

**May 5, 2016**  
**Regular Meeting of the City Council**  
**Council Chamber – City Hall**  
**5:45 p.m.**

Present: Mayor Barbara G. Volk, Mayor Pro Tem Steve Caraker and Council Members: Ron Stephens, Jerry Smith and Jeff Miller

Staff Present: City Manager John F. Connet, City Attorney Sam Fritschner, City Clerk Tammie Drake, Police Chief Herbert Blake, Development Assistance Director Susan Frady, Human Resources Director Jennifer Harrell, Senior Planner David Hazzard, Public Information Officer Tara Ledbetter, Assistant to the Manager Brian Pahle, Utilities Director Lee Smith, Fire Chief Joseph Vindigni, Public Works Director Tom Wooten

**1. Call to Order:** Mayor Volk called the meeting to order at 5:45 p.m. and welcomed those in attendance. A quorum was established with all five members in attendance.

**2. Invocation and Pledge of Allegiance:** A moment of silence for prayer was followed by the Pledge of Allegiance to the Flag.

**3. Public Comment Time:** *Up to 15 minutes is reserved for comments from the public for items not listed on the agenda.* The following persons addressed the Council:

Lavoe Davis, representing a new organization, The Pisgah Conservancy, informed the Council that he formed this organization so funds may be donated for the preservation of Pisgah Forest. Mayor Volk commented the outdoors is important to Hendersonville.

Michael Balin, 1242 Hyman Ave., asked about the rail cars parked on Maple Street, whether they contain hazardous materials, and if these are the same rail cars that were in Flat Rock, etc. He stated these rail cars are an eye sore and asked if the City can do anything to have those moved. Mr. Connet reported a conversation with the marketing director of Blue Ridge Southern Railroad and these are the same rail cars that were in Flat Rock. He explained these were moved to Hendersonville because the owner of tankers is in the process of putting them back in service. There is not an exact timeline of when the empty cars will be moved.

Mark Ray, 26Victoria Park Drive, thanked the Council for acknowledging the efforts of he and his partner's vision and endeavor of preserving 620 North Main Street. He also expressed Emily Nichols of Coke Consolidated for her key role in mural funding and their community initiative program. He has further plans for improvements to the gas station at 64E/Main Street and expressed appreciation for the City's role in façade grants. Mayor Volk commented this is a nice addition to Main Street. She stated the America in Bloom judges will be here in June and this will be highlighted at their visit.

Emily Nichols, Coke Consolidated, 4100 Cooper Ct., Charlotte, NC. Hendersonville is the only town with three officially historically revitalized murals. There was discussion of another mural at the former Coca-Cola plant on Locust Street. Council Member Miller suggested a collaboration. Ms. Nichols stated a partnership with the City or others is possible. She explained the point of the murals is to connect with the community.

Ken Fitch, 1046 Patton Street, addressed the Council regarding City staff that are over-extended and asked the Council to consider additional resources during the budget deliberation.

Ron Taylor, 112 Mockingbird Drive, Flat Rock, addressed the Council with concerns about the City's water system which is fluoridated. He invited the Council to watch "Fluoride Gate." He asked why the City is paying \$70,000/year to add the chemical to the water. Mr. Lee Smith stated the City pays between \$40,000-60,000/year to add fluoride. Council Member Miller commented he conducted research and has found agreement on the level at which the fluoride is put in. He stated it appears an acceptable rate is between 1.2-1.7 and the City is at 0.7 and it is tested more than once per day. He stated there are very few problems associated with this level. He reiterated he will take this seriously. He stated fluoride is associated with decreased tooth decay. **No action was taken by the Council.**

**4. Consideration of Agenda:**

Mayor Pro Tem Caraker moved City Council's approval of the agenda as presented. A unanimous vote of the Council followed. Motion carried.

