the rate of expenditure of funds (unliquidated obligations), as well as the findings from the most recent §319 performance and progress determination §319 (h)(8). (See EPA's *Guidance and Checklist for Determining Progress of State NPS Management Programs and Performance of CWA Section 319 Grants* .)

C. Watershed-based Plans: Under the §319 guidelines, use of §319 “watershed project” funds require that a watershed-based plan which includes all of the information in elements (a)-(i) as described in the §319 grant guidelines or an acceptable alternative plan be completed prior to implementation of on- the-ground projects. The recipient shall ensure a watershed-based plan or acceptable alternative plan is completed prior to beginning to implement any on-the-ground project with §319 watershed project funds.

Upon request by EPA, the recipient shall provide a copy of any watershed-based plan or acceptable alternative plan funded under §319 as well as any available information regarding the status of implementation activities and results, including but not limited to any reports on BMP's implemented; §319 funds expended; contributions of funds by other sources to assist in implementation of the watershed-based plans (to the extent this information is readily available to the State); results achieved; and other relevant and appropriate information.

D. Operation and Maintenance: The recipient will assure the continued proper operation and maintenance of all nonpoint source management practices that have been implemented for projects funded under this agreement. Such practices shall be operated and maintained for the expected lifespan of the specific practice and in accordance with commonly accepted standards. The recipient shall include a provision in every applicable sub-agreement (subgrant or contract) awarded under this grant requiring that the management practices for the project be properly operated and maintained. Likewise, the sub- agreement will assure that similar provisions are included in any sub-agreements that are awarded by the sub-recipient.

E. Maintenance of Effort: State expenditures for NPS implementation activities must meet the maintenance of effort (MOE) level required under §319(h)(9) of the Clean Water Act. No grant may be made to a State under this subsection in any fiscal year unless such State enters into such agreements with the Administrator as the Administrator may require to ensure that such State will maintain its aggregate expenditures from all other sources for programs for controlling pollution added to the navigable waters in such State from nonpoint sources and improving the quality of such waters at or above the average level of such expenditures in its two fiscal years preceding February 4, 1987. The state should assure that MOE requirements have been satisfied and report this through the final Federal Financial Report (FFR) at the end of the budget period

F. Required Non-Federal Match: A 40% non-federal program match is required under §319(h)(3). The state should assure that the match requirements have been satisfied and report this through the final Federal Financial Report (FFR) at the end of the budget period.

G. Limitation on Administrative Costs: In accordance with §319(h)(12) of the Clean Water Act, administrative costs in the form of salaries, overhead, or indirect costs shall not exceed in any fiscal year 10 percent of the amount of the grant except that costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer programs shall not be subject to this limitation.

H. Obligation and Outlay of Funds: In accordance with §319(h)(6) of the Clean Water Act, the recipient will show commitment to expend the funds awarded in this grant and to complete

the funded projects in accordance with its EPA approved Nonpoint Source management program and the approved work plan. The recipient will award all proposed contracts, subawards, and interagency agreements within one year after grant award.

I. Public Awareness Options:

<https://www.epa.gov/grants/clean-water-act-section-319-non-point-source-assistance-agreements-public-awareness-terms-and>

Outreach Signage Requirements: If the 319 award includes an outreach component, the recipient agrees to provide signage that informs the public that the project is funded by EPA. The signage shall contain the EPA logo. To obtain the appropriate EPA logo or seal graphic file, the recipient should send a request directly to OPA and include the EPA Project Officer in the communication. Instructions for contacting OPA are available at:

<http://www2.epa.gov/stylebook/using-epa-seal-and-logo>. The EPA Logo will be displayed meeting the following specifications:

http://www.epa.gov/ogd/tc/epa_logo_seal_specifications_for_infrastructure_grants.pdf. If the physical design of the sign allows, it should also include the following text:

"This project has been funded by the United States Environmental Protection Agency" **or** "This cooperative project has been funded in part by the United States Environmental Protection Agency"

Exceptions to including the EPA logo may be made by the Regional 319 Coordinator on recommendation by the State.

Announcements: The grant recipient agrees that announcements through the web or print materials for workshops, conferences, demonstration days or other events as part of a project funded by a 319 assistance agreement shall contain a statement that the materials or conference has been funded by the United States Environmental Protection Agency.