**5. Consideration of Consent Agenda:** *(Note: Consent agenda items are considered routine, non-controversial in nature and are considered and disposed of through a singular motion and vote.)*

**A. Consideration of Minutes:**

- i. April 7, 2016 Regular Meeting and
- ii. April 13, 2016 Continued Meeting

### **B. Consideration of Amendments to Section 12, Overtime Pay Provisions, of the**

**Personnel Policy:** Mrs. Jennifer Harrell, Human Resources Director, presented an amendment to the Personnel Policy that will allow non-exempt employees to retain and carry over up to 12 hours of compensatory time into each fiscal year. She stated this amount is reasonable and will not put an undue hardship on the City. The Compensatory Time provision was originally changed to deter large amounts of compensatory time to accumulate and be paid at a much higher pay rate.

Section 12. Overtime Pay Provisions: ... Employees are required to use or be paid for compensatory time before the start of each fiscal year, by June 30. Employees if they choose, may retain and carry over up to twelve (12) hours of compensatory time each fiscal year. All other ~~Any unused~~ compensatory time will be paid out, in accordance with FLSA standards, upon the last pay period for the fiscal year. Departments Heads may exercise discretion in the manner in which employees accrue compensatory time or are paid for overtime. ...

### **C. Consideration of Budget Amendments (6)** Mr. Pahle presented the following budget amendments for Council's consideration:

- i. General Fund: A year-end amendment to clean up the General Fund budget. The most notable changes are to revenues, local sales and use tax and telecom sales tax. Sales and use tax continues to experience substantial growth and the increase of \$125,000 is a comfortable/conservative increase. Additionally, as expected, telecom sales tax continues to decrease because people are eliminating their cable/phone service. The sales and use tax increase covers this decrease, various small expenditure adjustments in addition to dropping the City's fund balance appropriated by \$51,635 in the General Fund.
- ii. Salary Adjustment - General Fund, No Increase/Decrease, \$0 (Totals in Balance): Regular salaries and wages in the Fire Department are well below where they should be for this time of year (63% used, versus where they should be around 73% used). This provides available funds to be moved to overtime/temporary, professional services, and repair/maintenance accounts, and a portion into the General Fund contingencies because contingencies were utilized to fund the fire chief assessment/selection process.
- iii. Fund 110 - An amendment to account for actuals in the Motor Unit Fund. This amendment will Increase revenues by \$1,869 and expenditure\$ by \$1,869. This amendment is necessary to clean up the budget for Fund 110. Currently the actuals in the fund are over-budgeted amounts.
- iv. Fund 21 – The HSAD Board voted to transfer their funds into the City's Seventh Avenue Fund in accordance with a combined effort to increase the efficiency and effectiveness of the Seventh Avenue Advisory Committee priorities.

### **D. Consideration of Awarding a Contract to Steppe Construction for the Construction of the Glenbrook Sanitary Sewer Improvements Project for an amount not to Exceed \$400,000:**

Mr. Alvin Fuller, Utilities Engineer, reported three sealed bids were received on April 21, 2016, for the Glenbrook Sanitary Sewer Improvements project. The purpose of this project is to abandon the existing pump station in the Glenbrook community located off Blythe Street, as city staff has experienced frequent problems with this facility. The results of the bid opening were as follows:

Buckeye Bridge, LLC - \$465,635.80  
 Hyatt Pipeline, LLC - \$409,708.00  
 Steppe Construction, Inc. - \$370,375.00

Mr. Fuller reported City staff reviewed each bid for completeness and accuracy and recommended the award of the project to Steppe Construction, Inc., NC Contractor License No. 12248, the lowest responsive and responsible bidder, for \$370,375.00.

### **E. Consideration of Capital Project Ordinance for Glenbrook Gravity Sewer Improvements Project:**

Mr. Pahle presented a capital project ordinance for the Glenbrook Gravity Sewer improvements project because it is expected to lapse at the end of this fiscal year. To ensure proper accounting and capitalization of assets, he recommended this project be oved to a multi-year capital project that will provide the full cost of the project.

Ordinance #16-0513

#### **CAPITAL PROJECT ORDINANCE FOR THE ACQUISITION, CONSTRUCTION AND INSTALLATION OF THE GLENBROOK GRAVITY SEWER IMPROVEMENTS PROJECT**

BE IT ORDAINED by the Governing Board of the City of Hendersonville, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project authorized is a wastewater system improvements project described as the Glenbrook Gravity Sewer Improvements project.

Section 2: The following amounts are appropriated for the project:

Section 3: The following revenues are anticipated to be available via transfers to the aforementioned special project fund from the Water & Sewer Fund for project expenses:

Section 4: The Finance Director is hereby directed to maintain within the capital project fund sufficient specific detailed accounting records to satisfy the disclosure requirements of all the contractual agreements, if applicable.

Section 5: Funds may be advanced from the Water and Sewer Fund as necessary for the purpose of making payments as due. Reimbursement requests shall be made in an orderly and timely manner.

Section 6: The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and Section 4.

Section 7: The Finance Director is further instructed to include a detailed analysis of past and future revenues and expenses during each annual budget submission made to the Governing Board.

Section 8: Copies of this capital project shall be furnished to the City Clerk, Finance Director and City Manager for direction in carrying out this project.

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this fifth day of May 2016.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

Approved as to form: /s/Samuel H. Fritschner, City Attorney

**F. Consideration of Waiver of Fee for Mulch Until mid-October 2016:** Mr. Wooten reported the mulch is not selling at requested the fee for the mulch of \$10 per pickup load be waived until mid-October.

**G. Consideration of a Special Event Permit for Mad Mountain Mud Run and Family Mud Fun including the Sale of Alcohol at the Event in the Area Identified:** Mrs. Susan Frady, Development Assistance Department Director, reported the Special Events Committee recommends approval of a special event permit for the Mad Mountain Mud Run and Family Mud Fun to be held June 3, 2016 from 6:00 p.m. to 8:00 p.m. and June 4, 2016, from noon – 7 p.m. at Berkeley Mills Park and quarry. The application includes approval of the designated area for the consumption of alcohol which will be the same as last year.

**H. Consideration of a Contract with Hart & Hickman, PC, for the Completion of the Mud Creek Dump - Waste Disposal Boundary Delineation and Surface Vapor Survey and Associated Budget Amendment:** City Engineering Director Brent Detwiler

**Mayor Pro Tem Caraker moved approval of the items listed on the consent agenda. A unanimous vote of the Council followed. Motion carried.**

**6. Recognition – Service Excellence MVPs:** As part of the City’s Service Excellence Program, 45 nominations were submitted for employees who demonstrated excellence in providing customer service. The Service Excellence Design Team selected those listed below as the quarterly winners. The quarterly nominees will have the opportunity to be selected as the Service Excellence Employee of the year. Mayor Volk and City Manager John Connet recognized the following employees and read their nomination:

Joshua Hoard - Public Works Department  
Kirk Miller - Water & Sewer Department  
Brandon McGaha – Police Department  
Boyce Hamlin and Cameron Womack - Fire Department.

**7. Recognition – Historic Preservation Commission Awards:** Commission Chair Cheryl Jones addressed the Council explaining the Historic Preservation Commission's Community Affairs Committee put together an awards program in 2010 to recognize projects that exemplify preservation of historic buildings, resources and individual efforts. These awards are to recognize property owners, organizations, businesses and agencies whose contributions demonstrate outstanding commitment to excellence in historic preservation, local history or promotion of the City's heritage. The recipients are recognized by the City Council and receive \$100 each. In 2016, two applications were received for Preservation Awards. The Historic Preservation Commission reviewed these applications at their April 21st meeting and voted unanimously to give the following awards:

Residential - Ralph & Margaret Hammond-Green, 1232 Hyman Avenue  
Commercial - Mark Ray & Nancy Pew, 620 N. Main Street.

Ms. Jones detailed the improvements made by each of the property owners.

**8. Public Hearing – Request for Certificate of Public Convenience and Necessity:** City Clerk Tammie Drake presented the request from Mr. David Hairabedian for a Certificate of Public Convenience and Necessity to operate A-American Cab Company in the City of Hendersonville. She reviewed the requirements for taxicabs set forth in Chapter 54 of the Code of Ordinances.

Mr. David Hairabedian addressed the Council with his request to operate a cab company.