Public or Media Events: The Recipient agrees to notify the EPA Project Officer listed in this award document of public or media events publicizing the accomplishment of significant events related to construction projects as a result of this agreement, and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days notice.

Limited English Proficiency Communities: To increase public awareness of projects serving communities where English is not the predominant language, recipients are encouraged to include in their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

J. Permits: The recipient agrees to ensure that all necessary permits (such as Clean Water Act §404) are obtained prior to implementation of any grant funded activity that may fall under applicable federal, state or local laws. The subgrantee's project implementation plan must identify permits that may be needed to complete work plan activities. The recipient must keep documentation regarding necessary permits in the project file. EPA approval of a workplan does not imply nor guarantee that a federal, state, or local permit will be issued for a particular activity.

K. Participation in Regional and National Meetings: The recipient agrees to attend NPS Manager's meetings and GRTS users meeting, as scheduled, unless agreed upon in advance by the EPA Project Officer.

L. NPS Success Stories: The recipient must draft and submit to EPA all applicable NPS program success stories which highlight projects resulting in the restoration of waterbodies. These stories shall be submitted through the success story database in GRTS.

M. TMDLs Developed Under Section 319 Grant: For each §319-funded TMDL, the recipient will provide the following supplemental information to support the load allocations specified in the TMDL: (1) an identification of total NPS existing loads and total NPS load reductions necessary to meet water quality standards, by source type; (2) a detailed identification of the causes and sources of NPS pollution by source type to be addressed in order to achieve the load reductions specified in the TMDL (e.g., acres of various row crops, number and size of animal feedlots, acres and density of residential areas); and (3) an analysis of the NPS management measures by source type expected to be implemented to achieve the necessary load reductions, with the recognition that adaptive management may be necessary during implementation.

N. Subawards: In accordance with the Subaward Policy GPI-16-02, the recipient must report on its subaward monitoring activities under 2 CFR 200.331(d). Examples of items that must be reported if the pass-through entity has the information available are:

1. Summaries of results of reviews of financial and programmatic reports.
2. Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance.
3. Environmental results the subrecipient achieved.
4. Summaries of audit findings and related pass-through entity management decisions.
5. Actions the pass-through entity has taken to correct deficiencies such as those specified at 2 CFR 200.331(e), 2 CFR 200.207 and the 2 CFR Part 200.338 Remedies for Noncompliance.

O. Geospatial Data: In accordance with Circular A-16 and CIO Policy Transmittal 05-002, all geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at www.fgdc.gov.

P. Supplies: In accordance with 2 CFR 200.314, (a) Title to supplies will vest in the non-Federal entity upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other Federal award, the non-Federal entity must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal Government for its share.

Q. State Grant Cybersecurity Condition: as of July 6, 2015, the recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.

(1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.

For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.331(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

R. If >\$200K in Federal Funds and generation/collection of environmental data:

Competency of Organizations Generating Environmental Measurement Data: In accordance with Agency Policy Directive Number FEM-2012-02, Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, Recipient agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, Recipient agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. Recipient shall maintain competency for the duration of the project period of this agreement. A copy of the Policy is available online at <http://www.epa.gov/fem/pdfs/competency-policy-aaia-new.pdf>.

S. Key Personnel: The key personnel specified in this grant agreement are considered to be essential to work performance. At least 30 days prior to diverting any of the specified individuals to other programs and/or non-319 related projects (for as soon as possible, if an individual must be replaced, for example, as a result of leaving the employment of the Grantee), the Grantee shall notify the EPA Project Officer and submit a new Key Personnel Form.

T. Procurement: In accordance with 2 CFR 200.318, grantees must adhere to their procurement standards and follow adhere to federal procurement regulations.

U. EPA Contact: The Technical Officer assigned to this grant is Veronica Fasselt at 404-562-9471 or Fasselt.veronica@epa.gov.