Mayor Volk opened the public hearing at 6:26 p.m. in accordance with North Carolina General Statutes by notice published in the Hendersonville Lightning. The following spoke:

Amanda Shoemake, owner of Night and Day Taxi, voiced support of the issuance of the certificate to Mr. Hairabedian.

The public hearing was closed at 6:28 p.m.

**Mayor Pro Tem Caraker moved Council to approve the request of Mr. David Hairabedian for a Certificate of Public Convenience and Necessity to operate a taxicab business known as A-American Cab Company in the City. A unanimous vote of the Council followed. Motion carried.**

**9. Consideration of a Request for the Waiver of Water and Sewer System Development Charges from the Housing Assistance Corporation, for a 12-Unit Multi-Family Project Known as Oklawaha Village:**

Utilities Director Lee Smith presented the request of Mr. Don Daines, Director of Residential Development for the Housing Assistance Corporation, requesting the Council consider waiving water and sewer system development charges for an additional 12-multi-family units to Oklawaha Village, to be located off of N. Main Street. This request and associated recommendations are in accordance with the City's *System Development Charge Waiver Policy*, Section II - General Policy, revised and adopted by City Council on June 3, 2010.

**Council Member Smith moved Council to authorize the utilities director to waive the water and sewer system development charges associated with the Housing Assistance Corporation's proposed additional 12-multi-family units, referred to as Oklawaha Village, to be located off of N. Main Street in the amount of \$1,430 for each water service and \$1,280 for each sewer service, in accordance with the *System Development Charge Waiver Policy* resulting a waiver of system development charges in the amount of \$32,520. A unanimous vote of the Council followed. Motion carried.**

**10. Consideration of a Request for the Waiver of Water and Sewer System Development Charges from Flatiron Partners, LLC, for an 80-Unit Multi-Family Project Known as Lakewood Terrace:**

Utilities Director Lee Smith presented a request from Mr. Hollis Fitch, principal with Flatiron Partners LLC, requesting the Council consider waiving water and sewer system development charges for an 80-multi-family unit project known as Lakewood Terrace, to be located off of Lakewood Road. This request and associated recommendations are in accordance with the System Development Charge Waiver Policy, Section II – General Policy revised and adopted by City Council on Thursday, June 3, 2010.

Mr. Lee Smith explained this request is being made by a for-profit organization, but it is a monitored tax-credit project intended to satisfy the growing needs in Hendersonville for workforce affordable housing. Based on these facts, staff respectfully recommends a 75 percent waiver of all water and sewer system development charges associated with this proposed project in the amount of \$357.50 for the 5/8-inch x 3/4-inch residential water service and \$320 for each associated sewer service. If approved, this partial waiver would be equivalent to a fee reduction in the amount of \$85,800 for water and \$76,800 for sewer for a total of \$162,600. This means that Flatiron Partners LLC would then only pay \$28,600 for water system development charges and \$25,600 for sewer system development charges for a total of \$54,200.

Mayor Pro Tem Caraker voiced support of the waiver to encourage affordable housing. Council Member Smith commented they have to provide affordable rents for 15-30 years and the project cannot be sold for 15 years. Mr. Connet asked Council to discuss the percentage of the waiver. He explained tax credits are monitored by the State and Federal programs. Discussion followed on the definition of affordable housing. Mr. Connet explained the program is financed by the NC Housing Finance Agency through a competitive process. Permission must be granted by the agency in order to sell the property.

Mr. Fitch, 3989 Laurel Park Highway, addressed the Council stating the NC Housing Finance Agency agreed to a 10-year extension which requires the property remain as "affordable" for 25 years and by the Federal Program for 15 years. He stated the rent restrictions are based on income.