	U.S. ENVIRONMENTAL PROTECTION AGENCY Assistance Amendment	GRANT NUMBER (FAIN): 99465718 MODIFICATION NUMBER: 1 PROGRAM CODE: C9	DATE OF AWARD 08/29/2018
		TYPE OF ACTION Decrease	MAILING DATE 08/29/2018
		PAYMENT METHOD: ASAP	ACH# 40192
RECIPIENT TYPE: State		Send Payment Request to: Las Vegas Finance Center	
RECIPIENT: North Carolina 217 W Jones St Raleigh, NC 27603 EIN: 56-6000372		PAYEE: NC Department of Environmental Quality 217 W Jones Street Raleigh, NC 27603	
PROJECT MANAGER Rishi Bastakoti 512 N Salisbury St MSC 1611 Raleigh, NC 27604 E-Mail: rishi.bastakoti@ncdenr.gov Phone: 919-707-3623		EPA PROJECT OFFICER Geryl Ricks 61 Forsyth Street Atlanta, GA 30303-8960 E-Mail: ricks.geryl@epa.gov Phone: 404-562-9837	
EPA GRANT SPECIALIST Laura Fowler Grants & Audit Management Section E-Mail: fowler.laura@epa.gov Phone: 404-562-8427			
PROJECT TITLE AND EXPLANATION OF CHANGES Non point Source Implementation This action approves a decrease in federal funds in the amount of \$50,000 as a result of an allocation error. The correct total for federal funds is \$3,722,333.			
BUDGET PERIOD 10/01/2017 - 09/30/2022	PROJECT PERIOD 10/01/2017 - 09/30/2022	TOTAL BUDGET PERIOD COST \$6,237,222.00	TOTAL PROJECT PERIOD COST \$6,237,222.00
NOTICE OF AWARD			
Based on your Application dated 08/04/2017 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$-50,000. EPA agrees to cost-share 59.67% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$3,722,333. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.			
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)		AWARD APPROVAL OFFICE	
ORGANIZATION / ADDRESS 61 Forsyth Street Atlanta, GA 30303-8960		ORGANIZATION / ADDRESS U.S. EPA, Region 4 Water Protection Division 61 Forsyth Street Atlanta, GA 30303-8960	
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY			
Digital signature applied by EPA Award Official Keva R. Lloyd - Grants Management Officer			DATE 08/29/2018

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$ 3,772,333	\$ -50,000	\$ 3,722,333
EPA In-Kind Amount	\$ 0	\$	\$ 0
Unexpended Prior Year Balance	\$ 0	\$	\$ 0
Other Federal Funds	\$ 0	\$	\$ 0
Recipient Contribution	\$ 0	\$	\$ 0
State Contribution	\$ 2,514,889	\$	\$ 2,514,889
Local Contribution	\$ 0	\$	\$ 0
Other Contribution	\$ 0	\$	\$ 0
Allowable Project Cost	\$ 6,287,222	\$ -50,000	\$ 6,237,222

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.460 - Nonpoint Source Implementation	Clean Water Act: Sec. 201(g)(1)(B) Under Sec. 319(h)	2 CFR 200 2 CFR 1500 40 CFR 33 and 40 CFR 35 Subpart A

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	1804VX8036	18	E1	04V6	000B01	4113			-50,000
									-50,000

Budget Summary Page: NC FY18 319 Non Point Source

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$2,133,106
2. Fringe Benefits	\$527,753
3. Travel	\$144,725
4. Equipment	\$0
5. Supplies	\$152,987
6. Contractual	\$0
7. Construction	\$0
8. Other	\$3,100,962
9. Total Direct Charges	\$6,059,533
10. Indirect Costs: <u>15.10% Base Total Direct Salaries & Wages</u>	\$177,689
11. Total (Share: Recipient <u>40.32 %</u> Federal <u>59.67 %</u>.)	\$6,237,222
12. Total Approved Assistance Amount	\$3,722,333
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$-50,000
15. Total EPA Amount Awarded To Date	\$3,722,333

Administrative Conditions

All Administrative Conditions Remain the Same

Programmatic Conditions

All Programmatic Conditions Remain the Same

General Terms and Conditions Governmental Entities

DEFINITIONS

Unless indicated otherwise from the context, the following terms shall have the following meanings in this Contract. All definitions are from 9 NCAC 3M.0102 unless otherwise noted. If the rule or statute that is the source of the definition is changed by the adopting authority, the change shall be incorporated herein.

- (1) "Agency" (as used in the context of the definitions below) means and includes every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political sub-agency of government. For other purposes in this Contract, "Agency" means the entity identified as one of the parties hereto.
- (2) "Audit" means an examination of records or financial accounts to verify their accuracy.
- (3) "Certification of Compliance" means a report provided by the Agency to the Office of the State Auditor that states that the Grantee has met the reporting requirements established by this Subchapter and included a statement of certification by the Agency and copies of the submitted grantee reporting package.
- (4) "Compliance Supplement" refers to the North Carolina State Compliance Supplement, maintained by the State and Local Government Finance Agency within the North Carolina Department of State Treasurer that has been developed in cooperation with agencies to assist the local auditor in identifying program compliance requirements and audit procedures for testing those requirements.
- (5) "Contract" means a legal instrument that is used to reflect a relationship between the agency, grantee, and sub-grantee.
- (6) "Fiscal Year" means the annual operating year of the non-State entity.
- (7) "Financial Assistance" means assistance that non-State entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance. Financial assistance does not include amounts received as reimbursement for services rendered to individuals for Medicare and Medicaid patient services.
- (8) "Financial Statement" means a report providing financial statistics relative to a given part of an organization's operations or status.
- (9) "Grant" means financial assistance provided by an agency, grantee, or sub-grantee to carry out activities whereby the grantor anticipates no programmatic involvement with the grantee or sub-grantee during the performance of the grant.
- (10) "Grantee" has the meaning in G.S. 143C-6-23(a)(2): a non-State entity that receives a grant of State funds

- from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For other purposes in this Contract, "Grantee" shall mean the entity identified as one of the parties hereto. For purposes of this contract, Grantee also includes other State agencies such as universities.
- (11) "Grantor" means an entity that provides resources, generally financial, to another entity in order to achieve a specified goal or objective.
 - (12) "Non-State Entity" has the meaning in N.C.G.S. 143C-1-1(d)(18): A firm, corporation, partnership, association, county, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution.
 - (13) "Public Authority" has the meaning in N.C.G.S. 159-7(10): A municipal corporation that is not a unit of local government or a local governmental authority, board, commission, council, or agency that (i) is not a municipal corporation, (ii) is not subject of the State Budget Act, and (iii) operates on an area, regional, or multiunit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government.
 - (14) "Single Audit" means an audit that includes an examination of an organization's financial statements, internal controls, and compliance with the requirements of Federal or State awards.
 - (15) "Special Appropriation" means a legislative act authorizing the expenditure of a designated amount of public funds for a specific purpose.
 - (16) "State Funds" means any funds appropriated by the North Carolina General Assembly or collected by the State of North Carolina. State funds include federal financial assistance received by the State and transferred or disbursed to non-State entities. Both Federal and State funds maintain their identity as they are sub-granted to other organizations. Pursuant to N.C.G.S. 143C-6-23(a)(1), the terms "State grant funds" and "State grants" do not include any payment made by the Medicaid program, the Teachers' and State Employees' Comprehensive Major Medical Plan, or other similar medical programs.
 - (17) "Sub-grantee" has the meaning in G.S. 143C-6-23(a)(4): a non-State entity that receives a grant of State funds from a grantee or from another sub-grantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(18) "Unit of Local Government has the meaning in G.S. 159-7(b)(15): A municipal corporation that has the power to levy taxes, including a consolidated city-county as defined by G.S. 160B-2(1), and all boards, agencies, commissions, authorities, and institutions thereof that are not municipal corporations.

Relationships of the Parties

Independent Contractor: The Grantee is and shall be deemed to be an independent contractor in the performance of this Contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Grantee represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with, the Agency.

Subcontracting: To subcontract work to be performed under this contract which involves the specialized skill or expertise of the Grantee or his employees, the Grantee first obtains prior approval of the Agency Contract Administrator. In the event the Grantee subcontracts for any or all of the services or activities covered by this contract: (a) the Grantee is not relieved of any of the duties and responsibilities provided in this contract; (b) the subcontractor agrees to abide by the standards contained herein or to provide such information as to allow the Grantee to comply with these standards, and; (c) the subcontractor agrees to allow state and federal authorized representatives access to any records pertinent to its role as a subcontractor.

Sub-grantees: The Grantee has the responsibility to ensure that all sub-grantees, if any, provide all information necessary to permit the Grantee to comply with the standards set forth in this Contract.

Assignment: The Grantee may not assign the Grantee's obligations or the Grantee's right to receive payment hereunder. However, upon Grantee's written request approved by the issuing purchasing authority, the Agency may:

- (a) Forward the Grantee's payment check(s) directly to any person or entity designated by the Grantee, or
- (b) Include any person or entity designated by Grantee as a joint payee on the Grantee's payment check(s).