Discussion followed on the amount of the waiver. Mr. Fitch explained they are creating affordable workforce housing which is a need in Henderson County. There was also discussion of the Housing Assistance Corporation's project and tax credits versus financing. Mr. Fitch explained tax credits are applied to the project to reduce the mortgage thereby allowing reduced rent amounts. In discussion of the ownership of the project, Mr. Fitch explained they own 1 percent of the project, the other 99 percent is owned by investors. Mayor Volk voiced support of granting a complete waiver to local non-profits

**After discussion, Mayor Pro Tem Caraker moved Council to authorize the utilities director to waive 75 percent of the water and sewer system development charges associated with the Flatiron Partner's proposed 80-multi-family units, referred to as Lakewood Terrace, to be located off of Lakewood Road in the amount of \$357.50 for each water service and \$320 for each sewer service, in accordance with the System Development Charge Waiver Policy, resulting a waiver of system development charges in the amount of \$162,600 and a total payment due in the amount of \$54,200. A unanimous vote of the Council followed. Motion carried.**

**11. Consideration of a Request for the Waiver of Water and Sewer System Development Charges from Flatiron Partners, LLC, for an 80-Unit multi-Family Project Known as Cedar Terrace:**

Utilities Director Lee Smith presented a request from Mr. Hollis Fitch, principal with Flatiron Partners LLC, requesting the City Council consider waiving water and sewer system development charges for a project consisting of 80-multi-family units known as Cedar Terrace, to be located off of Lakewood Road. This request and associated recommendations are in accordance with the System Development Charge Waiver Policy, Section II – General Policy. Staff has reviewed this request and believes this request is being made by a for-profit organization, but that it is a monitored tax-credit project intended to satisfy the growing needs in Hendersonville for workforce affordable housing, that 75% of the system development charge should be waived. Based on these facts, staff respectfully recommends a 75% waiver of all water and sewer system development charges associated with this proposed project in the amount of \$357.50 for the 5/8-inch x 3/4-inch residential water service and \$320

for each associated sewer service. Council Member Miller commented the developer is committed to the project for 25 years.

**Mayor Pro Tem Caraker moved Council to authorize the Utilities Director to waive 75% of the water and sewer system development charges associated with the Flatiron Partner's proposed 80-multi-family units, referred to as Cedar Terrace, to be located off of Lakewood Road in the amount of \$357.50 for each water service and \$320 for each sewer service, in accordance with the System Development Charge Waiver Policy resulting a waiver of system development charges in the amount of \$162,600 and a total payment due in the amount of \$54,200. A unanimous vote of the Council followed. Motion carried.**

**12. Consideration of a Task Order with McGill Associates for Preparation of Specifications and Modification, Revisions, and Completion of the Original Concept Plans prepared for the Water System Improvements for the Etowah Service Area and Provision of Construction Services During Construction:** Engineering Director Brent Detwiler reported this has been an on-going project with McGill and Associates, PA. He stated they are now working on the final design and this proposal is to complete that, bid the project and provide construction administration and inspection. He stated estimated a 10-12 month completion. He anticipates the project will be bid soon and possibly award the project in August. He presented a task order which is a supplement to an original Engineering Agreement.

**Mayor Pro Tem Caraker moved Council to approve a proposal from McGill Associates for completion of the Etowah Water System Improvements project and to authorize the City Manager to execute a contract for said work as presented and recommended by staff. A unanimous vote of the Council followed. Motion carried.** *[The Task Order 2016-10 is available in the office of the City Engineer.]*

**13. Consideration of a Resolution to Adopt a Special Appropriations Policy:** Mr. Brian Pahle, Assistant to the City Manager, presented a policy to guide the process for the Council granting special appropriations. He highlighted key points of the new policy including: recipients will be required to sign a formal contract stating:

- o Funds will be distributed as determined by City Council,
- o City Council may request a status report,
- o City Council may request an accounting of how the funds are used,
- o Any funds not used for the requested purpose must be returned to the City, and
- o A variety of other basic requirements.

Mr. Pahle explained the contract does not require the organization be a 501 organization. Mr. Pahle also explained they are trying to create an exception for grant funds. He explained the proposed policy includes a "Full Funding List" for specific requests. Council will receive these requests prior to the budget workshop and will not be considered/discussed as special appropriations. These requests are not guaranteed to be funded and final approval occurs in the annual budget ordinance. He recommended the following requests be added to the "Full Funding List" for the next fiscal year: Henderson County Economic Investment Fund, Henderson County Partnership for Economic Development, Henderson County Planning Department (for Apple County Transportation), Henderson County Rescue Squad, Merchant's and Business Association, and the Mills River Partnership.

**Council Member Smith moved Council to approve the resolution adopting the City of Hendersonville Special Appropriations Policy and the requests from Henderson County Economic Investment Fund, Henderson County Partnership for Economic Development, Henderson County Planning Department, Henderson County Rescue Squad, the Merchant's and Business Association, and the Mills River Partnership be added to the Full Funding List. A unanimous vote of the Council followed. Motion carried.**

Resolution #16-0514

**A RESOLUTION TO ADOPT THE CITY OF HENDERSONVILLE SPECIAL APPROPRIATIONS POLICY**

WHEREAS, The Hendersonville City Council hereby establishes a policy to ensure the equitable and legal appropriation of public funds to outside agencies, and

WHEREAS, the policy minimizes City risk by providing reference to legal requirements and procedural guidelines, and

WHEREAS, The City of Hendersonville requires a contractual agreement to ensure that City funds are spent for a public purpose, support activities by which a local government has the authority to engage, and does not create an excessive entanglement between government and religion, and

WHEREAS, that agreement provides procedures for the manner in which money is distributed to requesting agencies, and the reporting standards the agencies agree to abide by, and

WHEREAS, the City Budget Officer shall be responsible for maintaining the program and abiding by the policy guidelines.

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

Section 1. The City Council hereby adopts the City of Hendersonville Special Appropriations Policy.

Section 2. This resolution shall become effective upon its adoption and approval.

Adopted this fifth day of May 2016.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

**SPECIAL APPROPRIATIONS POLICY**

SECTION 1. Special Appropriations Overview

A special appropriation is an allocation of funding to a specific outside agency. An agency may request for funding with the City each year during the budget process. City Council approves special appropriations based on applications submitted. This application provides general and specific information regarding the agency requesting funds and the purpose for how the funds will be used.

#### SECTION 2. Purpose

The purpose of the City's Special Appropriations Policy is to provide legal references and a general framework for the effective, efficient, and equitable distribution of City funds to outside agencies in the most financially prudent manner as possible while minimizing risk.

#### SECTION 3. Legal Considerations

The North Carolina Constitution and General Statutes provide the legal framework under which local governments operate.

##### 3.1 The three key legal limitations to the expenditures of public funds are

- (1) the expenditure be for a public purpose,
- (2) the activity supported be one in which the local government has the statutory authority to engage, and
- (3) the expenditure not be inconsistent with the laws or the constitution of the state or federal government.

##### 3.2 The courts have used two guiding principles in determining whether a particular activity is for a public purpose:

- (1) whether it involves "a reasonable connection with the convenience and necessity of the [local government]", and
- (2) whether it "benefits the public generally, as opposed to special interests or persons."

##### 3.3 A local government may contract with faith-based organizations as long as the contract

- (1) has a secular purpose,
- (2) has a primary effect of neither advancing nor inhibiting religion, and
- (3) does not create an excessive entanglement between the government and religion.

#### SECTION 4. Guidelines

The City will abide by the following guidelines in the annual selection and disbursement of special appropriations.

4.1 The City Budget Officer shall be responsible for organizing, collecting, and submitting requests for special appropriations to the City Council for their approval in the City's budget process.

4.2 The date that special appropriation requests are due shall be published in the City's Budget Calendar each fiscal year at least 30 days prior to the due date.

4.3 During the process certain requests may be deemed necessary and shall be assigned to the "Full Funding List" by City Council any time prior to the adoption of the annual Budget Ordinance. Requests assigned to the Full Funding List will require a unanimous vote from the City Council each fiscal year. The "Full Funding List" does not guarantee the request will be approved and still must be adopted as part of the City's annual Budget Ordinance.

4.4 All requests not assigned to the Full Funding List shall be discussed at a normal Budget Workshop of the City Council. In addition to discussion, the City Council shall recommend appropriation levels for each request. The City Budget Officer shall provide a recommended total funding level for all requests not on the Full Funding List.