Such approval and action does not obligate the State to anyone other than the Grantee and the Grantee remains responsible for fulfillment of all contract obligations.

Beneficiaries: Except as herein specifically provided otherwise, this Contract inures to the benefit of and is binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this Contract, and all rights of action relating to such enforcement, are strictly reserved to the Agency and the named Grantee. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Agency and Grantee that any

third person receiving services or benefits under this Contract is an incidental beneficiary only.

Indemnity

Indemnification: In the event of a claim against either party by a third party arising out of this contract, the party whose actions gave rise to the claim is responsible for the defense of the claim and any resulting liability, provided that a party may not waive the other party's sovereign immunity or similar defenses. The parties agree to consult with each other over the appropriate handling of a claim and, in the event they cannot agree, to consult with the Office of the Attorney General.

Insurance: During the term of the contract, the Grantee at its sole cost and expense provides commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the Grantee provides and maintains the following coverage and limits:

- (a) **Worker's Compensation:** The Grantee provides and maintains Worker's Compensation insurance as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Grantee's employees who are engaged in any work under this contract. If any work is sublet, the Grantee requires the subgrantee to provide the same coverage for any of his employees engaged in any work under this contract.
- (b) **Commercial General Liability:** General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)
- (c) **Automobile:** Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles used in performance of the contract. The minimum combined single limit is \$500,000.00 bodily injury and property damage; \$500,000.00 uninsured/under insured motorist; and \$25,000.00 medical payment.

Providing and maintaining adequate insurance coverage is a material obligation of the Grantee and is of the essence of this contract. The Grantee may meet its requirements of maintaining specified coverage and limits by demonstrating to the Agency that there is in force insurance with equivalent coverage and limits that will offer at least the same protection to the Agency. Grantee obtains insurance that meets all laws of the State of North Carolina. Grantee obtains coverage from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Grantee complies at

all times with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the Grantee do not limit the Grantee's liability and obligations under the contract.

Default and Termination

Termination by Mutual Consent: Either party may terminate this agreement upon sixty (60) days notice in writing from the other party. In that event, all finished or unfinished documents and other materials, at the option of the Agency, be submitted to the Agency. If the contract is terminated as provided herein, the Grantee is paid in an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this agreement; for costs of work performed by subcontractors for the Grantee provided that such subcontracts have been approved as provided herein; or for each full day of services performed where compensation is based on each full day of services performed, less payment of compensation previously made. The Grantee repays to the Agency any compensation the Grantee has received which is in excess of the payment to which he is entitled herein.

Termination for Cause: If, through any cause, the Grantee fails to fulfill in timely and proper manner the obligations under this agreement, the Agency thereupon has the right to terminate this contract by giving written notice to the Grantee of such termination and specifying the reason thereof and the effective date thereof. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Grantee, at the option of the Agency, be submitted to the Agency, and the Grantee is entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials. The Grantee is not relieved of liability to the Agency for damages sustained by the Agency by virtue of any breach of this agreement, and the Agency may withhold payment to the Grantee for the purpose of set off until such time as the exact amount of damages due the Agency from such breach can be determined.

Waiver of Default: Waiver by the Agency of any default or breach in compliance with the terms of this Contract by the Grantee is not a waiver of any subsequent default or breach and is not a modification of the terms of this Contract unless stated to be such in writing, signed by an authorized representative of the Agency and the Grantee and attached to the contract.

Availability of Funds: The parties to this Contract agree and understand that the payment of the sums specified in this Contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Agency.

Force Majeure: Neither party is in default of its obligations hereunder if it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

Survival of Promises: All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

Intellectual Property Rights

Copyrights and Ownership of Deliverables: Any and all copyrights resulting from work under this agreement shall belong to the Grantee. The Grantee hereby grants to the North Carolina Department of Environmental Quality a royalty-free, non-exclusive, paid-up license to use, publish and distribute results of work under this agreement for North Carolina State Government purposes only.

Compliance with Applicable Laws

Compliance with Laws: The Grantee understands and agrees that it is subject to compliance with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

Equal Employment Opportunity: The Grantee understands and agrees that it is subject to compliance with all Federal and State laws relating to equal employment opportunity.

Confidentiality

Confidentiality: As authorized by law, the Grantee keeps confidential any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Grantee under this agreement and does not divulge or make them available to any individual or organization without the prior written approval of the Agency. The Grantee acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information it will safeguard and not further disclose the information except as otherwise provided in this Contract or without the prior written approval of the Agency.

Oversight

Access to Persons and Records: The State Auditor and the using agency's internal auditors shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7 and Session Law 2010-194, Section 21 (i.e., the State Auditors and internal auditors may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees or performance). The Contractor shall retain all records for a period of six (6) years

following completion of the contract or until any audits begun during this period are completed and findings resolved, whichever is later.

Record Retention: The Grantee may not destroy, purge or dispose of records without the express written consent of the Agency. State basic records retention policy requires all grant records to be retained for a minimum of six (6) years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to Federal policy and regulations, record retention may be longer than six (6) years since records must be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has started before expiration of the six (6) year retention period described above, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular six (6) year period described above, whichever is later.

Time Records: The GRANTEE will maintain records of the time and effort of each employee receiving compensation from this contract, in accordance with the appropriate OMB circular.

Miscellaneous

Choice of Law: The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, are governed by the laws of North Carolina. The Grantee, by signing this Contract, agrees and submits, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this Contract and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

Amendment: This Contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Agency and the Grantee.

Severability: In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Contract shall remain in full force and effect.

Headings: The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

Time of the Essence: Time is of the essence in the performance of this Contract.

Care of Property: The Grantee agrees that it is responsible for the proper custody and care of any State owned property furnished him for use in connection with the performance of his contract and will reimburse the State for its loss or damage.

Ownership of equipment purchased under this contract rests with the Grantee. Upon approval of the Agency Contract Administrator, such equipment may be retained by the Grantee for the time the Grantee continues to provide services begun under this contract.

Travel Expenses: All travel, lodging, and subsistence costs are included in the contract total and no additional payments will be made in excess of the contract amount indicated in above. Contractor must adhere to the travel, lodging and subsistence rates established in the Budget Manual for the State of North Carolina.

Sales/Use Tax Refunds: If eligible, the Grantee and all sub-grantees shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this Contract, pursuant to G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

Advertising: The Grantee may not use the award of this Contract as a part of any news release or commercial advertising.

Recycled Paper: The Grantee ensures that all publications produced as a result of this contract are printed double-sided on recycled paper.

Sovereign Immunity: The Agency does not waive its sovereign immunity by entering into this contract and fully retains all immunities and defenses provided by law with respect to any action based on this contract.

Gratuities, Kickbacks or Contingency Fee(s): The parties certify and warrant that no gratuities, kickbacks or contingency fee(s) are paid in connection with this contract, nor are any fees, commissions, gifts or other considerations made contingent upon the award of this contract.

Lobbying: The Grantee certifies that it (a) has neither used nor will use any appropriated funds for payments to lobbyist; (b) will disclose the name, address, payment details, and purpose of any agreement with lobbyists whom the Grantee or its sub-tier contractor(s) or sub-grantee(s) will pay with profits or non-appropriated funds on or after December 22, 1989; and (c) will file quarterly updates about the use of lobbyists if material changes occur in their use.

By Executive Order 24, issued by Governor Perdue, and N.C.

G.S. § 133-32: It is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Natural and Cultural Resources, Environmental Quality, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24."



United States
ENVIRONMENTAL PROTECTION AGENCY
Washington, DC 20460

OMB Control No. 2030-0020
Approval expires 04/30/2021

EPA Project Control Number

CERTIFICATION REGARDING LOBBYING

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

John Connet, City Manager

Typed Name & Title of Authorized Representative

Signature and Date of Authorized Representative

The public reporting and recordkeeping burden for this collection of information is estimated to average 15 minutes per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.



SRF Project Number

United States Environmental Protection Agency
Washington, D.C. 20460
**Certification Regarding
Debarment, Suspension, and Other Responsibility Matters**

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public: (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

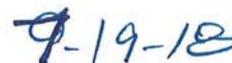
I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

John Connet, City Manager

Typed Name and Title of Authorized Representative



Signature of Authorized Representative



Date

I am unable to certify to the above statements. May explanation is attached.