- a) The City Budget Officer will, to the best of his/her ability, identify and notify City Council of any requests that may violate the North Carolina Constitution and/or General Statutes.

4.5 Final approval of funding for special appropriations shall be made in the annual Budget Ordinance.

- a) Any request for funding outside of the normal special appropriations process may be heard at the City Council's discretion.

4.6 After funding has been approved the requesting agency shall agree to and sign a Special Appropriations Funding Agreement (attached, APPENDIX A) with the City of Hendersonville before any funds will be appropriated.

ADOPTED by the City Council of the City of Hendersonville, North Carolina, on this fifth day of May 2016.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

### **SPECIAL APPROPRIATIONS FUNDING AGREEMENT**

NORTH CAROLINA  
CITY OF HENDERSONVILLE

This Agreement made and entered into the 1st day of July, [YEAR] by and between the City of Hendersonville, North Carolina, hereinafter referred to as the "CITY", and the [ORGANIZATION NAME], hereinafter referred to as the "AGENCY."

WHEREAS, the CITY has requested services from the AGENCY to carry out its programs and activities; and

WHEREAS, the CITY, through its City Council, has appropriated the sum of [DOLLAR AMOUNT] in funding for the fiscal year ending June 30, [YEAR] to support this purpose, subject to the terms hereof; and

WHEREAS, the terms and conditions for receiving said funds from the CITY set out herein are necessary to insure accountability for the expenditure of public funds by the CITY.

NOW, THEREFORE, in consideration of the following the parties hereto do mutually agree as follows:

1. The AGENCY agrees to use the funds appropriated by the CITY in a manner and for the purposes specified in their Application, a copy of which is attached hereto and incorporated by reference as if to set forth fully herein.
2. In consideration for the performance by the AGENCY of the services outlined in its application, the CITY agrees to pay the AGENCY up to the amount of money authorized in the CITY budget for the fiscal year. Payment of such amount shall be made in a manner determined by the CITY.

3. If the AGENCY violates any of the provisions of this Agreement, the CITY may terminate this Agreement (upon thirty (30) days written notice of the same to the AGENCY). In such event, all unexpended funds at the time of such termination, whether held by the AGENCY or the CITY, shall be the property of and be returned to (or remain with) the CITY.
4. The AGENCY shall not assign any interest in this Agreement and shall not transfer any interest in the Agreement without prior written consent of the CITY.
5. In connection with the performance of this Agreement, the AGENCY shall not discriminate against any employee, applicant for employment, or program participant because of race, religion, color, sex, age, handicap, or national origin, or on account of their limited English language proficiency.
6. The AGENCY shall maintain all accounts, books, ledgers, journals, and records in accordance with generally accepted accounting principles, practices and procedures.
7. Upon request of the CITY the AGENCY shall submit to the CITY a status report of all program activities including a summary of the accomplishment of stated goals and objectives.
8. Upon request of the CITY the AGENCY shall provide an accounting of CITY funds to the CITY to demonstrate that funds allocated to the AGENCY have been used for the purpose(s) specified herein. The accounting report shall be submitted to the CITY within 30 days of the request. Further, the CITY shall be entitled to audit the AGENCY's expenditure of CITY funds at the CITY's discretion. Any excess funds or funds not used for the expressed purpose(s) stated herein must be returned to the CITY within thirty (30) days of the CITY's request for said funds.
9. The CITY shall be entitled to conduct an evaluation of the AGENCY's programs and activities particularly as it relates to the accomplishments of established goals and objectives and the measurement of services being delivered.
10. All books and records shall be maintained by the AGENCY for a period of at least three years from the date of the final payment under this Agreement and shall be made available for audit or evaluation upon request during regular business hours of the AGENCY.
11. Upon request of the CITY the AGENCY must adopt a Drug-Free Workplace Policy in accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. 701).
12. The CITY is in no way responsible for the administration and supervision of the AGENCY'S officers, employees, partners, and agents, which persons it is agreed are not officers, employees, or agents of the CITY.
13. The Agreement may only be amended by written amendments mutually agreed upon by and between the CITY and the AGENCY.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their name by their duly authorized officers, their seals to be hereto affixed the day and year first above written.