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

The grantee certifies that it will provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing a drug-free awareness program to inform employees about—
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation and employee assistance programs, and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after each conviction;
- (e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;
- (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—
 - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

John Connet, City Manager

Typed Name and Title of Certification Official



Signature



Date

CITY COUNCIL:
BARBARA G. VOLK
Mayor
RON STEPHENS
Mayor Pro Tem
STEVE CARAKER
JERRY A. SMITH, JR.
JEFF MILLER

CITY OF HENDERSONVILLE

The City of Four Seasons

ENGINEERING DEPARTMENT
Brent G. Detwiler, PE
City Engineer

OFFICERS:
JOHN F. CONNET
City Manager
SAMUEL H. FRITSCHNER
City Attorney
TAMMIE K. DRAKE
City Clerk

CONFLICT OF INTEREST POLICY

Conflict of Interest Defined:

A conflict of interest is defined as an actual or perceived interest by a (Staff Member/Board Member) in an action that results in, or has the appearance of resulting in, personal, organizational, or professional gain. A conflict of interest occurs when an Employee/Board Member has a direct or fiduciary interest in another relationship. A conflict of interest could include:

- Ownership with a member of the Board of Directors/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Employment of or by a member of the Board of Directors/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Contractual relationship with a member of the Board of Directors/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Creditor or debtor to a member of the Board of Directors/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Consultative or consumer relationship with a member of the Board of Directors/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.

The definition of conflict of interest includes any bias or the appearance of bias in a decision making process that would reflect a dual role played by a member of the organization or group. An example, for instance, might involve a person who is an Employee and a Board Member, or a person who is an employee and who hires family members as consultants.

Employee Responsibilities:

It is in the interest of the organization, individual staff, and Board Members to strengthen trust and confidence in each other, to expedite resolution of problems, to mitigate the effect and to minimize organizational and individual stress that can be caused by a conflict of interest.

Employees are to avoid any conflict of interest, even the appearance of a conflict of interest. This organization serves the community as a whole rather than only serving a special interest group. The appearance of a conflict of interest can cause embarrassment to the organization and jeopardize the credibility of the organization. Any conflict of interest, potential conflict of interest or the appearance of a conflict of interest is to be reported to your supervisor immediately. Employees are to maintain independence and objectivity with clients, the community, and organization. Employees are called to maintain a sense of fairness, civility, ethics, and personal integrity even though law, regulation, or custom does not require them.

CITY COUNCIL:
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CITY OF HENDERSONVILLE

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City Clerk

Acceptance of Gifts:

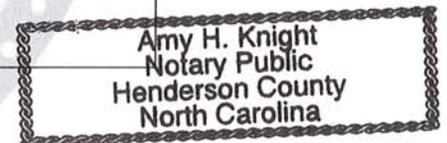
Employees, members of employee's immediate family, and members of the Board are prohibited from accepting gifts, money or gratuities from the following:

- a. Persons receiving benefits or services from the organization;
- b. Any person or organization performing or seeking to perform services under contract with the organization;
- c. Persons who are otherwise in a position to benefit from the actions of any employee of the organization.

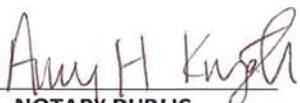
Employees may, with the prior written approval of their supervisor, receive honoraria for lectures and other such activities while on personal days, compensatory time, annual leave, or leave without pay. If the employee is acting in any official capacity, honoraria received by an employee in connection with activities relating to employment with the organization are to be paid to the organization.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certification.

NAME OF APPLICANT: City of Hendersonville	
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE: John Connet, City Manager	
	DATE: 7/19/18
SIGNATURE:	



Subscribed and Sworn to before me this 19th day of July, 2018.


NOTARY PUBLIC
My commission expires 9-23-2019



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Justin Ward

Department: Fire

Date Submitted: 12/20/2018

Presenter: Fire Marshal Justin Ward

Date of Council Meeting to consider this item: 1/3/2019

Nature of Item: Council Action

Summary of Information/Request:

Item # 10

Staff is requesting a Code amendment to Chapter 22 to allow a third party inspection reporting system. This system will allow all required monthly, quarterly, and annual system inspections, test, and maintenance as required by the North Carolina Fire Code and their respective referenced National Fire Protection Association standards to be provided to the City of Hendersonville through an approved third party inspection reporting system. This amendment requires the reporting parties to pay any fees associated with that service to the city's third party service provider.

Budget Impact: \$ N/A Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion:

I move City Council to adopt the ordinance amending Chapter 22 of the Code of Ordinances as presented and recommended by staff.