Attest:

Tammie K. Drake, City Clerk      Date

By: Printed Name

This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.  
/s/Finance Director, Lisa White

City Of Hendersonville

By: Barbara G. Volk, Mayor

By: /s/Authorized Agency Official Signature

Date

**14. Consideration of a Budget Amendment to Establish a Debt Service Fund to Pay for Debt Service Notes Incurred by the City's General Fund:** Mr. Pahle addressed the Council stating City staff introduced the idea of creating a debt service fund to pay for General Fund debt service payments. He recommended transferring enough funding initially to pay for three debt service notes that will be paid in full by FY 18-19. The lump sum transfer will come from the General Fund's capital reserve and fund balance. He reported \$564,847 will be transferred from the General Fund - Fund Balance and \$396,567 will be transferred from the Capital Reserve Fund - Fund Balance.

Mr. Pahle recommended Council's approval of the amendment prior to the FY16-17 budget adoption in order to increase clarity. The General Fund's fund balance will drop to approximately 40 percent available and will decrease recurring operating costs by approximately \$200,000.

**Mayor Pro Tem Caraker moved Council to approve the budget amendment to establish a Debt Service Fund (Fund 15) to pay for debt service notes incurred by the City's General Fund. A unanimous vote of the Council followed. Motion carried.**

Budget Amendment: Funds 10, 15 and 25: An amendment to establish a Debt Service Fund (Fund 15). This Fund will pay for debt service notes incurred by the City's General Fund. It is being created to make financial reports more understandable and transparent. \$961,414 will be transferred initially from fund balances to fund remaining payments on three debt notes. Other notes will be paid regularly by incoming transfers from the General Fund Budget each year. It is estimated that available fund balance percentage will drop to approximately 40 percent.

**15. Comments from Mayor and City Council Members:** There was none.

#### **16. Reports from Staff:**

**A. Fire Department Strategic Planning Proposal – Office of State Fire Marshal:** Mr. Connet informed the Council that City staff is working with the Office of State Fire Marshal at very little cost to develop a strategic plan. Chief Dan Jones has been engaged to provide leadership development within the Fire Department. He stated the program by the State Fire Marshall's Office will help evaluate the long-term needs and strengths of the Fire Department. This will allow the Fire Department to tap the expertise of regional fire professionals. He expects this will be a model for other departments in the region.

**B. Reminder of Upcoming Special Meeting of the Council: May 6, 2016, 8 a.m., City Hall, for review of the proposed budget for Fiscal Year 2016-17.**

**17. Consideration of Appointments to Boards and Commissions:**

**Historic Preservation Commission:** Mayor Pro Tem Caraker nominated Philip Ellis and Mark Ray to serve on the Historic Preservation Commission. A unanimous vote of the Council followed. Motion carried.

**ABC Board:** Council Member Miller nominated Charles Byrd to serve another three-year term as chair of the ABC Board. A unanimous vote of the Council followed. Motion carried.

**Tourism Development Authority:** Council Member Smith nominated Brian Pahle to serve in Seat 5 at-large position. A unanimous vote of the Council followed. Motion carried.

**Environmental Sustainability Board:** Mayor Pro Tem Caraker nominated Alesia Griesmyer to serve a three-year term on the Environmental Sustainability Board. A unanimous vote of the Council followed. Motion carried.

Reminders: City Clerk Tammie Drake reminded the Council of the vacancies on the Board of Adjustment, Environmental Sustainability Board, and the Planning Board.

**18. New Business:** There was none.

**19. Staff Request for closed session:** At 7:18 p.m., Mayor Pro Tem Caraker moved City Council enter closed session in accordance with NCGS 143-318.11 (11)(4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council. A unanimous vote of the Council followed. Motion carried.

The Council heard a presentation from The Development Finance Initiative (DFI), UNC School of Government, regarding preliminary market analysis findings. The group requested direction from the Council on next steps.

**20. Adjournment:** The meeting adjourned at 8:16 p.m. upon unanimous assent of the Council.

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Barbara G. Volk, Mayor

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Tammie K. Drake, City Clerk