Attachments:

Fire Protection and Prevention Ordinance

**AN ORDINANCE RELATING TO FIRE PROTECTION AND PREVENTION;
AMENDING CHAPTER 22 OF THE CITY CODE OF HENDERSONVILLE**

Be it ordained by the City Council of the City of Hendersonville:

- 1. Chapter 22 of the Code of Ordinances of the City of Hendersonville, concerning Fire Protection and Prevention is hereby amended by adding the following section:

Sec. 22-73. – Third party inspection reporting system.
Records of all required monthly, quarterly, and annual system inspections, test, and maintenance as required by the North Carolina Fire Code and their respective referenced National Fire Protection Association standards shall be provided to the City of Hendersonville through an approved third-party inspection reporting system and reporting parties shall pay any fees associated with that service to the city's third party service provider.

[Key: deletions are ~~struck through~~; additions are underlined]

- 2. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 1-6 of the City Code of Ordinances.
- 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.
- 4. If any section, subsection, paragraph, sentence, clause phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.
- 5. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions or otherwise cure and existing violations.

This ordinance shall be in full force and effect beginning with the new permit year on January 4, 2019.

Adopted this third of January 2019.

Attest:

 Barbara G. Volk, Mayor, City of Hendersonville

 Tammie K. Drake, MMC, City Clerk

Approved as to form:

 Samuel H. Fritschner, City Attorney



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: John Connet

Department: Admin

Date Submitted: 12/21/2018

Presenter: John Connet

Date of Council Meeting to consider this item: 01/03/2019

Nature of Item: Discussion/Staff Direction

Summary of Information/Request:

Item # 11

City Councilman Jeff Miller has received a request from 5th Avenue East property owner to change the parking configuration along 5th Avenue between Main Street and King Street. The request includes placing at least one parking space between Edwards Alley and the City Hall Alley, remove one parking space in the area closest to Main Street and enlarging the loading area for downtown merchants.

Budget Impact: \$ < \$2,500 Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion:

I move that the City Council approve the reconfiguration of the parking spaces along 5th Avenue East in the following manner: _____.

Attachments:

Section 50-254 of City Code

An aerial map with be prepared prior to the meeting.

Sec. 50-254. - Vehicles in excess of 80 inches.

- (a) It shall be unlawful for any person to park any vehicle, which shall have a width in excess of 80 inches, upon any of the streets of the city, for a continuous period of time longer than 30 minutes.
- (b) This section shall not apply to motor vehicles momentarily stopped for the purpose of taking on or discharging passengers, or loading or unloading freight, at a point of origin or destination, nor shall it apply to motor vehicles accidentally and unavoidably disabled; provided, however, that such parking or stoppage is necessary for emergency repairs, to permit such vehicle to be put in operating condition.

(Code 1971, § 31-186)



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Adam Murr

Department: Admin

Date Submitted: 12/18/2018

Presenter: John Connet

Date of Council Meeting to consider this item: 01/03/2019

Nature of Item: Presentation Only

Summary of Information/Request:

Item # 13a

In accordance with State Statute 159-13 (b) (3) it is required that all expenditures resulting from a contingency appropriation budget adjustment be reported to the governing board at its next regular meeting and recorded in the minutes.

The following contingency appropriations were made:

- 1) Fund 10 | \$183 | Worker's Comp. Insurance
- 2) Fund 60 | \$800 | Engineering- Phones
- 3) Fund 60 | \$961 | Worker's Comp. Insurance

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion:

N/A- Report Only

Attachments:
NA



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY

Submitted By: Tammie Drake

Department: Admin

Date Submitted: 12.21.18

Presenter: Tammie Drake

Date of Council Meeting to consider this item: 01.03.19

Nature of Item: Presentation Only

Summary of Information/Request:

Item # 13b

Report on Vacancies:

Business Advisory Committee: 1 vacancy

Environmental Sustainability Board: 3 vacant positions for City residents, 1 vacant position for outside-City rep.

Tree Board: 2 vacant positions - Wes Kocher and Wes Burlingame have submitted their resignations.

Walk of Fame Steering Committee: 1 vacant position

Budget Impact: \$ _____ Is this expenditure approved in the current fiscal year budget? N/A If no, describe how it will be funded.

Suggested Motion:

Attachments:

Board membership lists